

Minutes

PLANNING COMMISSION REGULAR DOCKET
June 11, 2019 – 5:30 P.M.
CITY COUNCIL CHAMBERS
NDS Conference Room

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

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

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

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

Staff Present: Missy Creasy, Lisa Robertson, Kari Spittler, Brian Haluska, and Matt Alfele

Vice Chairman Mitchell called the meeting to order at 5pm. The request from community members asking Commissioners Heaton and Stolzenberg to recuse themselves from the Hinton item was noted and it was clarified that legal conflicts of interest do not exist for either member.

Commissioner Stolzenberg asked for clarification on the number of affordable units included in the proffer for the Hinton request and it was confirmed that it was 4 units. Vice Chair Mitchell asked if the Traffic Engineer has reviewed this request due to the entrance changes. Mr. Haluska provided background.

Commissioner Stolzenberg asked about the deed restriction in place on the Maury Avenue application. It was confirmed that this is a private item that cannot be enforced by the City. Mr. Alfele provided the standard of review for a rezoning request and additional information was provided by Ms. Robertson to assist Commissioners in the process for evaluation of the application.

Commissioner Lahendro noted that the Flint Hill application did not contain much change. Mr. Alfele provided an update of the differences. A revised listing of conditions for consideration for the critical slope waiver request was handed out and a brief explanation provided.

II. COMMISSION REGULAR MEETING

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

Location: City Hall, 2nd Floor, NDS Conference

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

A. COMMISSIONER'S REPORTS

Commissioner Lahendro: Attended the BAR meeting on May 21 where two COA applications were granted and there were four miscellaneous discussion items. The BAR is reviewing their Guidelines by meeting every third Thursday of the month from 5:30-7:30 pm. We have worked through about 3 chapters and will continue to work through the rest. Anyone is invited to attend. There was also a Tree Commission meeting last week that I was unable to attend. At the meeting there was an annual review of the Urban Forest Management Plan and there was a consensus that the 2009 plan needs to be updated to become more relevant to our needs today. There was a committee that made comments on proposed changes to the Standards and Designs Manual. Lastly, the

Charlottesville Area Tree Stewards and Tree Commission will be working together again this fall to plant trees in the Belmont area and the planning for that is going on now.

Commissioner Solla-Yates: The full Housing Advisory Committee met on May 15. There was discussion about reforming our accessory dwelling unit policies. That work was done 8 years ago and nothing has been done with it. I have been asked to serve on steering committee for the Comprehensive Plan, housing strategy, and the rezoning RFP and we need one more Planning Commissioner on that body. The HAC will start requesting monthly housing updates from the City, County, and University that may be a useful source of information to us.

Commissioner Dowell: MACCA Project Discovery will be holding a forum entitled College 101 this Friday from 10am to 1pm. The only requirement is that you are a recent high school graduate that is college bound. It is a great opportunity to get resource information. The UVA Credit Union will be talking about financial planning and an officer will be coming to talk one-on-one with the students about creating good relationships with law enforcement. We will also have folks from local and not so local colleges and universities.

Commissioner Heaton: I was unable to attend the HAC meeting but did attend the Thomas Jefferson Planning District for the Regional Transportation Plan. They brought on another committee member and they are close to approving a plan to be passed on. Hopefully we will have action by the end of the summer. I also continue to be involved in the Unity Days work.

Commissioner Stolzenberg: No report.

B. UNIVERSITY REPORT

Bill Palmer: There was a Board of Visitors meeting last Thursday and Friday where there was an approval of a new School of Data Science. The next step would be to get approval from the state. There is a building associated with this that would be about 70,000 sq. ft. and the preferred site is for it to be on the Emmet/Ivy Corridor roughly where the Cavalier Inn stood before. They also unveiled the draft of the strategic plan for UVA that takes us through the strategic plan through 2030, which is called the Great and Good Plan. There are 4 goals, 18 sub-goals and 10 initiatives, including the Good Neighbor program that focuses on four community issues that were identified earlier this year, which are housing, living wage, local education opportunities, and healthcare access. To advance those, it calls for establishing a community engagement office. There is an initiative with the Emmet/Ivy redevelopment site to put forth development of that site. It focused on themes of creativity, democracy, and discovery. From the Building and Grounds Committee, there was design approval for an Inn at the Darden School. It's a 200 room replacement of their existing facility, as well as an outdoor arboretum. There was a design review for the next building in the Brandon Avenue corridor where we have been building student housing and the student health building. A second student residence building is being redesigned right now for that area.

C. CHAIR'S REPORT

Vice Chairman Mitchell: Mr. Palmer invited Mr. Ikefuna and myself to the UVA Masterplan Meeting. The University is going to grow about 15% over the next 9 or 10 years, which is roughly 5,700 more people. There will also be a lot of capital improvement that is going to eat up a lot of parking. In the beginning we will see a reduction of about 1,000 parking spaces in and around UVA. When everything is done we will still be down about 600 spaces, so they will have to do a lot of unique things to accommodate the growth and reduction in parking. They are thinking of a number of creative ideas, including a change in the fee structure, having a greater cooperation with CAT and JAUNT, and general technological enhancements to the way parking is managed. For the Commission, it will be good to keep in touch with UVA to see what they are doing and to see if there is anything we can use in the City to help us with our parking challenges. We recently received results from the

Fontaine Avenue Streetscape charrette from the April 18 meeting. The feedback was pretty consistent with the first one and consistent with what the streetscape board is asking, which is to have better bike lanes, wider sidewalks, and to be sure we don't obstruct emergency vehicle access.

D. DEPARTMENT OF NDS

Missy Creasy: There are a few workshops happening this week. The East High Street Streetscape workshop is occurring tomorrow at 5pm at the Water Street Center. There is also a Planning Commission/City Council joint workshop for the Standards and Designs Manual, which is an open meeting. This is the technical manual for development and infrastructure and there is a feedback session for that on Thursday. NDS has a new Grants Coordinator named Erin Atak. They are still working on scheduling the Form Based Code workshop due to various scheduling difficulties, but it is still on the horizon and hopefully it will come in the next few months. The June 25 Planning Commission work session will be on the access requirement discussion, which is the code request that we received from Mr. Steigman concerning entryways into developments with more than 50 units. The July 23 work session will be a presentation on the Fontaine Project for the Commission.

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

Mark Kavitt: I watched with both amusement and disappointment at the last Planning Commission meeting when Southern Development presented an application that needed a lot more work before moving on to the Planning Commission stage. This and previous Boards have sent the message that it is okay to submit incomplete plans that leave many unanswered questions. However, the Commission now needs to send a clear message that this is not acceptable. Tonight on the agenda there is a question of rezoning on Hinton Avenue. A petition was sent to the Commission two days ago where a group of concerned citizens are asking that Gary Heaton and Rory Stolzenberg recuse themselves on this matter tonight. While I appreciate Mr. Heaton's measured decisions on many issues, the fact that he is a Methodist minister means that it would be inappropriate for him to weigh in on this matter due to the potential conflict of interest. Mr. Stolzenberg's recent and ongoing public statements on social media shows a very strong bias. He has made derogatory and sarcastic remarks to citizens who have expressed their views and concerns on this matter and other development issues. As a Planning Commission, you should be using zoning code law and the Comprehensive Plan to guide you in your decision making decisions. Sometimes by saying no in the planning stages, you obligate developers to come back with a more appropriate project.

