

Minutes

PLANNING COMMISSION REGULAR MEETING
April 13, 2021 – 5:30 P.M.
Virtual Meeting

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

Beginning: 5:00 PM

Location: Virtual/Electronic

Members Present: Chairman Mitchell, Commissioner Russell, Commissioner Stolzenberg, Commissioner Solla-Yates, Commissioner Heaton, Commissioner Palmer

Members Absent: Commissioner Lahendro, Commissioner Dowell

Staff Present: Patrick Cory, Jack Dawson, Missy Creasy, Joe Rice, Carrie Rainey, Lisa Robertson, Alex Ikefuna

Chair Mitchell called the meeting to order at 5:00pm and asked Commissioners for questions about the minutes. There were no questions on the minutes so he moved to the SUP application. Commissioner Russell asked if the developer provides bike locker parking and do we know if those areas get used for bikes. Ms. Creasy noted that in the beginning it is used for bikes but there is no confirmation that use continues. Commissioner Stolzenberg said that it seemed that students used the bike spots and that avid bikers like to use indoor locations for storage. Commissioner Heaton asked if the outside bike spaces were going to block the sidewalk. Ms. Rainey confirmed that the bike racks will not be on the public sidewalk. Commissioner Stolzenberg asked why we would require the patio as a condition since it is not open to the public. Ms. Rainey noted that the condition would memorialize the space indicated on the site plan to provide open space for the residents

Chair Mitchell moved to the critical slope application. Commissioner Russell has received answers to her questions except for those the applicant needs to address. That will happen during the meeting. In addition she asked how possible is it to have a road that dead ends into a parking area? Mr. Dawson noted that the traffic engineer addressed the parking lot. It would not go through the same process as a regular street. It would be seen as a commercial entrance.

Commissioner Stolzenberg asked if Mr. Dawson has seen the slope on the IX property. He had and noted it appears they cleared vegetation and does not appear to be a violation and we are not aware of a plan for construction. Commissioner Russell noted it appears to be clearing of invasive plantings. Commissioner Stolzenberg asked if it will impact the stability of the slope. Mr. Dawson noted that is questionable. Chair Mitchell noted that is a good question to ask the applicant during the meeting.

Chair Mitchell wished Jody was here to talk about trees. Commissioner Russell noted that she reviewed the 2019 tape and saw that Jody mentioned the stormwater. It was not clear to her what could be asked for. Mr. Dawson noted for water quality, try to encourage on site measures. We have adopted the state rules except for a special requirement for 6000sf rather than an acre of disturbance. We cannot require any more than the state for water quality without permission. If there is a site plan with the plan, there would be more detail but this one does not have a plan at this point so we are putting forward the best comments that we are able.

Chair Mitchell noted that there is not the best E&S, stormwater, and it does not show how it will protect Pollacks branch – Would the staff conditions mitigate these concerns?

Commissioners Stolzenberg noted that the packet (page 60-75) had a site plan in it. Was that not the correct plan? Mr. Dawson confirmed that was the plan he looked at. It does not satisfy the 4 step process. He noted details for the concerns pending. It was confirmed that if Council imposes a condition, it would require that the plan works prior to providing site plan approval.

Chair Mitchell asked Bill about any comments on Lyndhall. Bill noted that it appeared to be interior to the existing building. Mr. Rainey outlined the exterior changes to the site but noted not much changes to the structure.

Chair Mitchell noted that it would be good to have a review of the standard of review for the critical slope application. Ms. Rainey provided additional background and will review this in the meeting as well.

Mr. Dawson clarified his response on the finding criteria from the ordinance. Commissioner Russell asked if the zoning was correct. Ms. Robertson confirmed it would only be for what was appropriate under the current zoning.

Commissioner Stolzenberg asked for clarification of the amount of slopes affected. It seemed to have changed from the last application. The number was clarified. He also noted some are concerned about the missing parts of sidewalk. Is there anything we can do to get those constructed? Mr. Dawson noted that it can be looked at.

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

Beginning: 5:30 PM

Location: Virtual/Electronic

A. COMMISSIONER’S REPORT

Commissioner Russell – I have two upcoming meetings to report. The Rivanna Urban Corridor steering committee will be meeting later this month. More information about the Rivanna River Urban Corridor is available on the TJPDC site tjpd.org under the section titled area plans. There are some historic recordings of previous workshops available. The plan is that the steering committee will meet. A public meeting will be scheduled at a later date. Secondly, there is an upcoming Fontaine Avenue steering committee meeting. It's a public design hearing hosted by the Charlottesville Department of Public Works. It will be for the Fontaine Avenue streetscape project. It will be Wednesday, May 12, from 6:00 PM to 7:30 PM. Attendees are asked to register in advance at charlottesville.gov/zoom. More information on this specific project is hosted on a website called fontainestreetscape.com.

Commissioner Stolzenberg – I had two meetings since we last met. The first was the MPO Technical Committee meeting. The big news of that is that we recommended some functional classification changes for some Albemarle County roads. The roads included Avon Street Extended, a part of Barracks Road, and a couple other roads in the county that will be reclassified to arterials. In most cases, it matches up with what the city has. It will allow the city to do entrance corridor review again on those parcels. However, it also might make moving the city

yard a little bit more difficult. Our site is along one of those. That means it will now be subject to aesthetic review, which is going to increase the screening requirements if we were prospectively to move it to that site we own in Albemarle County along Avon Street. We also got a memo on the upcoming smart scale process. It is going to be a little bit more involved, such as community engagement work for smart scale in choosing what smart scale projects we're going to apply for. This was really driven in large part by some conflict last round, mostly over a Rt. 20 project that would have put a shared use path right through a grove of trees recently planted by the tree stewards. As part of that, they decided not to submit that project and we needed to do more outreach as part of the broad engagement before deciding what to apply for. Each project submitted by the MPO is now going to have a study committee that will try to think through some of those major issues going forward. That will all be beginning later this year. I think the advisory committees will be appointed in September. We also had a PLACE committee meeting again. We talked about the West Main Streetscape project. There's a \$6.5 million hole for Phase Two if we want to get that to move forward. There was some discussion about whether we would want to pursue more tactical improvements either in the meantime or in lieu. The general sense was that it still seems like the project is on the table from city council giving us where we'd rather hold off on those and try to get that \$6.5 million filled. The hope is that if the federal government funds grants for shovel ready projects, we will have this on hand as shovel ready and then hopefully we get that filled in there. There was also some discussion about what the future of PLACE will be once again. Nothing really resolved on that front. From now on, we'll be meeting quarterly until we have a more concrete mission potentially establishing subcommittees to study specific projects. There was also a TJPDC meeting, where we discussed the 29 north corridor study. They're going to be studying from the airport all the way up to Ruckersville, the general financial condition, and Christine Jacobs taking over. Those were the key items for that one. There will be a regional cigarette tax authority now that the counties have the ability to do that.

Commissioner Heaton – Speaking of shovel ready projects, I've been in contact with the Rivanna Conservation Alliance. April 14th, 15th, and 16th. They're going to be down at Riverview Park, replacing water access that was washed away. I'm pretty sure the Parks and Rec. Department are involved in advising for that. I wanted to give a shout out to them and hope that that can have good community participation, as the water and river season comes upon us. The only other thing I have to say April 15th is fast approaching. I just wanted to make commitments through the 15th. If there are things I can be of assistance with after that, I just don't want to be held to it.

Commissioner Solla-Yates – No Report

B. UNIVERSITY REPORT

Commissioner Palmer – No Report

C. CHAIR'S REPORT

Chairman Mitchell – I missed the last two Parks and Rec. meetings. One of the meetings that I miss was Rory's fault. He stopped me on the Mall. I got into a conversation with him and didn't go. With the last one I sent you guys the PowerPoint presentation from that meeting. I did make the LUPEC meeting.

There were a number of things happening there. Two things that are important to us is that we got our first look at the University of Virginia Contemplative Commons. That's an effort to continue the pursuit of Mr. Jefferson's Academic Village where we bring together a university life learning, research, and integrate it in the naturally built environment. This is going to be built near Ridley Hall. Ridley Hall is in the School of Education. What used to be known as Rugby Hall is going to consume the parking lot in front of The Dell. It's going to consume the basketball area in The Dell. Good news is The Dell basketball courts are not going away. They're just being moved over to MGM. The Dell is a very important, cultural place. It's where UVA students and people who live in Charlottesville come together to play basketball. I have to admit that, when I was here at UVA, I spent more time at The Dell involved than I did at Alderman Library. It's very important that it gets moved but doesn't go away. They're going to break ground this summer. They're expected to finish in 2023. It's a neat development and we will get to know the basketball courts in The Dell again where city people and UVA students come together to play ball. That's being protected. It's going to be neat to see Mr. Jefferson's vision of the academic village continue to grow. We talked a lot about the East High Street streetscape project. What's happening there are enhanced, improved, and increased bike lanes. We've got improved pedestrian access here. We've got increased signaling. We've got the undergrounding of utilities. The original cost of this was \$5.6 million. After we looked at the cost of the signaling for what we thought we needed and looked at the cost of the undergrounding utilities, the price jumped from \$5.6 million to \$11.2 million. We're looking to move forward with this. We expect to complete this by 2024. Work is about to begin and it can begin pretty quickly. Think about the area we're talking about. Think about the work we're going to be doing on the Belmont Bridge. Think about the possibility of a new parking deck. Think about the work that we're going to be doing at Tarleton Oaks. That's going to be a very busy, busy area to traverse during the next four or five years. We need to keep that in mind as we develop this.

D. DEPARTMENT OF NDS

Ms. Creasy – We continue to work mostly remote. We do have regular visits into the office. A couple of our staff people are there regularly. We have added Tuesday mornings to drop off. We have a drop off on Tuesday mornings in addition to the Friday morning drop off. There are a number of discussions at the leadership level concerning transition. Those discussions have started and we hopefully will transition back to the offices. We're waiting to hear some of the thoughts on that. The majority of the city forces have had the opportunity to get into the vaccination cycle, if they requested. There is progress moving forward. In NDS we consider this a very slow and deliberate process. For those of you who have been in our offices, they are very tight. We will be very, very thoughtful about how we work moving forward with that. We're hopeful that we're moving in a good direction. There are exciting times out there and I hope people are able to take advantage of that. I also wanted to let you guys know that we are not going to host the April work session. Working with Jenny, we're to a point where they won't be ready for a work session then but we'll be working full force for a work session in May. It is still under works. We have tentatively put it on the calendar because it's that regularly penciled in date that you already have. When we do coordination meetings, I bring up that date up regularly since you all already have that date penciled in.

Jennifer Koch, Cville Plans Together – First thing I want to note is that we have been coordinating on Commissioner Dowell's request to get demographics from the 2017/2018 process and compare with demographics from our current process. We found that there were demographics tracked for the first

phase of that process; not so much for phases two and three. We'll work on making a direct comparison to what our demographics have been.

Ms. Creasy – The second phase of that was when we were going out to different festivals, Fridays after Five, and other events like that. We were having very quick interactions with individuals and not everyone was able to fill out the survey materials that we had. A collection of demographics for those events was not as clear as some of the other phases.

Ms. Koch – We found in our process that with everything except for the survey, it can be difficult sometimes to track exact demographics. We're continuing to try to do that whenever we can. Some updates on our progress with the comprehensive plan include working through revisions to the future land use map. We really appreciate the good conversation we had with you on the 30th. We have met and are continuing to meet this week with a few groups. We met with CADRE during the land use framework process. We met with CLIHC earlier this week, the Charlottesville Low Income Housing Coalition. We'll meet with the HAC and Preservation Piedmont this week as well. The other piece of this is the chapters. As you know, we worked with staff on revisions to the topic specific chapters of the comp plan through the end of March. We made revisions based on staff feedback and sent those chapters out last week to you all and to the project steering committee requesting comments at the end of this week, which is a very tight turnaround. As we emphasized in our distribution of the chapters, our goal with this phase is to have a draft that has the big ideas in it. There will be time to work with you all to make sure that we are revising those, getting into the weeds on them as we look at also incorporating community feedback after the community review phase.

Chairman Mitchell – Between Thursday and Tuesday of a planning commission meeting we pretty much “have our heads down” on the feedback we're getting from the public. I'm not sure we're going to be able to give you the quality feedback that you want by Thursday because we've been so focused on this, but we'll do the best we can.

Ms. Koch – That's all I can ask. Friday was the deadline we gave. If not, that's certainly what I meant to give. We are working towards a phase of public review. We've been getting feedback on these documents and the map because it has been out in discussions. We will be having a concentrated public review phase for both the future land use map and the chapters that will kick off by the end of this month. The plan right now is to complete that by the end of next week. We can make it clear to you all and to the community what the exact timeline will be moving forward so people can start marking their calendars. In general, what we're looking at are several types of activities and outreach around those activities. Through this, we want to make a few things really clear. We want to make sure it's clear what is the comprehensive plan, and reiterating it for those who haven't been involved. How does the comprehensive plan potentially impact individuals, families, or neighborhoods? We want to make it clear how it relates to and implements the affordable housing plan. We've already talked about the affordable housing plan a lot with people. We want to make clear how the future land use map relates to zoning. We know there's a lot of confusion between the two. They are quite tied. We're working on some specific talking points because we can anticipate some questions we're going to get from the community. We're working with the peer engagers, who can provide a bridge to that as well and help us flag some questions that might come up. As far as how we're going to share materials; we'll have a page on the website. We'll have some webinars and small group meetings, which will likely include some neighborhood associations that we know we've already planned to meet with. We also will be having in person pop ups, pop up meetings, and a COVID,

safe in person option. We are looking forward to those. We will have several ways people can give feedback via email. We'll have an interactive map where people can provide comments on the future land use map. That will be tied to in person activities where they can do through the analog version of a web map. We will have a comment submission form on the website, which we're trying to streamline. Putting out a large survey is not always the best way to do things. We still want to give people a way to give us feedback and we can track what feedback we're getting. Those are all things we're in the midst of working through. By the end of next week, we hope to have a very specific timeline for those activities.

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

Mr. Whitehouse – We live on Rayon Street here. I believe we were provided with a detail of the plans. I don't recall that that had a parking garage. There was a parking lot in the detail plan that was provided to the residents here. It's a parking garage. Is that correct?

Carrie Rainey, City Planner – There's no parking garage currently shown on the plan. I've not heard reference to one. It would still be a surface parking lot behind the buildings.

Mr. Whitehouse – We're just trying to understand that. I should have identified that we're talking about the 915 6th Street Southeast. There is a building that's there. It's a single family home, and that's going to be leveled and a multifamily put up. Is that right?

Ms. Rainey – That's correct.

Mr. Whitehouse – The parking lot would be behind that. That is what the access on Rayon Street would be?

Ms. Rainey – That's correct

Mr. Whitehouse – The main concern is that they're talking about 32% of the property is existing critical slope. When you look over there, it's pretty hard to visualize how only 14% of the critical slope could be disturbed. The whole thing is a hill. It's just hard to visualize how there could be a parking lot put there when it's just a hill. You couldn't even park one car there without going down a hill.

F. CONSENT AGENDA

1. Minutes – December 8, 2020 – Pre-Meeting and Regular Meeting

Motion to approve the Consent Agenda (Commissioner Solla-Yates) – Second by Commissioner Stolzenberg – Motion passes 5-0.

Meeting recessed until 6:00 PM and/or a quorum of City Council was available.

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

III. JOINT MEETING OF COMMISSION AND COUNCIL

Councilor Hill brought Council to order for the joint meeting with the Planning Commission.

Chairman Mitchell recognized the work of Commissioner Heaton during his time on the Planning Commission.

Commissioner Stolzenberg read a declaration from Charlottesville City Council of recognition for the work of Commissioner Heaton.

Beginning: 6:00 PM

Continuing: Until all public hearings are complete

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

1. **SP21-00003 – Lyndhall Apartments – 64 University Way** – Landowner Neighborhood Investments, LLC has submitted a Special Use Permit Application for this property which is also identified by City Real Estate Parcel Identification No. 050048000 (“Subject Property”). Pursuant to City Code Sec. 34-420 and Sec. 34-158, an application has been submitted requesting a Special Use Permit to increase density from 21 Dwelling Units per Acre to 48 Dwelling Units per Acre. The applicant is proposing to renovate an existing multifamily dwelling containing 9 residential dwelling units, in order to allow for a total of 16 dwelling units. Per Section 34-162(a), the application also requests a reduction in required setbacks to address the current non-conforming status of the building and modification of parking standards to permit a proposed off-street parking area location. The Subject Property is approximately 0.34 acres with road frontage on University Way. The Comprehensive Land Use Map for this area calls for High Density Residential. Information pertaining to this application may be viewed online at <https://www.charlottesville.gov/1077/Agendas-Minutes> or obtained from the Department of Neighborhood Development Services, 2nd Floor of City Hall, 610 East Main Street. Persons interested in this Special Use Permit request may contact NDS Planner Carrie Rainey by e-mail (raineyc@charlottesville.gov) or by telephone (434-970-3453).

i. Staff Report

Carrie Rainey, City Planner – The applicant requests a Special Use Permit to increase residential density to 48 DUA. The existing historic building currently houses 9 multifamily dwelling units. Approval of the request would allow 16 multifamily dwelling units. The applicant has proposed 8 1-bedroom units and 8 2-bedroom units, resulting in 24 bedrooms total. The Redevelopment Manager, who is authorized to review affordable housing requirements, has confirmed the application does not meet the 1.0 floor area ratio (FAR) per Section 34-12(a) requiring affordable housing units. The application package indicates no changes to the building footprint or massing are proposed. Modifications to the site are focused on the interior of the building, renovation of exterior façades to align with historic conditions, a new parking lot at the rear of the building, a plaza space south of the building, and landscaping additions. The General Land Use Plan calls for the subject property and properties to the north, south, and east to be High Density Residential land use, and the areas directly west of the subject property to be Low Density Residential land use. The Comprehensive Plan specifies that High Density Residential includes all land to be occupied by multi-family type housing with a density greater than 15 dwelling units per acre (DUA). Residential density up to 21 DUA, which is considered high density by the aforementioned materials, is allowed by-right in the R-3 zone. High density residential uses can be considered appropriate in R-3 zones, depending on site-specific characteristics and conditions. Several goals in the Comprehensive Plan speak to a desire to have density as appropriate in locations that will foster developments that are walkable and bikable to the downtown area and other centers of employment,