F. CONSENT AGENDA

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

1. Minutes – May 14, 2019 – Pre- meeting and Regular meeting
2. Minutes – May 28, 2019 – Work Session

Commissioner Solla-Yates moves to approve the consent agenda as presented. Seconded by Commissioner Lahendro. Motion is approved 6-0.

III. JOINT MEETING OF COMMISSION/COUNCIL

Beginning: 6:00 pm

Continuing: until all public hearings are completed

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

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

Hinton Avenue United Methodist Church (landowner) has submitted a rezoning petition to change the zoning district classification for a parcel of land located at 750 Hinton Avenue identified on City Tax Map 58 as Parcel 161 (“Subject Property”), having an area of approx. 0.76 acre. The rezoning petition proposes a change in zoning from the existing R-1S (low-density residential, small lot) to NCC (Neighborhood Commercial Corridor Mixed Use) subject to proffered development conditions. The purpose of the rezoning is to allow construction of a multifamily building containing up to 15 units (for a total density of 19.7 DUA). Within the current R-1S zoning district, multifamily dwellings are not permitted. The proffered conditions include: (i) maximum residential density: no more than 15 dwelling units shall be permitted on the Subject Property; (ii) affordable housing: a minimum of four residential units within multifamily dwelling building(s) on the Subject Property shall be restricted to residents with income at 80 percent or less of area median income for the Charlottesville Metropolitan Area; (iii) resident safety: access to all interior common areas serving residential units shall be controlled through the use of entry locks; (iv) uses: all non-residential uses other than educational facilities (nonresidential) and day care facilities, which are not accessory to a house of worship or to residential uses located on the Subject Property, shall not be permitted on the Subject Property; (v) access: Permanent vehicular ingress and egress to the Subject Property shall be restricted to Rialto Street, provided that this restriction on vehicular access shall not take effect until such time as a building permit is issued for construction of any multifamily building; (vi) height: The maximum height on the property will be 38 feet; (vii) street wall: Primary street frontage setback shall be six (6) feet minimum, ten (10) feet maximum. The Comprehensive Plan calls for Low Density Residential uses in this area (no greater than 15 units per acre).

Vice Chairman Mitchell: We received quite a few emails regarding the recusal of Commissioners Heaton and Stolzenberg. The Commission addressed that directly with legal counsel and it is the opinion of legal counsel that they have no legal or financial interests with this application so there is no need to recuse themselves.

Staff Report, Brian Haluska: The current property is zoned R1-S and this proposal would rezone the property to Neighborhood Commercial Corridor Mixed Use Corridor with proffers. Proffer #1 limits the residential density to 15 dwelling units. NCC does permit SUP requests for additional density and this proffer would eliminate the possibility of doing that. Proffer #2 is the affordable housing proffer that would require a minimum of 4 residential units meet the HUD definition of a low income unit. Proffer #3 is the residential safety proffer that ensures that there will be locking doors between the multifamily use and house of worship use. Proffer #4 would prohibit any non-residential uses other than educational facilities and daycare facilities on the property. Any commercial uses are prohibited. The current zoning does allow for education uses and daycare uses by special use and there is an active special use permit on this property for a daycare facility. Proffer #5 regards access and the access would be limited to Rialto Street. Access would be closed at the time of the multifamily structure being constructed. Proffer #6 is a height limitation of 38’. The maximum height in NCC is 45’ and the maximum in R1-S is 35’. Proffer #7 is that the street wall regulations will be a minimum of 6’ required on a primary street frontage and a maximum of 10’. The 10’ maximum is the maximum that is permitted in the NCC zone and it is not something that you can alter via proffer. Being in line with the Comprehensive Plan is a big part of the Commission’s review in any rezoning. The land use map of the City does show this as low density residential. It does not comply with that portion of the Comprehensive Plan, but the Comprehensive Plan is more than the land use map. The housing chapter speaks very much about housing for underserved populations and staff finds the compliance with that section to be a fairly compelling matter. The applicant will likely make mention that a portion of this housing is intended for developmentally disabled individuals. It is important to note that there is no way for the City to guarantee that. They did attempt to proffer something along those lines, but City staff was uncomfortable with that proffer and the ability to enforce that because it would put us in the position of trying to determine who was adequately developmentally disabled for the purpose of the proffer. Regardless of having language about guaranteeing

developmentally disabled individuals, staff finds that low income housing is something that we are sorely lacking in this community. The site is on one of our public transit lines and two blocks from another transit line. It is close to the downtown Belmont area and the Downtown area with walkable distances to both. Given those factors, staff finds the housing chapter to be a compelling City interest and recommends that the application be approved. There has been a lot of concern about the NCC zoning and in reviewing this we have to look at the regulations underneath the actual name of the zone. R3 zoning has been talked about as a potential medium ground, which allows up to 87 dwelling units per acre by special use, which is a more intense zoning when it comes to multifamily residential. There are three uses being opened up on the property as the rezoning is drafted, which are multifamily residential, educational facilities, and daycare facilities. The Commission should focus on that along with the dimensional requirements and how they fit in with the existing building and adjacent properties.

COMMISSIONER QUESTIONS

Commissioner Lahendro: What are the possible unintended consequences? If the church sold its property to an outside developer, what could happen to the church building itself by-right?

Mr. Haluska: It is limited to those three uses. The existing use is a house of worship and typically when church buildings are sold it is a difficult real estate transaction and it usually results with another congregation coming in. However, it does open the door to a daycare or educational facility. No commercial uses are permitted and this proffer extends to the entire property. The house of worship could continue to operate, but if it were to change hands and the uses were to change, the total number of units would still be limited.

Applicant – Kim Crater: Rachel’s Haven is a ministry of the Charlottesville District of the United Methodist Church. I am a member of the vision team, which is the group leading this project. Some of the members on the vision team are clergy, but most of us are not. All of us are volunteers who feel that God has put it on our hearts to pay attention to the needs of those with developmental disabilities. We want to create another housing option for people with developmental disabilities so that they can live as safely, meaningfully, and as independently as possible, something different from group homes and vastly different from institutions. People with developmental disabilities are diverse in their abilities and needs and group homes are not the best answer for every person. We would like to build a 15 unit apartment building adjoining Hinton Avenue United Methodist Church where people with developmental disabilities can live in their own apartments with support alongside other people in the building who don’t have developmental disabilities. Our current plan is that 4-6 of the 15 apartments will be set aside for those with developmental disabilities. We intend to offer these apartments as low income apartments because this population is typically below 40% AMI. We are in the process of exploring a partnership with a nonprofit that provides low income housing for people with disabilities. This partnership would enable us to apply for low income housing tax credits. If we receive them, we intend to offer all of the apartments as affordable units, but since we cannot guarantee at this point we will receive them, we are only proffering 4 affordable units at this time. Please know that it is our intention and hope that 100% of the units will be affordable. Our vision is to have a culture in the apartment building that is supportive of all residents who live there, whether they have a developmental disability or not. We intend to foster a sense of community where neighbors know, value, and help each other. One neighbor helps the other figure out who to call to dispute a credit card charge, the other neighbor carries the groceries in. With the church attached to the apartment building, we see even more potential for true community. We feel this Belmont location is perfect for our supportive community, as Belmont is close to service providers, walkable, on public transit, and an easy walk to Downtown. Our residents with developmental disabilities will be able to be part of Charlottesville life instead of sequestered away as in years past. Belmont is one of the few neighborhoods that would rise up in defense of their low income neighbors with disabilities who are recently evicted from Belmont apartments. At least a few people in Belmont still have concerns about Rachel’s Haven especially that commercial activities may be allowed on the property, should the