entertainment, and education. The subject property is less than a quarter (1/4) mile from the University of Virginia and within one-half (1/2) mile of The Corner shopping district. Creating more density and housing options near these areas may reduce commuter congestion and open up housing options in other parts of the City. The May 2016 Streets that Work Plan labels University Way and other streets in the general vicinity as the Local Street typology. Local Streets are characterized as the majority of the street network and have no specific associated typology due to the variation of context and available space. The Streets that Work Plan notes design elements on Local Streets should not exceed the dimensions specified for Neighborhood B streets, and that techniques such as curb extensions are appropriate. A minimum of five (5) to six (6) feet of clear zone width for sidewalks is recommended for Neighborhood B streets. Sidewalks and on-street parking are noted as the highest priority street elements. University Way is a 1 way street with traffic traveling from Lambeth Lane (University of Virginia boundary) to University Circle. The existing sidewalks on University Way are approximately 4 feet in width and include a 5 foot grass buffer and parallel parking on 1 side of the street as separation from the roadway. No improvements are proposed to the public pedestrian and bicycle networks in the current application package. Staff concludes that the existing pedestrian network along the development frontage is not consistent with the Streets that Work Plan regarding sidewalk width. The frontage does include the two (2) highest priority items (on-street parking and sidewalks) as well as a planted sidewalk buffer. Section 34-881 specifies 1 bicycle parking space per every 2 multi-family dwellings will be provided as deemed appropriate. Per this section, 8 bicycle parking spaces can be required to serve the 16 multi-family residential units. The preliminary site plan states 8 bicycle parking spaces will be provided in the basement of the building. The plan also indicates 4 outdoor bicycle racks are provided, resulting in 8 outdoor parking spaces. The proposed 16 space of bicycle parking will exceed the requirements of Section 34-881. The Bicycle and Pedestrian Coordinator has recommended that due to the proposed increased density, the applicant should consider providing additional covered, secure bike parking for each bedroom, along with short-term bike parking for guests to mitigate the need for parking on-site. Staff believes the applicant's proposal to provide 16 bicycle parking spaces both within and outside of the building will encourage non-vehicular trips to and from the property and should be defined as a condition should the Planning Commission recommend approval. The property is also located in the District H (Rugby Road—University Circle—Venable Neighborhood) Architectural Design Control District. Per Section 34-157(a)(7), the Board of Architectural Review has reviewed the special use permit and made the following recommendation on March 16:

The related exterior alterations and rehabilitation will not alter the scale, massing, footprint, or setbacks of the existing building, nor are they inconsistent with the building's design and architectural style. Furthermore, the proposed work, including the exterior rehabilitation, is being coordinated with the Virginia Department of Historic Resources. Per Section 34-283(a)(1), administrative review of the certificate of appropriateness is permitted for the alterations, as the Virginia Department of Historic Resources will provide appropriate oversight of the proposed alterations.

The property is located in the R-3 multifamily residential district. The description for multi-family residential districts states the *purpose is to provide areas for medium- to high-density residential development. The basic permitted use is medium-density residential development; however, higher density residential development may be permitted where harmonious with surrounding areas.* The R-3 district is further described as *consisting of medium-density residential areas in which medium-density residential developments, including multifamily uses, are encouraged.*

Section 34-353(a) requires buildings in the R-3 zone to have a side yard setback of at least 1 foot for every 4 feet in building height for developments with a density of 44- 87 DUA, with a 10 foot minimum setback. The applicant has requested the side yard setback requirement to be modified to 10 feet minimum per Section 34-162(a) to alleviate the non-conformity of the existing building footprint, which is located as close as 13.6 feet from the side property line. Staff believes the request to alter side yard setback requirements to 10 feet minimum is in line with Section 34-162(a)(b) as the modification is desirable due to the location of the proposed use in a non-conforming contributing structure of the District H Architectural Design Control District. The applicant also requests modification to the parking standards of Section 34-972(b)(6), which require off-street parking areas to be located no closer than three (3) feet to any side or rear property line. The preliminary site plan shows the proposed parking area as extending to the property line on the southern (side) and eastern (rear) sides of the property. The narrative indicates this is necessary for increased parking capacity and maneuvering space. The narrative states the applicant will continue to conform to Section 34-981, requiring all off-street parking facilities to be drained in a manner to prevent damage to abutting properties and public streets. Staff believes the request to alter the parking standard for off-street parking areas to allow for no minimum offset from the property line would be in line with Section 34-162(a)(b) as the modification is desirable due to the location of the proposed use in an existing contributing building on a developed site. The proposed parking area expansion will provide additional parking to serve the proposed use per Section 34-984. The requested modification does not relieve the proposed off-street parking area of the requirements of Section 34-981. Staff recommends the Planning Commission focus on the following items during review: appropriate density and bedroom counts, recommendations from the Board of Architectural Review (BAR), and appropriate allowances for building setback and off-street parking area setback per Section 34-162.

Recommended Conditions

Staff recommends that a request for higher density could be approved with the following conditions:

1. Up to 48 dwelling units per acre (DUA) are permitted on the subject property. A maximum of 16 multi-family residential units with 24 bedrooms shall be allowed on the subject property.
2. Side setback requirements of Section 34-353(a) shall be modified per Section 34-162(a) to be 10 feet minimum.
3. Off-street parking area offset from the side and rear property line per requirements of Section 34-972(b)(6) shall be modified per Section 34-162(a) to be no minimum setback.
4. No improvements shall be commenced prior to approval of a final site plan and approval of a permit authorizing land-disturbing activities pursuant to Section 10-9. For purposes of Chapter 10 of the City Code, demolition activities shall be planned and built into the erosion & sediment control plan and stormwater management plan (if required), as part of the overall development plan for the subject property, and no such demolition activity shall be undertaken as a stand-alone activity.
5. The design, height, and other characteristics of the development shall remain essentially the same, in all material aspects, as described within the application materials received from January 21, 2021 until February 24, 2021, submitted to the City for and in connection with SP21-00003, including the site plan dated January 15, 2021 (Attachment C). Except as the design details of the development may subsequently be modified to comply with staff comments, or by any other provision(s) of these SUP Conditions, any change of the development that is inconsistent with the application shall require a modification of this SUP. These characteristics include:
 - a. No expansion of the existing building's footprint or height.

- b. One (1) outdoor patio shall be provided on the southern side of the building.
 - c. At least eight (8) bicycle parking spaces shall be provided in the basement, and at least eight (8) outdoor bicycle parking spaces shall be provided outside on site.
6. Outdoor lighting shall be provided at building entrances only.
 7. All outdoor lighting and light fixtures shall be full cut-off luminaires.
 8. The spillover light from luminaires onto public roads and onto property adjacent property shall not exceed one-half (½) foot candle. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source.

Commissioner Palmer – I don't have too many concerns. During construction, will that sidewalk remain open? Will pedestrian access be routed to the other side of the street?

Ms. Rainey – I don't have that information. If the applicant needs to use the street or sidewalk and close those elements to complete construction, they will be required to obtain a street closure permit from the Traffic Department. At that time, the Traffic Department would use appropriate access and appropriate routing around. I don't want to speak directly for the Traffic Engineer. They do review and approve to ensure there is appropriate access.

Commissioner Palmer – It's great to see all of the extra bike parking. Pushing to have as much bike parking as possible is a good thing in that area. There are a lot of pedestrians and bikers. It will cut down on the number of vehicles.

Commissioner Russell – The sidewalk does not meet the Streets That Work criteria in that it is 4 feet wide. Streets That Work is 5 to 6 feet wide. It looks like there's a plan to have a buffer. There are water lines and a retaining wall that's existing on the property. I am not necessarily proposing that it needs to be widened. I do see that there are some uneven patches along the sidewalk. Is it possible to improve the existing conditions as a result of the construction?

Ms. Rainey – Is this in reference to only the applicant's frontage or the entire length of University Way?

Commissioner Russell – Just the frontage in front of 64 University Way.

Ms. Rainey – It can certainly be requested. If the Commission finds that the increased density is impactful to the sidewalk condition in requiring a wider sidewalk in line with Streets That Work Plan to be proposed, that could be a condition.

Commissioner Russell – I wasn't necessarily going as far as that. I was just commenting on the existing condition on that 4 foot wide sidewalk that is not level.

Ms. Rainey – A request can always be made in terms of what can be required. I might need to defer to the City Attorney. In terms of what we're discussing tonight with the residential density request and alleviations to the side yards, it would require redoing the width of the sidewalk or doing it to improve the sloping of the sidewalk. We would need to make a connection to the request that is made beyond what the traffic engineer would review during the site plan process.

Commissioner Russell – From the staff report, the sidewalk does not meet the requirements of Streets That Work criteria in that it is narrower. It is 4 feet wide. I am not proposing that we ask the applicant to change that given that it is just a tight spot. I am noting a certain deteriorating condition of the existing sidewalk. Is it possible that the existing condition be improved to that sidewalk so that it is easier for people with mobility issues to use?

Lisa Robertson, City Attorney – If it is a public sidewalk, the city should be maintaining it unless the use of the property itself is going to create some different impacts on the sidewalk than normal. Construction activities are not going to have an impact on the existing sidewalk. I don't think there's anything that I see in this particular proposal that demonstrates that the applicant should be bringing the sidewalk into good repair.

Commissioner Russell – I thought that property owners were responsible for their own sidewalks.

Ms. Robertson – Not if it is a public sidewalk. Most sidewalks are public sidewalks. If that one is in poor repair, we should probably make sure that public works has it on a list.

Commissioner Russell – It is a minor thing from what I can see. I was thinking while there is work going on, it could be improved.

Ms. Robertson – It depends on the nature of the work and the impact. Unless there's something unique about the construction work or the use of the property itself is going to require an update, expansion, or repair of the sidewalk, it is something that we can't have the property owner be responsible for.

Commissioner Stolzenberg – Are there 14 parking spaces provided?