church ever close its doors. Our project is somewhat unusual, so no zoning designation fits it perfectly. In our application for NCC, we proffer all non-residential commercial activity except for daycare and educational uses. No commercial activity remains. It has all been eliminated because our goal is to serve God by serving people with developmental disabilities. Affordable housing and housing for underserved populations are both large needs in our community and increasing both of these types of housing are goals in the Comprehensive Plan. Meeting any goal, whether it is affordable housing or weight loss, requires difficult decisions. We have tried to make it as easy as possible to choose in favor of our gift of Rachel's Haven. We have done everything we can do address the neighborhood's concerns and take the frightening aspects out of NCC. After you consider our proffers, if there are any remaining concerns please ask yourself if those concerns are large enough to trump the needs of our low income neighbors and people with developmental disabilities.

Andy Thomas, Architect: You've heard how this project is being planned because there is a large need in our community for independent housing for people that are developmentally disabled. I am honored to be included as a helper on this project. The vision team is a group of volunteers who continually demonstrate how committed they are to helping this population and their families find a home. The project site is the Hinton Avenue Church. The team wants to add the residential use by renovating and adding to the existing education wing of the building. The architectural concept adds to the residential character of this context. Some of the plan features include a building addition that will provide a continuation and enhancement of the existing pedestrian experience but with residential building features, including a separate entrance and a separate identity from the church. A residential scaled courtyard, a landscaped and screened parking area, and a building that mediates between the scale of the church and the surrounding neighborhood are also included. The project is to be pedestrian oriented. While the parking concept follows the City's zoning code standards for church and resident parking, it is likely that many of the residents will not be high users of single occupancy vehicles. The Hinton Ave church site is well-placed for transportation, jobs, and services. It is important to note that the church plans to be a part of and continue to serve the community as it has done historically. The requested rezoning to NCC zone best accomplishes the goals of this project because it provides a mixed-use of the multifamily housing and the church uses and a setback envelope that best mirrors the existing church building and context. The team wants to further tailor the NCC zone in this case to meet the needs of the project, but not open up the zoning to uses they don't envision or desire. That is why the vision team has offered some proffers that will amend the provisions of the NCC zone. An explanation of some of these proffers includes a provision for limited residential density no more than 15 dwelling units and provides for affordable housing by providing a minimum of 4 residential units. In addition to the church, education and residential uses, the team originally proffered the allowance of a very limited amount of commercial use to serve the ancillary needs to the church and the residential uses. Even with this very limited amount of commercial use, during several open meetings we hosted from the neighborhood we heard concern expressed by neighbors that any commercial use is unwanted. The church wanted to be responsive to its neighbors and now includes a revised proffer that removes the commercial use. Proffer 6 and 7 further restrict the new building envelope including a maximum height of 38' and includes a minimum 6' and maximum 10' setback from the primary street. These revisions are in line with the residential scale concept for the project and support the contextual design vision. The housing chapter of the Comprehensive Plan sets goals that include maintaining and improving housing stock for residents of all income levels. It seeks to accommodate the housing needs of low income households, seniors, and those with disabilities, and it supports those with challenges that would otherwise prevent independent living. The main goal of this project is to provide independent living for those with developmental disabilities puts it squarely in line with these goals. The NCC zone is modified to exclude commercial uses and is a good match for the church and residential mixed use for this site. This zone makes a good model for institutional properties seeking to incorporate some residential space. I encourage you to consider the goals of the Comprehensive Plan and approve the rezoning of this property. Hinton Avenue church is asking to be allowed to donate some of its property and services to this dramatically underserved population.

COMMISSIONER QUESTIONS:

Commissioner Stolzenberg: Do the potential residents normally have drivers' licenses and cars?

Ms. Crater: For the most part, people with developmental disabilities often do not.

Commissioner Stolzenberg: Do City regulations require you to have parking for them regardless?

Ms. Crater: That is my understanding.

Commissioner Stolzenberg: When applying for low income housing tax credits, are you going for 4% or 9% competitive process?

Ms. Crater: The 9% competitive process.

Ms. Creasy: Regarding the parking, it is not based on the kind of people who may be in the dwellings. It is specific for land use. It doesn't get into the types of individuals that may reside at a location.

PUBLIC HEARING

Stuart Taylor: Resides at 710 Hinton Avenue. As part of the Belmont-Carlton Neighborhood Association, we will be speaking on many different topics and tonight I will speak on traffic. I've been in Belmont since 2006 and we moved into town to enjoy what is there. We are talking about a building that is going to go on the two narrowest streets in the neighborhood, Rialto being the narrowest of all. When you drive down that street you have a choice to stop at the stop sign and wait for the road to clear or take your life into your hands and play a game of chicken. There needs to be traffic proffers all the way around this building and from that perspective, the planning has not been completed and will lead to significant problems. We don't want this to be another Stonefield Commons and with the scooters, bikes, and traffic in the area you are setting yourself up for a bad situation. It appears that there will be a bus stop on Hinton and that is part of the traffic plan that we'd like to know about. Parking has also caused problems. If you go down there on a Friday or Saturday night, all of the Ubers and Lifts are circling the block trying to let their guests out in safe spot and there are usually traffic jams. As a result, the Garrett residential area gets all of the overflow parking. When these cars are stuck out like they do on Rialto, emergency vehicles can't traffic those streets. From a traffic perspective there is more planning to be done and I challenge the Commission to try to solve some of those issues.

Kimber Hawkey: Resides at 709 Belmont Avenue. This NCC rezoning application comes after a long 15 year history in Belmont of constant manipulation and distortion of the NCC designation. Catering to developers rather than neighbors' quality of life in direct violation of how the NCC code is written is the developers rezoning game we are witnessing tonight. Our Comprehensive Plan clearly designates this land as R-1 and this application smacks of illegal spot zoning to suit the purposes of the applicant. As Kathy Galvin stated, our existing regulatory regimen is honored more in breach than in observance, evidenced by the unsustainable number of rezoning and SUP requests. In 2009 over neighbor protests, the City flipped the affordable house at 814 Hinton to NCC and declared it to be the logical endpoint. It then took 7 years to open and they violated all legally binding proffers without fines or action by the City. When will this abuse of the NCC and proffers stop? For years, people of Belmont have seen their dreams of a quiet home life subjugated by the vision of developers who have frequently been bad neighbors. For example, La Taza had 130 police interventions in one year and that is just the tip of the iceberg.