Ms. Rainey – There are currently 14 parking spaces proposed to be provided. As noted in the staff report, the applicant is currently noting a reduction allowance for the proximity of bus stops, which is allowed in the code. However, the code clearly states city bus stops. The bus stop in proximity is UTS. Staff believes that provision would not be applicable. There are other reduction allowances in the code. An example would be lockable bike storage that can be provided to further reduce the parking count. That's a comment made in the site plan review.

Commissioner Stolzenberg – It is ludicrous in the code that we exclude those University Bus Stops, which are at a much higher frequency and far more routes on it.

I see that we have 12 bike spaces required. As one of the conditions in the plan, we have 8 lockable bike spaces and 4 bike racks. Does that get any reduction given that it is 12 provided spaces and 12 required spaces? Can they be double-counted? Wouldn't we need two more lockable spaces/indoor spaces in order to satisfy that two space reduction since it is 5 bike storage spaces per parking space?

Ms. Rainey – There's 16 bicycle parking spaces proposed. A bike rack holds two bicycles. The four racks that are outside would give us 8 spaces on that and 8 spaces in the basement of the apartment. You're correct regarding the numbers for the bicycle lockers onsite that one space shall be allowed per reduction per every 5 lockers provided. As part of the site plan review process, the applicant has to meet those standards and conditions. Through that process, they can propose to add additional bike lockers to meet

that requirement or they might propose other options to further reduce that parking. Otherwise, that parking must be provided in some other way. The conditions, as written now, provide that minimum that they have already shown on the site. They can certainly provide more if they need to meet the parking requirement. There will be an impetus in the site plan review process to ensure that parking is provided for. They have options through the Special Use Report analysis and conditions. I did not recommend placing a particular parking reduction option on them, since they haven't proposed a bike proffer at this time.

Commissioner Stolzenberg – They can either add extra bike spots beyond what is provided here or pursue another option if that's available. There is the requesting of a parking waiver as part of the SUP. They haven't asked for that and they don't want that. Could we give them that? I can't imagine a more appropriate place for it.

Ms. Rainey – The applicant has not specifically requested that. During their time to speak, they can speak to whether they would be interested in that. The Planning Commission and Council could provide an allowance there. I am going to defer to the City Attorney for the purpose of this hearing whether the materials noted this and whether additional work would need to happen in terms of public hearings in order to include that piece. It is something that is allowed through our Special Use Permit.

Commissioner Solla-Yates – Is it worth the zoning text initiation to acknowledge the existence of UTS? This application is bound by code that pretends that the University doesn't exist.

Chairman Mitchell – Does that impact this application?

Commissioner Solla-Yates – Yes, with two spaces. That would eliminate the requirement for a reduction or another allowance if the code acknowledged the existence of the University.

Ms. Robertson – Changing the code is not an option tonight.

ii. Applicant

Commissioner Russell – There is this ugly gutter that looks like it is piping directly to the adjacent alleyway. I am curious if that is being addressed or will continue to be a nuisance.

Chris Henningsen, Henningsen Kestner – This building is a contributing structure in the Rugby Road Historic District. It was built in 1915 as a 12 unit apartment building, specifically for students at a time when most students were living in boarding houses where meals were provided. The original apartments did not have kitchens. There was a communal dining room located in the basement and a commercial kitchen in the basement, which are now not in use. There was a renovation made to the building in 1936, which combined several of the units so that kitchens could be added. The former communal dining room was carved up into two new apartments in the basement. The commercial kitchen is actually still down in the basement and used as storage. When you enter the building, there are still four doors for the original four apartments on each landing of the stairwell. The conclusion was made by a historic preservation consultant that was engaged to look at the project to see if we could actually preserve more of the original walls and doors in the building by returning the two and three bedroom apartments on each level, back to the original four unit configuration in the building and bringing the upper three floors back to its original

12 unit configuration and converting the basement into four additional units with a similar layout to what's above. We can stack, structural elements, plumbing, and that kind of stuff. That's how we've arrived at the 16 unit configuration that we're asking for. The units are going to be one and two bedroom units. By right, you could get seven units in the building. I'm hoping that we're approved for our request. If we're not approved, the alternative is that we would be creating seven, four bedroom units in the building, which wouldn't actually result in four more bedrooms overall than what we're proposing. Doing that would be regrettable. We're really trying to preserve as much of the interior walls and doors as we possibly can. The alternative by right situation in this building would be regrettable for that reason. The additional aspects of the SUP that we're asking for with the side yard setback reduction is just an acknowledgement of the existing condition of the building. It's been that way, as far as I know, since 1915. The parking actually is currently a paved parking lot in the backyard. It does go all the way to one of the property lines currently. We're asking for this as part of the SUP to just formalize that existing condition and allow us to expand on the other side. That side is another apartment building, which is actually owned by the same owner. With the drainage question, I'm not sure exactly how that drainage is being handled since the two properties are owned by the same owner. It is easy to fix that situation. Drainage from this site is just draining onto another site, which is also going to be improved. It doesn't require an SUP for that project. As far as the parking count, the parking reduction that we wanted to use was based on proximity to a bus line. That was an oversight on our part that the University bus lines did not count for that parking reduction. If you're able to grant a straight reduction of two spaces as part of this without us having to reapply that would really be appreciated. If not, I think we'll figure out how to get the reduction by other means. I think bicycle parking is already part of the job. If we can get the parking reduction by that method, we will do that. If it can be granted as part of this SUP, that would be even better. There's still going to be bicycle parking on site. As far as the exterior changes, what you're going to see from the street is really just a restoration of the existing building, repainting the brick, and restoring all the windows. There's some kind of shotty railings up at the third floor level that are going to be restored back to an original kind of Chippendale pattern. On the rear of the building, there are two deteriorating and pretty ugly fire escapes that we are proposing to remove and replace them with porches of approximately the same square footage for resident use. Since we're going to be adding a full sprinkler system to the building, the fire escapes are not needed for emergency egress.

Commissioner Stolzenberg – You said that the by right use you would be pursuing would be for 7 four bedrooms apartments or 28 bedrooms. That sounds like that produces four more beds worth of housing to house more students, which is an entire house at 10th and Page that wouldn't have to be occupied by students. Why is that regrettable?

Mr. Henningsen – That would involve us having to remove enough of the existing fabric of the interior of the building. This project qualifies for historic preservation tax credits. We have already been through an entire review process by the Virginia Department of Historic Resources and the National Park Service, who have approved the proposed plans that we want to do. That would remove more of that existing interior fabric of the building. Normally, I am for more density. In this case, the historic nature of the property and the owner's desire to preserve it as close to its existing condition we could get it is a consideration in this case.

Chairman Mitchell – I can speak for Commissioner Lahendro. This would give him great concern.

Commissioner Stolzenberg – I was under the impression that we cared more about the exterior of the building than interior walls. With regard to the change in the parking layout along the border of the rear property line with 515 Rugby, I know there are several trees along that boundary line that aren't shown in your site plan. In the existing conditions plat, you can see the third space and fourth space from the left are bumped out. They're a little bit shorter than a standard parking space. I believe that is because of one of the trees. In your final site plan, those are all 16 foot long parking spaces going right to the line. Are you planning to remove those property line trees?

Mr. Henningsen – I don't think there are plans to remove those trees. I have not discussed specifically with the civil engineer. As far as I know, there are no plans to remove the trees in the rear. The one tree you are referring to is a pretty old tree. It would be a shame to get rid of it. I don't think that's part of the plan.

Scott Collins, Engineer – The plan is to keep the trees in that corner that exists. We're not bumping the parking lot any more than it already is shown on the existing conditions. We're planning on keeping the trees.

Commissioner Stolzenberg – It seems like the parking spaces are going to be on top of it a little more and compact the tree roots. Is that right? Or is the limit of it the same?

Mr. Collins – The limits of that in that location are the same.

Commissioner Stolzenberg – It doesn't look like it on those pages of the plan. The existing conditions in the demolition plan is where that bump out is. You're saying that it is paved all the way to the line like it is showing.

Mr. Collins – There is a 3 foot grass strip that is going to be preserved. Sheet one shows the overlay of the existing pavement. It's probably within 6 inches in that corner where the tree is located. That hatching beyond the parking is more of a natural grass or existing conditions type buffer.

Commissioner Stolzenberg – Since you have asked for a parking space reduction, would now be an appropriate time to ask the City Attorney if a parking space waiver is feasible for the reduction because of the proximity to the bus stop because it is not a city bus stop?

Chairman Mitchell – We have the conditions on pages 15 and 16. Maybe that could be an added amendment to the conditions.

Ms. Robertson – City code allows Council in reviewing an application for a Special Use Permit to modify or reduce or grant exceptions to parking standards. It would be fine for you to recommend that even though it hasn't been specifically requested. The language of the ordinance in that particular section will allow that to be done by City Council on your recommendation if they would like to.

Chairman Mitchell – When we make a motion, we move to accept the conditions or recommendations made by staff on pages 15 and 16 and add an additional bullet at the backend.

Commissioner Solla-Yates – Do you see any issues with the restrictions read by staff with lighting being an issue?

Mr. Henningsen – I don't think so. I think some of the conditions are a result of the parking situation that we have. If we could get the parking reduction, it would be nice if people didn't have to carry bikes down to the basement. We may provide more bike racks outside. There's an existing covered area under the side porches of the building where we can locate some bike racks. That would give us some flexibility in terms of the bike parking requirements. Everything else and the other conditions seem reasonable. I think we can meet them.

iii. **Public Hearing**

Karen Dougald – We have seen quite a change on University Circle with Lynd Hall and Jouett Apartments increasing the number of students living there. It's wonderful thinking that students will have their bicycles. I would say that 95% of the rentals on University Circle all have cars. This is going to create a very dangerous situation. The students on University Way are not supposed to go down to University Way but they do. It is much faster going the wrong way. More young families are moving onto University Circle. There are a number of children on University Circle. The speed and the cars going around the circle is a big concern. Cars are so important to these students. The increased traffic worries us.