The vision of the applicant does not take precedence over ours. We moved into the neighborhood before the pavilion, restaurants, etc., all bringing their oppressive noise, traffic, and parking. We bought into an established neighborhood that was residential with a historic district denomination. We chose Belmont to live buffered from commercial zones and the noise of UVA and high density. Our hopes, dreams, and personal investment that we have should not be cast aside because the applicant has decided it needs NCC zoning to fit its application. Neighbors are confused and have questions about this application. There have been multiple last minute changes, a lack of transparency, proffers only coming when neighbors protested, changing of staff recommendations, and no disabled housing written into the application. What is the resident capacity? 15 units does not mean 15 people. The planned unit design would mean a minimum of 30 people and a maximum of 60 people if there were two per bedroom. The applicant has said that they cannot control the number of people who occupy each unit, which is not true. Will the City for once stand with Belmont and deny this faulty application until questions are answered and it is appropriate for the neighborhood. We have always been pro disabled housing and we insist that development be appropriate to fit the neighborhood in size and scope. Follow the laws set forth in the Comprehensive Plan and stand with us for a project that is appropriate in size and scope. Help stop oppressive problems with parking, traffic, lighting, noise, and loud HVAC systems, and protect our quality of life to protect the neighborhood.

Charles Gendrof: Resides at 709 Belmont Avenue. We came to Belmont before it was a hotspot. We had our own dreams of renovating an old home and investing ourselves in a residential historic neighborhood. For years we have done most of the work ourselves. Many friends and families have moved out due to the increasing stress of noise, traffic, parking, etc. and we have stayed because of our dreams. This application is inappropriate due to its rezoning, size, and secondary effects, and the applicant continues to answer questions with a lack of transparency. Our last meeting was set up to clear up all questions, however we tried asking questions that they wouldn't answer. We were told that we simply had to trust them and to take a leap of faith. Belmont has historically experienced inappropriate developments in the NCC with businesses regulating illegal proffers everyday so we cannot accept blind faith. This applicant may not appear to be a developer but they act as one, claiming that it is not financially viable unless they get the zoning they want. They can't answer questions about the project until final rezoning, and they made multiple last minute changes to the application, the most troubling being the removal of any mention of mentally disabled housing in the application, as that was the entire goal of the project initially. These are faulty excuses and reveal a faulty process. We deserve clear answers and transparency before rezoning. We also discovered an apparent link between the applicant and 513 Rialto Hinton House, LLC. What are the intentions? Why did they fail to mention it in any meetings when it's financially tied to them? They have been tied to this house since 2002, why hasn't it been used as a pilot program for independent living for the mentally challenged already? It is possible to use this property plus a renovated education wing, which will be more appropriate in size as it has less impact on the neighborhood. Such a project would have no need for NCC rezoning. We do not reject affordable housing in the neighborhood, we embrace it. This type of housing is already in the neighborhood in Belmont. Rezoning to NCC is premature and unwanted at this time.

Edward Rigg: I am the pastor at Ivy Creak United Methodist Church. It has been said that societies will be judged by how they treat the most vulnerable citizens and the intellectually disabled are some of our most vulnerable citizens. I have a man in my congregation that would benefit from a facility like Rachel's Haven. I want to endorse and encourage the approval of this project. It is the right thing to do. We have seen churches that, because of their dwindling congregations, wind up with large facilities that are largely unused. This is a creative and beneficial use of this facility. The Commission has the authority to recommend zoning changes and you have the opportunity to what is right for our most vulnerable citizens.

Carol Starling: Resides at 759 Belmont Avenue, which is directly behind the church. I oppose this rezoning because this is a problematic project that puts too much on the neighborhood that is already suffering. Light

pollution is one of many issues and there will surely be more outside lights, not to mention some from the apartments. Presently we have some outside lights at the church now that aren't too bad but they are on all night long. It is a citywide problem and I can only hope that the church will find a way to accommodate the disabled with the 4-6 apartments in the existing building and possibly the house that was mentioned because there is enough room. Rachel's Haven is a wonderful idea and it would be great to see more affordable housing, but the neighborhood has too much pressure on it right now with parking, traffic, etc. A plan for a 15 unit complex would impact what we have left of our beloved neighborhood. We leave need to leave the NCC where it is.

Mark Kavit: The church says they need to move forward on this project even though it may be years before they have the money for the project and are ready to build, but the community needs to have faith that they will do the right thing. When real estate is involved everything needs to be in writing. There are still many unanswered questions. Why are almost all the units 2 bedroom units, which would increase density and parking? Why are there no written assurances that units will be affordable? Why wasn't it disclosed that there was a house adjoining the property that appears to be owned by the church and could be used to increase density? How will that property fit into the project? The biggest concern the neighborhood has is about the NCC. They have been badgered to death with areas that have that zoning and were promised that it would not creep any further. The neighborhood is leery of proffers. On April 9 the Assistant City Attorney told the Commission that they do not enforce SUP and HOA violations. There are still numerous proffer violations taking place in this neighborhood. It seems like the community is not saying no, but they want to be sure that they get appropriate development that meets the church's vision plan and does not become a revenue stream as an apartment complex. I hope the applicant will defer this matter until all of those questions can be answered. What is the rush? If the property is sold or they cannot complete the project, what will the next developer do with the project?

Bob Kreps: Resides in the City but not in the Belmont neighborhood. We are parents of a young adult daughter with autism who lives with us and is a lifelong dependent. She is one of many of those with developmental disabilities who are represented in the population that the Hinton Avenue project is targeting to serve. I am also the leadership chair of the Charlottesville Region Autism Action Group, which is a volunteer parent-driven organization that represents scores of parents of individuals with developmental disabilities, self-advocated, and supportive providers. Our focus is on finding lifespan solutions to enable individuals with autism and other developmental disabilities to lead fulfilling lives in a safe and supportive environment, while maximizing their independence and contribution to society to the best of their ability. Parents like us are unified by the common concern over what will happen to our loved ones when we are gone. Over the past year affordable housing advocates have done an excellent job of raising awareness in the City. The unique needs of individuals with developmental disabilities was not at the forefront of the conversation. These individuals are in need of services in a supportive environment where they can lead fulfilling lives safely and be integrated with regular people in the community who do not have disabilities. The Hinton Avenue project represents a perfect solution to this challenge. If approved and replicated by other developer/provider partnerships, it can materially change the lives of so many individuals who have unique challenges through no fault of their own. Over 300 individuals in the Charlottesville and surrounding area are on the waitlist for state supported waiver services. In addition, there are those who have services that do not have adequate housing due to capacity and affordability issues. As parents, it is our job to position our children to survive in life to the best of their ability and we do the best we can until we can't. What is going to happen when we are gone? The Hinton Avenue project is a breath of fresh air. It meets the Planning Commission goals in the Comprehensive Plan to create more affordable housing and housing for underserved populations. Developmental disabilities are one such underserved population. If the Commission and City are serious about meeting the goals, this project and hopefully others like it must be approved. There has been mention about the United Methodist Planning Team delivering on the promises and I have every confidence that they will follow through with their commitments.