Matthew Schetlick – I have a more generic question or comment. It is an unusual year for everyone. We're aware that this landlord owns 3 or 4 buildings adjacent to this one. Their policies and procedures are leading to some uncomfortable outcomes and events on the street. More is not always seen as better. There are no bicycles at the University of Virginia. The issue is in cars. The issue is in behavior and density. How many are going to be there? How are they going to behave? How are they going to engage with the neighborhood? We love having the students. We need to answer the question of how many students are going to be there and is there going to be some change. Once the students get there, how are they going to behave?

iv. **Discussion and Motion**

Councilor Snook – I have been hearing from a number of neighbors about their concerns with the behavior of mainly students, who live in a lot of these apartments near University Way and University Circle. The complaints have been about mask wearing and parties where people are not observing all of the required protocols. I wonder if there's anything that we, as a city, can profitably do to try to enforce some behaviors in that area. That's one of the costs of the density that we are trying to encourage in some of these neighborhoods. If we're encouraging the density and we don't have any mechanism or not willing to exert any mechanism for controlling the adverse effects of that concentration of people, that's as much a neighborhood problem as not enough parking spaces.

Chairman Mitchell – I am not sure what the Planning Commission can do. Did I understand the meaning of the word profitably?

Councilor Snook – Maybe not in profitably in that we return economic value to ourselves. I don't want to be "spinning wheels." I don't want to be doing things that are ineffectual. I don't know what the effectual

means would be. On one hand, maybe we can get the University or other entities to take some greater role. When I talk about that with the neighbors, they say that they have tried that. I am hoping that someone will have some wisdom for us and for staff.

Commissioner Solla-Yates – I would suggest the My Cville App. The City will do their best. It doesn't mean they can do everything. It does help and you can see what has been logged.

My understanding is that this is permit parking. Students living in apartments can take up no on street parking by the current ordinance. Is that correct?

Ms. Rainey – That's correct. The traffic engineer has confirmed that no residents that would reside in this building would be eligible to receive the on street parking permits.

Commissioner Stolzenberg – My experience as a student and the research that I have read is that part of an induced effect. If you have a place to store your car, you will bring a car. If you have nowhere to store your car, you won't have a car. You will have nowhere to put it. It would seem to me that it would be in the public interest to minimize the parking on this site in terms of reduction that would just make sense because of the bus stop nearby. I would love to see an addition to the rear of the property to add more housing. It is not in the scope of what we're seeing today. It would make sense to add that parking waiver as part of this SUP. I think we should hammer out what that looks like. It sounds like 1 or 2 spaces are needed to make that 14th space work depending on whether the 8 storage spaces with a one unit reduction for 5 of them. Would that be double counting against the requirement?

Ms. Rainey – With the currently proposed bicycle parking in the basement, you're asking if that can be used for a reduction in the vehicular parking cap. They could be counted for that parking reduction. The bicycle space inside would need to meet our code section. It states specifically bike lockers. We're talking about something enclosed, lockable, and indoors. It would have to meet the criteria of that parking reduction section in terms of being a lockable box that you could use. They are only proposing 8 spaces. In order to get two vehicular parking space reduction, you would have to have ten lockable, secure bicycle lockers within the basement.

Commissioner Stolzenberg – With 8, they qualify for one space reduction. If we recommended a further one space reduction as a waiver in the SUP, that would be sufficient?

Ms. Rainey – That's correct.

Commissioner Stolzenberg – Is the plan for those to be lockable and qualify as lockers?

Mr. Henningsen – I would have to find a space in the basement for bike lockers. We have the exterior bike lockers. To get the parking reduction if we have to go that route, we will figure out how to get them in the basement. I think having them in the basement where people have to carry a bike down to the basement is not a great situation. I think it would be better if we had more bike parking outside of the building in a covered area.

Commissioner Stolzenberg – I agree carrying bikes down the stairs is a hassle. Having them secured is important. Are you aware that a recommended condition is to have 8 bicycle parking spaces provided in the basement?

Mr. Henningsen – I am. I was under the impression that was a result of our planned parking reduction proximity to a bus stop not working. I thought that was added.

Ms. Rainey – The reference in the reports to the 8 spaces in the basement is from the prior site plan. If you're looking at sheet 1 of that, it notes 8 spaces in the basement and 4 bicycle racks. That's where the condition I proposed came from.

Ms. Robertson – I think the traffic engineer and Ms. Rainey have looked at this issue. I don't know what changing the actual number of required parking spaces will do. In the permit parking ordinance, there are provisions that talk about how you calculate whether or not a multi-family dwelling can receive permits. If so, how many. One of the two ways of calculating it is to take the minimum off street parking requirement and subtract the actual number of off street parking spaces available for the dwelling. The second method you look at is you apply a certain percentage of the total number of on street parking spaces and compare that to the street frontage for that particular location. I just want to know whether if the actual parking requirements are reduced, whether that would yield a different result in the conclusion that the building would not be eligible for permit parking passes.

Ms. Rainey – I discussed this project with the traffic engineer. We looked at that section. We had discussed that in section 34-985, which are the rules for computing required spaces. Item B is certain reductions in required parking spaces for a particular use should be allowed. By our reading of that section, we are looking at it from the perspective of a city bus stop. The bus stop potential reduction as well as bicycle lockers on site, we believe that read as: You can reduce the number that you're required to provide by doing these other options. Fourteen would be your required parking spaces. That would be compared to what is in the permit parking section. They're only required to have 14 and they're providing 14.

Ms. Robertson – That comes out to be zero.

Ms. Rainey – That was the way we were reading it.

Ms. Robertson – I wanted to make sure that everybody is aware that there's a calculation involved in the permit parking section of the code. It relates to the number of spaces required by the ordinance. I want to make sure everyone is aware of that.

Chairman Mitchell – The spaces you are talking about are off street or on street parking spaces?

Ms. Robertson – Off Street.

Motion – Commissioner Solla-Yates – I move to recommend approval of this application for a Special Use Permit in the R-3H zone at 64 University Way (Tax Map 5 Parcel 48) to permit residential development with additional density and modification to side yard setbacks and parking standards with the following listed conditions:

1. **Up to 48 dwelling units per acre (DUA) are permitted on the subject property. A maximum of 16 multi-family residential units with 24 bedrooms shall be allowed on the subject property.**
2. **Side setback requirements of Section 34-353(a) shall be modified per Section 34-162(a) to be 10 feet minimum.**
3. **Off-street parking area offset from the side and rear property line per requirements of Section 34-972(b)(6) shall be modified per Section 34-162(a) to be no minimum setback.**
4. **Off-street parking requirements of Section 34-984 shall be reduced by two (2) parking space per Section 34-162(a).**
5. **No improvements shall be commenced prior to approval of a final site plan and approval of a permit authorizing land-disturbing activities pursuant to Section 10-9. For purposes of Chapter 10 of the City Code, demolition activities shall be planned and built into the erosion & sediment control plan and stormwater management plan (if required), as part of the overall development plan for the subject property, and no such demolition activity shall be undertaken as a stand-alone activity.**
6. **The design, height, and other characteristics of the development shall remain essentially the same, in all material aspects, as described within the application materials received from January 21, 2021 until February 24, 2021, submitted to the City for and in connection with SP21-00003, including the site plan dated January 15, 2021 (Attachment C). Except as the design details of the development may subsequently be modified to comply with staff comments, or by any other provision(s) of these SUP Conditions, any change of the development that is inconsistent with the application shall require a modification of this SUP. These characteristics include:**
 - a. **No expansion of the existing building's footprint or height.**
 - b. **One (1) outdoor patio shall be provided on the southern side of the building.**
 - c. **At least eight (8) bicycle lockers shall be provided, in addition to at least eight (8) outdoor bicycle parking spaces shall be provided outside on site.**
7. **Outdoor lighting shall be provided at building entrances only.**
8. **All outdoor lighting and light fixtures shall be full cut-off luminaires.**
9. **The spillover light from luminaires onto public roads and onto property adjacent property shall not exceed one-half (1/2) foot candle. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source. Motion passes 5-0.**

The meeting was recessed for 3 minutes by the Chairman.

IV. COMMISSION'S ACTION ITEMS

1. Critical Slope Waiver – 915 6th Street Southeast

Staff Report

Ms. Rainey – The scope of the Commission's review for this critical slope waiver request is to consider the impact of disturbance of the critical slopes that may cause one or more of the following negative impacts: 1. Erosion affecting the structural integrity of those features referring to the critical slopes. 2. Stormwater and erosion related impacts on adjacent properties. 3. Stormwater and erosion related impacts environmentally sensitive areas such as communes and wetlands. 4. Increased stormwater velocity due to the loss of vegetation. 5. Decreased groundwater recharge due to changes in site hydrology. 6. Loss of

natural or topographic features that contribute substantially to the natural beauty and visual quality of the community, such as loss of tree canopy, forested areas, or wildlife habitat. The Planning Commission should focus when making a recommendation to City Council, according to the criteria set forth above to make a finding that either one the public benefit of allowing critical slope disturbance of a critical slope outweighs the public benefit of undisturbed slope. Public benefits include but not limited to stormwater and erosion control that maintains the stability of the property, indoor quality of adjacent or environmentally sensitive areas, groundwater recharge, reduce stormwater velocity, minimization of impervious surfaces in the built stabilization of otherwise unstable slopes for finding due to unusual size, topography shape location for other unusual physical conditions or existing development of the property. One or more of these critical slope provisions would effectively prohibit or unreasonably restrict the use reuse of development or redevelopment of such property and would result in significant degradation to the site or adjacent properties. We're really focusing in on those environmental factors of erosion, sediment control, our stormwater, our impacts to adjacent properties, and our environmentally sensitive areas, as well as the physical beauty and the robust potential habitat that can happen from more mature planting standards and other criteria.