Raman Pfaff: Resided at 733 Hinton Avenue. Everyone here agrees that good and affordable housing is good and useful to have here, but as soon as you put the word commercial in anything here it becomes problematic. Noise continues to be an increasing concern and every day it seems louder. Some neighbors have started calling the police for noise concerns and just 3 days ago a band started up at Southern Crescent and their proffer says no amplified music at all. Traffic continues to be endless. I often come home and can't get in my own driveway because someone is parked there. About 10 years ago the Flats were getting approved on Main Street and they had a gorgeous drawing that got approved by the BAR after a long discussion. The design showed an area with a lot of sunshine coming onto Main Street and a garden in the front area, but the developer decided not to do any of that and they built a giant brick monolith. We now have a dark gloom on Main Street permanently. The other proffer that others have mentioned was to have no amplified music whatsoever, but a band has played 4 times in the last two weeks. The City is currently investigating that, but it is unclear if they can legally do anything about it. I have been here 20 years and have seen a lot of things change in Belmont but we should work with the current zone in R-2 or R-3, or get a new classification for zones.

Mary Anna Dunn: I understand very well the concerns about traffic and noise because they have been a concern for me ever since my son learned to walk. My son is now 22 years old and has autism. He can maintain a 3.0 average at Piedmont Community College. My son cannot drive and he is afraid to cross the street. My son cannot get through the activities of daily living without substantial support. My son wants friends that are like the people he sees. My son will never be able to drive. No one could ever be more concerned about noise and traffic than I am. As all parents, my biggest concern is the safety of my child and I have given decades of my life to advocating for my son's needs. I advocate for a quiet, safe neighborhood. I could not want safety, quiet, and peace for my child any less than anyone here. I believe that is what we all want and that is what Belmont is capable of being, which is safe, affordable, walkable, and inclusive.

Mike Dunn: The previous speaker and I are related. Everything that was spoken about our son is absolutely the truth and it is equally true that our son brings a lot of gifts into this world and he is an asset to any community he becomes a part of. My son can certainly do many things and there are a lot of things that he cannot do, but my wife and I walk the walk with him every single day. We drive him where he needs to go, look after his grooming, cook his meals, etc. When I am gone and my wife is gone, what will become of him then? That is why I am so excited about the Rachel's Haven project. This is the kind of community my son and people like my son need. As members of the Planning Commission, you are all about numbers like how tall buildings are, how wide the setbacks are, and how many parking spaces there are. However, let's talk about some other numbers. How many families like mine will permanently benefit from a project like this? How many families have people like me who will have peace of mind as they grow old? How many other communities like this will Rachel's Haven serve as a model for going forward? How many communities will use Rachel's Haven as a model for their own communities? With all due respect to those who have raised concerns about this, we need to consider this and go forward with this project.

Vikki Bravo: I am here on behalf of IMPACT, our local interfaith organization of 27 congregations. On behalf of IMPACT and on behalf of people who have developmental disabilities who would get this chance, we support this project. Additionally, our community is having a housing crisis and an affordable housing crisis and this is an opportunity to address those too.

Gary Bibb: Affordable housing starts with money and you can't get cheaper than free. The land being provided for this project is free to the developer. The congregation at Hinton Avenue has gotten smaller, the church hasn't gotten any younger, and it costs a fortune to keep up. The idea came to us to provide something good for the community and the ministry, and affordable housing is something that we need in the town. Regarding the Hinton House, it is totally independent of Hinton Avenue United Methodist Church in that it is only owned by 17 people

who used to go to Hinton Avenue United Methodist Church. It is affordable housing in itself because there are 3 tenants that pay about \$500 per person, which is pretty good. Regarding amplified music, it hasn't changed that much over the years, but you shouldn't be battered by music. There is a lot of traffic going on, but it is the exact reason that your property has increased in value extraordinarily in the last 30-40 years. It started in 1990 when Inova was built.

Lucius Bracey: Resides at 724 Northwood Avenue. I am a co-owner of 759 Belmont. Everyone seems to have a family story and I do too. I have a nephew who is disabled and has cerebral palsy and my wife and I would have been charged with looking for a place for him to live, had he not died before his mother. The tension seems to be between fear of the lack of enforceability of proffers and the possibility of commercial use on property that is surrounded by residences. On the other hand, the tension is on how to get the staff to work with one of the R zones with appropriate proffers and waivers to satisfy the project. That ought to be doable. It seems that it is worth making them try to do that to relieve the tension that is developing over this project. The land use plan, which is supposed to guide zoning, calls for low density residential use on this property. The land use plan that is under discussion has it remaining the same. The staff has too lightly dismissed the dictates of the land use plan. Staff, the Commission, and Mr. Thomas are smart enough to find a solution to relieve some of the tension and pressure on this matter and I hope that you will do so. The residents of this neighborhood have put sweat and financial equity into their properties and they deserve for the Commission to carry out the obligations to them without upsetting their security and comfort and what they have created for themselves and for the City. Please do not dismiss those obligations lightly.

Elizabeth Emrey: I am the pastor of New Beginnings Christian Community in the Belmont area, as well a board member of IMPACT. I am standing with Hinton Avenue Methodist Church even though it is a competitor of ours and we salute what they are doing. There are 3,000 people in Charlottesville alone who are struggling to get affordable housing and someone has to work 3 jobs a week in order to afford a 2 bedroom apartment at minimum income. We desperately need affordable housing. As a pastor who has people with developmentally disabled conditions in my church, we need housing for them. Two members are now institutionalized because there is a no place for them to live here. They would come home if we had a place like Rachel's Haven. They are natives of Charlottesville and they want to live here, but they cannot live here because there is nothing for them here. They cannot afford a place with their Social Security for the Disabled, which is about \$720 per month. For goodness sake and for God's sake, please support Rachel's Haven. There are concerns among the property owners, but those concerns don't affect the residents there. There is no one who is going to be living at Rachel's Haven who is going to have a band or drinking or having parties at night. Only a few of them are going to have cars and most of them are going to live very quiet lives. We are blessed to have them and this will be part of our answer to affordable housing for our community. Please support Rachel's Haven and Hinton Avenue's vision to convert their church into a full ministry working for our community.

Susan Minasian: The May 13th heading NBC29 News was "Belmont Neighbors Raise Concerns Over Church's Proposed Housing Project. A Charlottesville church is facing some backlash from community members over a proposed housing project that would require rezoning a residential area." I am here tonight as the pastor of Sojourners United Church of Christ that is also a neighbor of Hinton Avenue United Methodist Church and the Belmont neighborhood. I am here to state publically that we are in full support of this project. Rachel's Haven will not create any problems with traffic or noise. In fact, it will be a gift and a moral solution for many concerns we have for our neighbors. We have members of our congregation who have developmental challenges. They already live in Belmont and do not contribute to any of the problems we have experienced. Online there is a statement provided by the Planning Commission that states that it should be done with the purpose of "guiding and accomplishing the coordinated and harmonious development of the territory which will in accordance with present and probable future needs and resources best promote the health, safety, morals, order, convenience,

prosperity and general welfare of the citizens.” The neighborhood connection states its vision in two goals, “to make Charlottesville a City where every neighborhood has the opportunities to succeed in realizing its full potential for contributing to a quality and community, to foster independent problem-solving and sharing of assets within and among neighbors, and to involve all community assets in expanding and sustaining safe and healthy neighborhoods.” The City Council’s vision promotes the following under quality housing opportunities for all: “Our neighborhoods retain a core historic fabric... for people for people of all income levels, racial backgrounds, life stages, and abilities.” If all of this is true and if these statements promote describing our community values, purpose, and intention are true, then I don’t see how you cannot affirm with gratitude Rachel’s Haven of Hinton Avenue United Methodist Church. In fact, perhaps we should all pay them for doing what the wider community has not been able to do in meeting our own goals for enhancing the life and welfare of all who live here.