Rayonix, LLC has requested a waiver from Section 34-1120(b) to allow for construction of a development with 21 multi-family residential units in a three (3) story building fronting on 6th Street SE. Improvements specific to areas where critical slopes would be impacted should the waiver be approved are shown on the Critical Slope Exhibit and include a portion of the building, parking lot access via Rayon Street, sidewalks, retaining walls, and bicycle parking area. Approximately 32.5% of the critical slopes on site and 13% of the total critical slope area will be impacted by the proposal.

The property is zoned Downtown Extended Corridor (DE), for which the intent as stated in Section 34-543(2) is *to encourage an inter-related mixture of high-density residential and commercial uses harmonious with the downtown business environment, within developments that facilitate convenient pedestrian and other links to the Downtown area.* The applicant has indicated that 21 one- and two-bedroom multi-family units are proposed. The proposed development has a residential density of approximately 27 dwelling units per acre (DUA), which is high density per the 2013 Comprehensive Plan.

The General Land Use Plan of the 2013 Comprehensive Plan calls for the subject property to be Mixed Use. The Comprehensive Plan describes Mixed Use as *zones where the City encourages development of a moderate or high intensity, and where a variety of uses will be permitted, including many commercial uses, residential uses, and some limited research and manufacturing where appropriate.* The proposed development has a residential density (27 DUA) which is designated as high density per the 2013 Comprehensive Plan.

Each applicant for a critical slopes waiver is required to articulate a justification for the waiver, and to address how the land disturbance, as proposed, will satisfy the purpose and intent of the Critical Slopes Regulations, as found within Section 34-1120(b)(1). The applicant has provided information in the critical slopes waiver narrative for Application Findings #1 and #2.

City Engineering staff concurs with the applicant's analysis for Finding #2 and recommends the waiver be approved under Section 34-1120 (b)-6-d finding (ii): "Due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of a property, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or

redevelopment of such property or would result in significant degradation of the site or adjacent properties.”

However, due to the lack of prepared engineered plans, sequences of construction, and clear narrative specifying how the slopes/downstream waters will be protected during construction, and stormwater quality and quantity managed afterward, and in accordance with Section 34-1120(b)(6)(d) (“No modification or waiver granted shall be detrimental to the public health, safety or welfare, detrimental to the orderly development of the area or adjacent properties, or contrary to sound engineering practices.”) City Engineering recommends conditions be placed on the waiver to ensure adequate protection for critical slopes outside of the limits of disturbance and stabilization for impacted critical slopes.

The Environmental Sustainability Department has noted the site currently has significant tree canopy and other pervious surfaces coverage, roughly half of which is proposed to be converted to impervious surfaces. As a result, the site will produce significantly more stormwater runoff in the post-development condition. Given that Pollocks Branch has significant water quality and quantity challenges, the applicant is encouraged to incorporate water quality and quantity treatment into the site design. If not managed properly on site, this additional stormwater will leave the site with increased velocity and have the potential to cause increased pollutant loading and erosion and sediment in Pollocks Branch. Additionally five mature trees that are 10 to 20 DBH, which is diameter at breast height, are proposed to be removed from the existing critical slope area including several in areas where the critical slopes are more than 60%. Areas with slopes greater than 60% and large chains of trees are specifically called out in Section 34-1126b one in three as particularly sensitive and important to mitigate this. Habitat redevelopment should be completed in the form of planting of locally native tree species in the critical slope area not to contain buildings parking lots, sidewalks or other building improvements. Staff recommends that the Planning Commission consider the following in making a recommendation to City Council. 1. Erosion affecting the structural integrity of the critical slopes adjacent properties are environmentally sensitive areas. City engineering has noted concerns regarding lack of information regarding construction sequencing and stormwater management practices for erosion and sediment control measures can be conservatively designed to minimize the risk for discharge to the critical slopes remaining on the adjacent parcel. 2. Loss of tree canopy and wildlife habitat that contribute to the natural beauty and visual quality of the community. The site currently has significant tree canopy cover as noted before. Wildlife habitat is likely to be reduced by the clearing of existing mature canopy and understory grass on the site. The Virginia Department of Game and Inland Fisheries recommends a varying level of vegetation such as herbaceous level layers, shrub layer, sapling layer, and harder tree canopy to promote a diversity of species. The planting of locally native woody and herbaceous vegetation could be required to both stabilize remaining slopes and minimize the impact to large stands of trees, vegetative canopy, and wildlife habitat. The proposed high density residential uses in line with the land use plan of the comprehensive plan which calls for the property to be mixed use is noted in some previous conversations. The proposed building height does not meet the recommendations in the SIA plan for this mixed use urban corridor listing which is transect T5. However, staff finds the lower height to be more appropriate given one to two story houses in the area. Regarding our recommended conditions for Section 34-1120B-60. Per Section 34-1120(b)(6)(e), City Council may impose conditions upon a critical slope waiver to ensure the development will be consistent with the purpose and intent of the critical slope provisions. Should the Planning Commission find recommendation of the waiver to be appropriate, staff recommends the Planning Commission consider including the following conditions to mitigate potential impacts:

1. Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of erosion & sediment (ESC) controls, the first shall consist of “Initial/Preliminary Controls” and outfall construction, the second shall include the establishment of a sediment trap and conveyances (or “appropriate stormwater infrastructure” as referenced in applicant’s letter). The sequence shall dictate that no disturbance of the slopes beyond what is necessary to install perimeter controls/conveyances, can occur until after the establishment of a functioning sediment trap.
2. “Super Silt Fence” (chain linked backing) shall be installed where perimeter silt fence is specified.
3. Any disturbance occurring outside of conveyances to the trap, or other approved perimeter controls, in either sequence or space, planned or unforeseen, shall be immediately stabilized with sod (for pervious areas, utilities within impervious areas should have other “same day stabilization” measures provided).
4. At no time shall concentrated water be directed toward the critical slopes.
5. Habitat redevelopment shall be completed, in the form of replacement of trees removed from the critical slopes areas at up to a three-to-one ratio. The plantings shall be locally native tree species appropriate for the site conditions, and located in the critical slope areas not to contain buildings, parking lots, sidewalks, or other built improvements. These plantings are intended to mitigate negative impacts per Section 34-1120(b)(1)(a),(b),(c),(d), and (f), and are to be detailed on the final site plan and approved by the City prior to final site plan approval. The specific number and species of replacement trees will be determined by the applicant and the City based on available space and site conditions.

Chairman Mitchell – This went before Council in 2019. There were concerns. Does this plan address the concerns that Council had in 2019 when they rejected this? Are those concerns relevant to the new plan?

Ms. Rainey – Was pulling up the minutes from those meetings. There are still some of the concerns present. However, there’s less of an impact at this point in time to the critical slope areas. The previous request that was considered in 2019 included a second building that was fronting on Second Street Southeast. This current proposal does not include any improvements to that area. However, a significant portion of that frontage is critical slope. That would have been a much greater overall impact to the critical slope area to include that construction. There is an improvement. Council generally spoke about the overall loss of canopy, concerns about erosion, and concerns to other property on Pollocks Branch. The impact is less.

Commissioner Russell – We have reviewed the question I had about the proposed connection from Rayon, which was helpful to understand.

Commissioner Stolzenberg – We talked a lot about how the western slope is the natural slope. The northern slope is the manmade one as part of building the factory. In 2019, there was a commercial building on that western slope that heavily impacted that one. In this application, we’re only infringing on that northern slope. Do those behave differently? Are there potential impacts on that western slope as a result of cutting into the northern slope?

Jack Dawson, City Engineer – No. The western slope flows to the west and the northern slope flows to the north. Impacts to the northern slope would not affect the western slope, unless you had something catastrophic. The project area being on top of those slopes where its drainage can contribute to either slope is a treat to those slopes from the enhanced erosion and sediment control that was suggested.

Commissioner Stolzenberg – The worry is that during construction and after construction when the impervious surface is there, there might be excess water flowing over that western slope that could impact it. What we're trying to make sure is that all of the water is conveyed safely to a retention pond or the stormwater sewers?

Mr. Dawson – That's correct.

Commissioner Stolzenberg – Is this over parked? I see 21 one or two bedroom units, which is a base parking requirement of 21 spaces. I see that there are ten indoor lockers onsite. In the final site plan, it says that 5 of those bike lockers satisfy the requirement and 5 satisfy the parking exemption. Therefore, it is a one space reduction. Because those are lockers, even though they are required by parking, they still count towards that off street parking reduction. There would only be 19 spaces required on site. Is that correct? The whole impact on the slope is because of this giant parking lot that is required. If it is determined that we need less parking than what is provided, is it a reasonable condition to say no more parking than the minimum off street parking requirement be provided on site? It would reduce the boundary of the impingement on the slopes.

Ms. Robertson – If Mr. Dawson agrees that those things are related and help protect the environment that is being disturbed, I am fine with that condition.

Commissioner Stolzenberg – My basis for that is the westernmost parking space in the plan is directly in the steep slopes areas.

Ms. Robertson – As long as Mr. Dawson agrees that those things are related in terms of the work that is being done or the long term existence of the disturbed area, I think that is an OK condition.