Eleanor Biasioli: I am a Charlottesville resident and joint owner of a rental property at 813 Belmont Avenue. If the applicant were 3, 5, or 7 blocks away from the NCC District, would they be looking for an NCC rezoning? Would the Planning Department be supportive of such a scenario or of others who bring forth requests to rezone to NCC? Diverting from the NCC zone definition creates precedence that will impact both Belmont and Fry’s Springs, the only two NCC zones in the City. The rezoning has been publicized as a plan to build housing for developmentally disabled adults, but the proffer only mentions that a minimum of 4 of the units be restricted to low income residents. Where is any mention of adults with developmental disabilities or any kind of disability? The church does have a worthy vision. At the neighborhood meeting last Thursday, one answer was given by a representative of the nonprofit they are talking with for possible partnership that was a shocking surprise. She revealed that when selecting tenants, the nonprofit does not ask about the nature of the disability and will not know the nature of the disability. What happened to the church’s vision of serving the developmentally disabled? The church representative did not know if the apartments would be owned by the nonprofit, the church, or both. It seems that they are at the initial stage of discussion and still have many substantial questions to be explored and answered with this nonprofit to make sure they deliver on their vision. The model that Rachel’s Haven is basing their vision on reserves about 1/3 of their 35 apartments for adults with autism spectrum disorder and other developmental disabilities. Part of their extensive application says that a copy of the IEP must be submitted. They know what the disability is. They screen their applicants and provide occasional assistance and supervision. Why is this nonprofit who they are having talks with not able to guarantee to secure the appropriate tenants? I am intimately aware of the worry and heartache that parents have if they have a child with disabilities. I have two nephews who live in supportive housing because of their disabilities. He lived with his parents until they were in their 80s when they needed assisted living. It is suggested that the church hold off until they get all these questions nailed down with the nonprofit to make sure we aren’t disappointed that it doesn’t turn out to be developmentally disabled who are served.

Frank Biasioli: I am a Charlottesville resident and own property in the Belmont neighborhood. So far tonight we haven’t heard of anyone who opposes the vision of the Hinton Avenue Methodist Church. The concerns are more with what happens with an NCC designation. It is a manipulation of NCC because the project in reality calls for residential zoning. The fact that we don’t have residential zoning appropriate for it is a significant issue. If other churches are seeing a decline in membership and are looking for ways to utilize their properties for their visions, are you going to scatter Charlottesville with NCC properties? We need to step back the development of residential zoning types that enables this kind of project to go forward. We have relatives that are in need of this kind of housing and we are strongly supportive of it, but there are real problems with the NCC designation. For instance, Wendell Wood is challenging a proffer because of how the NCC was manipulated. It seems bazaar that you can have a project like this that seems valuable but if you try to go to a residential designation you have to have a 20’ setback all the way around it. That kind of thing eliminates the ability to effectively develop such a project. We need to stop looking at NCC designation and take a step back to call City planning and zoning to task this. If we

look at the future we are likely to have more opportunities here and we don't want to scatter NCC designations throughout the City. You are at risk because people like Wendell Wood could challenge the proffers made on the basis that they were made under duress because that's how you got these NCC designation proffers in place.

John Santoski: Resides at 2421 Sunset Road. I am the Executive Director of Arc of the Piedmont, an organization that works with people who has intellectual and developmental disabilities. We operate group homes, day programs, and other assorted programs in the area to support people with intellectual disabilities. This project, as proposed tonight, is about as close to good as we are going to get. It is the right thing to do and affordable housing is a real issue in the City. It does come down to a rezoning and the implications of that and it deals with the NCC designation when we promised the Belmont neighborhood it wouldn't go beyond Southern Crescent. In the past the NCC designation hasn't worked in the way it was envisioned because it has turned into restaurants rather than other commercial projects. The last time this project came up when I was sitting in your seats as a Planning Commissioner, there were a lot of issues with it because it didn't proffer out the other uses that would be worrisome. With this being proffered out so that there is only daycare, educational and residential, combined with it being lower density in NCC than it would be with R-3, it is probably one of those things where you have to make the best guess that you can. We can't predict everything that will happen in the future, but we try to do the right thing for housing and as Planning Commissioners. At this point in time, it's probably as good as it gets. If you defer the project so they can come up with something better or with another zoning designation, it might kill the project. This is a chance for Charlottesville to move in a different direction. If you as Planning Commissioners really believe in what you have been talking about with affordable housing and housing for extremely low income people as a part of this, this is the right thing to do. You won't get a better plan than what you see tonight unless you send them back to the drawing board and get zoning changes to accommodate it better.

Nina Cortada Winkler: I am a member of Hinton Avenue United Methodist Church and live in the Northfield area of Albemarle County. I joined this church a few years ago at almost exactly the moment we decided as a congregation to embrace this kind of a future for ourselves. We speak a lot about what we call "extravagant generosity" and we feel that as Christians, that is what God has asked us to do. The long term leaders of this church looked at this idea and said they were going to be extravagantly generous and offer our property for this wonderful thing. It also meant a lot to our pastor because Rachel's Haven is named after his late wife who was deeply committed to working with developmentally disabled people. If not here, where else are you going to put this kind of housing in Charlottesville? If not now, when are you going to do it? Where are you going to get the money? We think the money can be raised once you give your approval and we cannot go forward with fundraising until we know the City is behind us.

Amy Gardner: Resides at 753 Belmont Avenue. I can't speak for all of my neighbors, but most of us are in support of the concept of what the church is doing. No one is hardhearted enough to say that we don't want these people in our neighborhood and the media has perhaps painted us with broad brushstrokes. Our concerns are about the unintended consequences. When going to hear the church members speak, they did a great job and they have a great idea. There are concerns about the financial model and where things may end up and the question is about where things may end up if it isn't feasible. Who would the next developer be to buy that property? Who is the next Wendell Wood who comes before City Council and demands that the proffers are overturned? You have a challenge right now in the way that zoning is written because it seems that nothing fits this project, which is a great project. Instead of challenging you to make an abrupt decision now, I challenge you to write better zoning codes that enable this project to fit the neighborhood as they intend it to and we want it to.

Robert Lewis: I am a pastor of Hinton Avenue United Methodist Church and I live at 1415 Melbourne Road across from Charlottesville High School. I appreciate all of the comments that have been registered tonight. We have been working on this for a long time and have been in conversation with the City for well over 3 years in terms of

how to approach the development issues. I am aware that everyone does think it is a great idea and the difficulty is in how to do this. There is also a degree of suspicion, paranoia, and conspiracy thinking about what will happen next. To that, all I can say is that the challenge is whether or not you will work with the people that you have, as opposed to worrying about the people who might come next. The issue for us in many of these questions and the reason we don't have things nailed down is because as a United Methodist Church we own our building but we hold it in trust for the entire denomination. If our church were to close, that property would not be sold to a developer. It would revert to the Virginia Annual Conference of the United Methodist Church, who I am very confident would seek to plant another church in that location. We have had extensive conversations that should Hinton Avenue ever cease to be, the United Methodist Church is not going to abandon Belmont. That isn't the usual model that we are working with, but I would hope that perhaps if there are deficiencies and questions unanswered, it would be clear to you that we are not developers. This is our vision given by God to try and be the best stewards of the gift that we have in the time and space that we have. I hear the concern and share the concern that perhaps NCC doesn't fit and we could enter some process before we begin to try and define a whole new zone, but we have been talking to City staff for 3 years and have been guided towards NCC for many reasons. A little knowledge is a dangerous thing and perhaps I made some comments where I didn't know what I was talking about, but this is a zoning hearing. It's not about how exactly apartments will be funded or how people with disabilities will be distinguished. It is my understanding that those things come later as part of a site plan. We very much want to work with the neighbors but we have to take each thing at its time and tonight we are asking for permission to take the next step forward in our development.

Brian Cameron: I am in support of Rachel's Haven and this is a fiercely necessary project that would provide dignified housing for a severely underserved population. Many of the "what ifs" have been answered as best as they can this evening without us being clairvoyant. We are talking about a church here, not some out of state developer who we need to be hyper-skeptical of. Regarding many of the critics that have spoken this evening, the traffic concerns related to the proposal aren't merited, given the information presented this evening that those people with developmental disabilities do not drive. If anything, if you are really such an advocate of traffic safety, why not get together as a neighborhood and follow the trend of mainstream urbanists by making a proposal to ban cars all together from Hinton Avenue. Charlottesville already has one pedestrian mall, why not have a second? The residents of Rachel's Haven would love it. Those who bemoaned the present lack of funding for the project, yet also tout their knowledge of the development process apparently misunderstood how low income tax credits work, that they are more likely to get approved if the project already has the necessary zoning to fulfill that proposal. The possibility of 100% affordable units on this project is simply too good to pass up. Further, if the tax credit does not come through, why not get together as neighbors and match it to support this project? It is also personally offensive that many property owners who specifically mentioned becoming homeowners 20-25 years ago have seen the value of their properties, assets, and wealth skyrocket and now want to deny decent, dignified homes to their neighbors with developmental disabilities. It is appalling. Supporters of this project outnumber opponents 3:1 and that is being generous.

Lena Seville: Resides in Belmont. I am the former president of the Belmont-Carlton Neighborhood Association and a member of the Charlottesville Low Income Housing Coalition, although I am speaking for myself tonight. I encourage you to approve this project. While the NCC zoning may not be perfect and there are so many problems with the R-3, it is not a reason to hold off. We all know that government happens slowly and we can't wait years to possibly fix the R-3 to have some affordable housing. While I agree that it is a good goal and we should work on it, we shouldn't wait. We need this project and I hope you approve it.

Matthew Gillikin: Resides at 726 Orangedale Avenue. I would like the Commission to support this project. I've worked with people with developmental disabilities for the last 13 years and I am currently a speech therapist at UVA Hospital. I worked at the Virginia Institute of Autism for 3 years, worked at a group home in North Carolina,

and provided respite care for people with developmental disabilities. In getting to know parents and their families of people with developmental disabilities, I've learned that it takes institutions like the Planning Commission, the school board, hospitals, insurance providers, etc. to use their power to leverage change for these people. There is no parent of any child with a developmental disability who has a lot of time to work to change the rules, so when advocates for Rachel's Place come along that want create something for your families and children that will enable your family to be better and do better in our neighborhoods, it is contingent upon groups like you to vote for it. Our zoning laws are not an exception in the sense that they don't quite fit for these people. Our society doesn't quite fit for these people. If you've ever spent any time with anyone with autism, you've spent time with one person with autism. They are all different and it doesn't quite work the way you want it to. Those are the people who we need to prioritize over anyone else in our community.

Daniela Pretzer: I am the Executive Director of The BridgeLine and live in Albemarle County. At the BridgeLine we serve adults with brain injuries, which might not be the same as developmental disabilities but often they have intellectual disabilities. I don't know much about proffers and zoning, but I am an expert in what the need is for people with disabilities. We need more than 4 apartments for people who can live in that area. We have four different programs and one of them is a residential program. Our organization owns two homes on Belmont Avenue and a lot of people don't even know we are there. There are no signs and we only ever had one resident with a car and we celebrated when he got his driver's license because that was really amazing. It is not about acceptance, it's about inclusion into the community. We cannot do this when they live out in the country somewhere. I love this project and encourage you to have more than 4 apartments for people with disabilities.

Julia Williams: Resides at 751 Belmont Avenue. People are seeing a neighborhood that is concerned about NCC as being against the idea and the mission and there are also neighbors that who still support it. This is a problem that can be an opportunity for big change. We can leverage this where you do have support from many of the neighbors to do the right thing for future possibilities and implement it here. If the decision is to support NCC, can you also then support the neighborhood with explaining how you will make sure proffers are sustained and enforced? We really see a problem with this and it is a big barrier for this project.

COMMISSIONER DISCUSSION

Commissioner Dowell: How likely is it for a proffer to be overturned?

Ms. Creasy: Typically, if a proffer meets the legal definition it remains enforceable, which is why we have legal counsel on both sides of an application speak to it. There is always the opportunity to argue and if there is a need for a proffer to change, an applicant would have to go through the process of a rezoning. Ultimately, the proffer is what is being provided by the applicant to address concerns that may exist with the project. That proffer then becomes part of the code for that parcel and it is enforced as a zoning regulation specific to that parcel. As long as it is something that is legal, it not necessarily something that is overturned.

Commissioner Stolzenberg: In terms of the practical enforceability of proffers, is there a substantive difference between the proffer people are referencing at 814 Hinton about no amplified music, which is still legally enforceable, but we have struggled to practically enforce it?

Ms. Creasy: Concerning the case on Hinton, activities that were of concern have been brought to our attention over the last few weeks. Prior to that, we hadn't gotten official word on any sort of concern. Now that it has been raised, our zoning staff has been working through the enforcement process. For zoning, there is a due process where you talk with the individual so that everyone understands the rules. Then there is a period of time and a

notification letter with a violation that goes out. If there is noncompliance, there is an opportunity to take that case to court to be addressed. We are in the early stages of working through the concerns raised at 814 Hinton.

Commissioner Stolzenberg: To be clear, proffer violations have to have a complaint come in to enforce it?

Ms. Creasy: Typically. We have two zoning staff and don't have a lot of opportunity to be proactive so we are typically complaint-based. When we know about something we are able to do that, so we do encourage people to let us know what they see and hear. It isn't going to be a fast process, but we take those concerns through the process that is put in the code.

Mr. Haluska: To elaborate on Mr. Stolzenberg's first question, one of the issues that came up was at what point the proffers come into play. Six of the seven proffers that are before you tonight would be tackled at the site plan because it relates to the physical layout of the site. They can be drawn onto a plan that is then reviewed and becomes a part of what the applicant has to build.

Commissioner Stolzenberg: Regarding the affordable housing proffer, are there any concerns about enforceability of that in the way that it is written?