Chairman Mitchell – Commissioner Stolzenberg, what is your concern and how does this impact the environment?

Commissioner Stolzenberg – The way that the applicant calculated the required parking may be incorrect in that they thought they needed more parking under the ordinance than they actually do. If they don't need as much as they put in, we can reduce the scope of the impacts on the slope by reducing the parking down to what is legally required. That's based on the prior discussion on University Way. If I am wrong about that and it comes out later that it is required, the way I have worded my proposed condition allows for that.

Mr. Dawson – It makes sense. Commissioner Stolzenberg's suggestion that reducing it would reduce the impacts to the slopes is generally correct. Just need to look at the geometry of the site. The plan on the northwest has the most impact into the site. Shifting that 9 feet probably would serve that.

Commissioner Stolzenberg – It says in the plan that the handicapped spot is van accessible. In the off street parking reduction ordinance, it says that van accessible spaces that are marked as such count as three, which would be a further two space reduction. If that is the case, I am not sure that can be double counted against the handicapped spot. If so, I would be curious if that is also a possible reduction.

Ms. Rainey – My interpretation has been that the van space required for the parking reduction is not specifically limited to those with disabilities with the handicapped parking spaces, but simply a van space to get towards carpooling or group transit has been my interpretation.

Commissioner Solla-Yates – We never talked about the global importance of disturbing or preserving steep slopes. How significant is this compared with other concerns for the city?

Ms. Creasy – It would also be a good thing to keep in mind that the applicant has provided a proposal. The suggestions that you all are providing can be helpful if they're choosing to change that proposal. You all have the opportunity to react to what is before you. We're starting to move into items that would be handled in other pieces of this project. I want you to be mindful of that. Once the applicant has the opportunity to speak and share the vision of their project more fully, they may be able to better consider your comments at that point in time.

Chairman Mitchell – There is an unclear articulation of the plan for erosion and sediment design control. There's an unclear articulation of the construction sequencing in stormwater management practices. I worry about what impact that is going to have on Pollocks Branch. Ms. Rainey and Mr. Dawson have done a pretty good job of putting controls in place in their recommendations if we approve this to protect those pieces. Are the 8 or 9 points you suggested address the issues not mentioned in Mr. Shimp's proposal?

Mr. Dawson – Yes, they do. We discussed this a little bit. There is a plan that was submitted before the site plan that showed all of the erosion controls. I did review those. The construction on this site is occurring on top of the slopes. If you expose the ground, whether it is the actual slopes or on top of the slopes that will be contributing runoff to the slopes and you get a rain event, you're not only moving sediment onto the slopes but you're also causing erosion to the slopes, especially as you scour the vegetation, which is providing some runoff reduction. The critical slopes review is in the city processes and codes. This is something we have to do, regardless of my opinions on whether this is a good idea or not. If you look at finding 2, there are certainly impacts to one side of the site, which would limit the use of that. I did concur with the applicant that probably does make sense. My conditions are geared at making sure that nothing unforeseen happens during construction when the slopes are most sensitive that they're not impacted. It doesn't go into water quality or water quantity. Those things are handled in a separate process with strict compliance with what we have the authority to enforce on all projects.

Applicant Presentation

Justin Shimp, Shimp Engineering – A lot of the important facts were discussed with Mr. Dawson, the city engineer. It really is about managing the construction process. Our plan outline does need some refinement. He's right about the outfall being first and being critical. I agree with that. We don't have a problem with his conditions. I think they make sense. I do want to point out an interesting twist to this as it relates from last time. The last time we were disturbing some of the natural slope when it was down towards Second Street Southeast. This slope for disturbing our parking lot, is just results of construction. That was all cut back. If you look at that slope of the site, you can see clearly where it was cut years ago during that parking lot expansion that was discussed in the staff report. That particular vegetation part of the sub site and the conditions have been packed and are minimized. It's the result of construction. You'd go on to the sites to sitting off those slopes is narrow. It's a very skinny parcel. We can barely fit a row of

parking on the site. That's the minimum dimension and you'll see a plan that the sidewalk essentially is in the inside of park spaces in the slope. There is no way around that in this particular instance. We find ourselves with the minimum disturbance and certainly much more than previous conditions, which is to address the risk to Pollocks Branch that have been have been discussed or consideration. Since the parking did come up, we're showing the minimum number of parking spaces already. The only other thing I bring is if you're just looking at that diagram that is attached to the application is a pink highlighted slope subsection.

Commissioner Russell – In 2019, the applicant included a proposed mixed use component to this development. Why the change to all residential? Would there be any less parking requirement if there were a commercial component?

Mr. Shimp – We originally had the mixed use building fronting the IX side. We thought it made more sense. Sixth Street was more residential in nature. The downside with commercial is that it requires more parking per square footage of structure than residential. Even in that scheme and to develop any meaningful commercial, we would have a parking agreement with IX parking lot next door. That's why we dropped it. We scaled back the intensity of the development and the commercial went with it.

Commissioner Russell – That's a pretty steep grade given your site plan proposes a 13 foot retaining wall on the north side. It would be a pretty dramatic grade to have commercial facing Second Street.

Mr. Shimp – It was a complicated, multi-step building to make that happen. It would certainly have been more challenging from an erosion control standpoint during construction.

Commissioner Russell – A second question is related to creativity and retaining existing large trees or interesting features. What you have is a parking lot. Is there any flexibility within the plan that would allow for retaining large trees? I didn't appreciate that there's a sidewalk in front of the parking curve. Is that a code requirement? Is there any way to adjust the parking whether it is reducing it, reconfiguring it, or tweaking it to lessen the impact on the critical slopes and try to keep as many of those large trees as possible?

Mr. Shimp – It is difficult to maintain those when you are doing any kind of work in the area. Any sort of grading activity will damage the roots. My assessment of the trees in the steep slope area is that not a lot of those are the kind of trees that will live a long time. Some of the 'silver maples' are nice trees. They do suffer storm damage. They're generally faster growing, hardwood trees. The ones impacted will be replaced at that 3 to 1 ratio with more native trees per the requirements of the conditions. With the sidewalk, that's a staff question. I believe that will be required by the ordinance to have access from the parking spaces up to the building without being in the travelway. Practically, that sidewalk could go up to the accessible parking space to get people in and out of the building. I would be happy to remove that sidewalk and reduce the impact of the slopes if that was permissible with the city code.

Ms. Rainey – Section 34-897 covers pedestrian walkways and internal access. Subsection A of that states that "pedestrian access and circulation systems shall be provided for. Every development shall be designed to provide for safe, attractive, and convenient pedestrian travel. Provisions shall be made for sidewalks and pedestrian walkways which enable pedestrians to walk safely between buildings on site and from site to adjacent properties." It keeps going from there. I would read the requirement "safe and

convenient” access to include from the parking area to the building. I would interpret that code section as requiring sidewalk or other pathway from the parking spaces to the building in this case. Generally, it is a good idea to have people a place to walk where possible.

Commissioner Russell – It is a very constrained site. We talk about the number of units driving the number of parking spaces and if there is any way to reduce that, I would pose this question to the applicant to the group. Is it possible that lessening the density of this apartment could result in a parking number that less severely impacts the critical slope? Should we be approaching it from that mindset in ‘right sizing’ the development for the constraints of the site?

Mr. Shimp – The way the lot is laid out, parking has to be in this orientation. You could take some parking spaces off the end. You’re not saving very many trees per parking space. I am just giving context. There is a quantity of trees cut per residential unit built. This is a relatively small amount per unit. Anywhere we put people generally does involve some clearing of land with that kind of impact. There is a slope here that we need to deal with. The overall impact per unit is pretty small. If you don’t build them here, they end up somewhere else. Trees are likely lost in those locations. It is a fair question. I calculated the area. It is 0.003 acres per parking spot is the area of the slope disturbed.

Commissioner Stolzenberg – Could you repeat what you said in your presentation about the parking lot?

Mr. Shimp – This whole activity is being generated because a slope was created by the construction of the parking lot that sits vacant all of the time. Effectively, you have an empty parking lot that created a slope waiver process, which is a potential hindrance to a housing project.

Commissioner Stolzenberg – Did you explore a shared parking agreement with IX? I think you mentioned it in the mixed use portion. Is it possible to build this apartment building with more units?

Mr. Shimp – I suppose it could be. This project is something that has been going on for many years. My client has spoken with the IX people. They have never been able to come to any sort of agreement. The IX people are in planning of their own and not wanting to lose parking or compromise their options for us. We have not made any ‘headway’ on that kind of shared development. It had been discussed several times over the years. I think we have landed on the best way to develop this property and to develop it on its own as a modest apartment building.

Commissioner Stolzenberg – There appears to be a ten foot buffer to the south side before the parking. It seems that if you moved the whole thing ten feet to the south, there wouldn’t really be any impacts on the critical slope in the back. What is driving that buffer? Is that required?

Mr. Shimp – There is an ordinance required buffer of ten feet. It is a landscape buffer in that zone. We have the curb lined up against that buffer. It cannot go any further in that direction.

Commissioner Stolzenberg – Is there a mechanism to get that waived?

Mr. Shimp – Not that I am aware of. It is written in the code for that zoning district.

Ms. Rainey – When you are applying for a Special Use Permit, you can ask for modifications to a side yard. It cannot be the main part of your request. You can't have a Special Use Permit request to just modify offset requirements. If there was a Special Use Permit request, it can be added into the request.

Commissioner Stolzenberg – There's a ten foot alley adjacent to the site. Are you planning any improvements to that alley? I noticed that there were wooden posts going in. Is that you? What is the plan there?

Mr. Shimp – I don't know about any posts. The alley serves the driveway for one of those lots adjacent. Our plan is to not touch that alley.

Commissioner Stolzenberg – My impression of a lot of those trees at the very top of the slope was that they were in poor condition. Can you speak to the condition of those trees that you're removing?

Mr. Shimp – I don't have a detailed report on the actual trees. We haven't had an arborist do a detailed report. I know there are some larger healthier species trees. All of the trees on the slopes are ones that have grown up after the parking lot was built. I don't think any of those trees were planted there strategically. I think they came up as the fast, propagating trees that come up in the forest. There's nothing wrong with that. If you saw trees that looked unhealthy, they may be approaching the end of their lives. Those are the trees that tend to get zapped by ice storms or lose a lot of limbs. They're not a tree that lives hundreds of years. They tend to have a shorter lifespan. Those are the kinds of trees that are a maintenance headache to cut when they fall down.

Commissioner Stolzenberg – The trees that you would be replacing, those trees would be those?

Mr. Shimp – Those will be more intentional. They would be oaks and elms and trees that are more native trees or in a mature forest. That's the point of that condition that talks about those tree species.

Commissioner Stolzenberg – Is your intention to not be over-parked, to be at the minimum amount of parking required?

Mr. Shimp – I would say that. We're not trying to have more spaces than what the code requires. We want to have enough parking spaces for people who live there. I am agreeing with your principle that you mentioned earlier: Enough parking spaces for the people that live there. If you build it, they will come. We can drop the space. That doesn't necessarily offend me. It also saves a pretty small amount of disturbance. It is around 145 square feet per parking space. It is something that could be explored. I don't think it is going to make a dramatic difference in what the impacts are or really affect our ability to manager those one way or the other.

Planning Commission Discussion and Motion

Commissioner Russell – I am interested in the opportunity of better utilizing that alley and if there were opportunities there. I didn't quite understand the resolution. It seems like it is a waste of space. You have an alley, a buffer, and a parking lot in there taking up a lot of prime real estate. That's pushing the parking lot into the critical slope. Could it be avoided?

Mr. Shimp – I am not sure we have legal access to that alley. I don't believe it was part of our plan. I looked at that. Essentially, it serves a residential use on the side. We concluded that it was difficult to use that alley because the zoning is different with those two parcels

Commissioner Stolzenberg – If there is a ten foot buffer required between low density uses and multi-family, does the ten feet of the alley count?

Ms. Robertson – I believe that the buffer typically has to be on your own property; between your property line and the edge of the building or structures.

Commissioner Stolzenberg – It is a public alley, public right of way. Anyone would have the right to use it.

Ms. Robertson – Not necessarily. It can depend. Most alleys are privately owned.

Commissioner Stolzenberg – On GIS, it doesn't appear to be public.

Ms. Robertson – There is only a handful of alleys that have been accepted by the city for maintenance.

Commissioner Stolzenberg – Is there a difference between a platted alley and an accepted alley?

Ms. Robertson – Yes. If you're looking at the original plat for Belmont, it has a bunch of alleys on it. Most of them were never intended to be dedicated for public use. They are ways for adjacent lot owners to access the rear of their lots. If you go back through all of the deeds, it depends on what the subdivision ordinance said at a particular period in time. It depends on whether or not there's language in the subdivision plat or any deeds that talk about dedication for public uses. It's not an easy undertaking. You have to look at each one separately. There are a handful of alleys which are more modern alleys that were created with the specific intention to allow the city put utilities or that sort of thing in them. There are a number of alleys that the city has accepted as being dedicated for public use because they had utilities in them. It's rare that the city owns an alley to provide for vehicular or pedestrian traffic.

Commissioner Stolzenberg – Is an alley zoned something?

Ms. Robertson – You would have to look at the zoning map. Sometimes the zoning map includes public streets. Sometimes it doesn't. The zoning map should shade most of the alleys because in most cases the adjacent lot owners have some owned title to the center line.

Commissioner Stolzenberg – The GIS only shows it on parcels. If I go over to the zoning map, there's a big borderline that covers it up. If we were to assume the alley was zoned DE to the center line, would that mean this parcel on that side that is adjacent to the alley isn't adjacent to the low density residential district in a way that would require a buffer?

Ms. Rainey – You're referencing if our zoning map showed ownership to this center line of the alley for each adjacent landowner, it would make a portion of the alley adjacent to the subject property Downtown Extended and the other half of the alley R-2? Is that what you're asking?

Commissioner Stolzenberg – Yeah. If you had an entire actual owned parcel all the way across that happened to be Downtown Extended, it wouldn't be adjacent and it wouldn't require a buffer. Does that half of the alley count in the same way?

Ms. Robertson – That's not how we typically approach the interpretation of the ordinance in that regard. If you want to start going that route, applicants are going to have to submit title work with their applications. I can't give people a title opinion for their property. I can tell you guys whether our office thinks the city owns a piece of property. I can't give a title opinion for somebody else. We look at where the platted alleys are. Usually, the platted alleys come burdened in some way to allow somebody to share the use of those. Each adjacent property owner has a right to use the alley access to his or her property. There is a property line that is outside the alley. It is on the edge of the alley. The usual interpretation of the zoning ordinance provisions for buffers starts at your property line and is measured into the interior.

Chairman Mitchell – What are we trying to accomplish tonight?

Commissioner Stolzenberg – This buffer requirement is forcing more infringement into the slope. If it were not to apply on slightly more than half of this parking lot, that is roughly the idea, Commissioner Russell?

Commissioner Russell – We are trying to do everything we can to pull off the slope.

Commissioner Stolzenberg – When we say adjacent to a low density residential district, if it was across the street, that buffer requirement would not apply?

Ms. Robertson – I think we usually interpret adjacent as including across the street. Ms. Rainey, adjacent includes areas across a public street?

Ms. Rainey – That is generally correct. I am trying to think of a circumstance where a project would have had that condition.

Commissioner Stolzenberg – Wouldn't that apply here because it is R-1 across 6th Street? That would require a 10 foot buffer with 15 foot max setback.

Ms. Robertson – These issues with interpreting the zoning ordinance language are more for the city's zoning administrator. If you would like to informally request that the process of this review, that the zoning administrator look to verify the buffer requirements apply on this site, that's fine. There's not a mechanism in this process for you to waive it or rewrite the zoning ordinance. The only other option for the applicant would be for there to be some condition that could offer a hardship. In that instance, they would have to go to the Board of Zoning Appeals. The people, who can interpret these things, are the zoning administrator and the Board of Zoning Appeals in the context of certain applications. We're going to have to keep all of these things in mind when you're rewriting the ordinance. The things that you're thinking of as you're trying to design how certain properties will relate to streets or alleys. That doesn't get in your way as you're trying to protect environmental issues. It is a difficult thing.

Chairman Mitchell – I am pretty comfortable with the mitigating issues in the staff report from pages 7 and 8. I am pretty happy with what they want to do.

Commissioner Russell – The site plan shows a building that does not have a relationship with 6th Street. That follows the typical pattern of the existing houses along 6th Street. I am wondering if it wouldn't be possible or adversely impact all of the configurations with everything that we're talking about to have it fall more in line with the other houses along the streetscape. It's not fronting 6th Street in a way that relates to 6th Street. It's fronting 6th Street in a way that is oriented like a square if it was built with more sensitivity and design. It would be a parallelogram.

Chairman Mitchell – Are you talking about the design that we have been given?

Commissioner Russell – The building that is shown on the site plan. It is not related to the critical slope. There could be more nuance to it that would improve its design. If we don't have the ability to offer comment to that, fine.

Chairman Mitchell – Ms. Rainey, how does that impact our ability to move forward or not on the critical slope waiver? If it does not impact that, how can we impact this when we do the site plan?

Ms. Rainey – The façade of the building at 6th Street is not in the critical slope areas. The specific design of the building and that portion is something I think might be beyond the scope of conditions and/or modification or review of critical slope waivers. I am not seeing how modifying that would have any impact on our runoff, adverse, or improvement to the critical slopes. Those pieces of the rear of the building if it was to change orientation to match façade on 6th Street, there might be slightly less of the building in the critical slopes. I am not quite hearing any reason that it needs to be modified due to the critical slopes. We're talking more about street experience, which is important. It would be more appropriate in the final site plan review process. It would not be something that could be required by anybody on the applicant. Recommendations and comments could be made to that effect. They're meeting the setback requirements of the street frontage there. There is no issue there. I am struggling to connect that change to the frontage to the critical slope.

Commissioner Russell – I am struggling with how, in the future, can we provide that new development be well designed and there are elements of design that maybe those things get captured in districts under architectural design control. Does that mean that districts that are not don't get that same level of care? The most sustainable thing to do would be to renovate that existing 3000 square foot house and make it into apartments. That would require less parking. I understand that it is not zoned for that. It is an existing housing unit within the city.

Motion – Commissioner Solla-Yates – I move to recommend approval of the critical slope waiver for Tax Map and Parcel 270036000, as requested, with the conditions stated in the packet, based on a finding that due to unusual physical conditions, or the existing development of the property, compliance with the City's critical slopes regulations would prohibit or unreasonably restrict the use or development of the property, per Section 34-1120(b)(6)(d)(ii). (Second by Commissioner Heaton). Motion passes 5-0.

There was a brief discussion regarding Air B&B regulations, policies, and violations within the City of Charlottesville initiated by Commissioner Russell.

The City Attorney recommended that the Planning Commission re-examine the Air B&B regulations and guidelines.

The meeting was adjourned at 8:54 PM.