Mr. Haluska: Not from staff's perspective. There isn't any timeframe on it so there is a commitment to in perpetuity. Potentially there are questions about what could potentially happen down the road and if someone didn't want to do the affordability anymore they would have to go back through the process. They would not be able to just not do it anymore. It would have to come from City Council with a new public hearing and a community meeting. Our Housing Program Coordinator does have a listing of those units and would be following up with documentation about that.

Commissioner Solla-Yates: We have heard from the public multiple times about concerns regarding HVAC and that allowing more homes will allow more HVAC, which causes noise. Can you talk about that?

Mr. Haluska: The noise ordinance regulations are a different section from zoning and don't pertain to HVACs. It is a valid concern coming forward from the community. In the past it has been an item that often gets overlooked in the site plan process. We have noticed that as a staff and have recently made applicants tell us where they will be placed. Not accounting for those has been an issue in the past, more so with single-family houses, so right from the start we would address that in the site planning. If you start at the front end of the site plan process and ask the designers to consider it as opposed to worrying about it after they get site plan approval, you will have a better result. Occasionally there are maintenance issues with those systems and if there are complaints during the site development process the applicant can go back and work through it. There is also language in the noise ordinance about the amount of noise you can project in a residential area and this being surrounded by a residential area means it will be a pretty tight rule to follow.

Commissioner Heaton: There have been discussions about the zoning designations and there are other cities that have more than Charlottesville does. What kind of timeline would there be for the process of adding or adapting zoning designations to be more flexible?

Ms. Creasy: We have been put on hold for a lot of those items pending the RFP that is supposed to go forward to complete the Comprehensive Plan and working through the housing strategy and the zoning ordinance. Right now we are working with the tools that we currently have and when we do that, this was the potential for a solution to the request that was being made. There is potential for different opportunities from a zoning standpoint but it is

not a quick process because there is a lot of dialogue that needs to occur throughout the community. We are in new territory now and hopefully we can do things as timely as possible but we couldn't put a number on it.

Commissioner Lahendro: The application before us is for 15 residential units, 4 of which being affordable housing by way of an NCC rezoning. Hopefully Hinton Avenue Methodist Church will be here for hundreds of years, but as Planning Commissioners it is our responsibility to think not only of the people in this room, but those who are not even born yet. We have to consider that this rezoning stays with this property and the property can change hands many times. The NCC rezoning is clumsy and if it was a block away from here I would be very skeptical about it. However, given the unique circumstances of this property, this is the best possible zoning for doing what they want to do and we have to trust the proffers. I am satisfied that the proffers are limiting the usage to what the church intends and I am impressed with the church for listening to the community and neighborhood and delaying until they could respond to the neighborhood as best as they can. This is a large assembly building that is in the middle of a residential neighborhood with single-family houses all around it so if this was a block away it would be very difficult to pass. This building is designed as a support structure to an assembly church and fits in well for this particular block, and it fits in well with what has been there since the church was constructed. The addition is appropriate in scale to the church and the density is low, which is appropriate for this location, so I am in support of this application.

Mr. Palmer: What will the 15 units equate to in number of beds?

Commissioner Lahendro: It will be 15 units with 2 bedrooms each.

Mr. Palmer: Does it have to be 2 bedrooms?

Ms. Creasy: It is just 15 units.

Commissioner Stolzenberg: The applicant stated they were hoping to provide all 15 units as housing for people with disabilities. Can you elaborate on why that isn't possible and if it would be possible in a LIHTC scenario?

Ms. Crater: We never envisioned having all of these units for people with developmental disabilities. It will be limited to 4-6 for people with developmental disabilities. What we are hoping is that all the units are affordable units and that is what is resting on the LIHTC credits.

Commissioner Stolzenberg: Is there something limiting you from having all of them being for those with developmental disabilities?

Ms. Crater: It is not the preferred way to care for people with developmental disabilities. We want them integrated into normal life with the rest of us. Secondly, it is also required by funding sources that it be inclusive and that the ratio of people with developmental disabilities to those without is somewhere between 25%-50% and we are aiming for 1/3.

Vice Chairman Mitchell: The only concern I have is Rialto being the only way in and out of this, but hopefully we can think through that when we work on the site plan. Perhaps we can give some thought to making it a one-way street at some point.

Commissioner Lahendro moves to recommend approval of ZM19-00001 to rezone the Subject Property from R-1S to NCC, subject to proffered development conditions, to allow for the specific multifamily development described within the application, based on a finding that the rezoning is required by public necessity,

convenience, general welfare, or good zoning practice. Seconded by Commissioner Solla-Yates. Motion is approved 6-0.

Ms. Creasy: For informational purposes, there was not a Council quorum this evening so Council will be holding a public hearing on this item. It is anticipated to be July 1, which is the next Council meeting. If there is a change to that it will be noted online and if you are within 500' you will get a mailing. There will also be signs up on the site and you can always call NDS to check and be sure.

2. ZM19-00002 – 209 Maury Avenue

Landowner Southern Property, LLC has submitted an application seeking a rezoning of approximately (1.6) acres of land identified within City tax records as Tax Map and Parcel (TMP) 17-18, TMP 17-18.1, TMP 17-18.2, TMP 17-184, TMP 17-185, and TMP 17-186 (collectively, "Subject Property"). The Subject Properties have frontage on Maury Avenue and Stadium Road. The application is proposing changing the current zoning of the Subject Properties from R-2U (Two-family University) to R-3 (Multifamily) with no Proffered conditions or development plan. The Comprehensive Land Use Map for this area calls for Low Density Residential (15 Dwelling Units per Acres).

Staff Report, Matt Alfele: As stated tonight, you are making a recommendation to City Council and holding a public hearing on a rezoning request that has no development plan or proffers. The rezoning request is to rezone the subject properties from R-2U, which is residential to University, to R-3, which is high density residential. Because there is no development plan or proffers, it may be helpful to provide a brief summary of the Standards of Review. The Commission should determine whether the proposed amendment conforms to the general guidelines and policies contained in the comprehensive plan. Staff finds that the proposed zoning would not comply with the City's Comprehensive General Land Use Plan, but may contribute to other chapters of the 2013 Comprehensive Plan. Secondly, whether the proposed amendment will further the purposes of this chapter and the general welfare of the entire community is undetermined by staff. Staff finds that the proposed rezoning would most likely further the purposes of this chapter and the general welfare of the community. In determining whether there is a need and justification for the change, staff finds that there is no need or justification for the change. Lastly, when pertaining to a change in the zoning district classification of property, the effect of the proposed change, if any, on the property itself, on surrounding property, and on public services and facilities. In addition, the commission shall consider the appropriateness of the property for inclusion within the proposed zoning district, relating to the purposes set forth at the beginning of the proposed district classification. Staff finds that the proposed rezoning would have no impact on public services or facilities and would most likely meet the intent of the residential zoning district.

COMMISSIONER QUESTIONS

Commissioner Solla-Yates: There is a deed restriction ensuring that the Manor House be maintained in perpetuity. What does that mean for this property?

Mr. Alfele: The deed restriction is done between private parties. The City has no involvement in that so if the deed restriction is violated the City would not step in.

Vice Chairman Mitchell: What does that mean?

Ms. Creasy: It would become a civil matter.

Commissioner Lahendro: What is the height difference between the two zones?

Mr. Alfele: It is 35' and 45'. Please consider that the comparison of uses are by-right. There is not an analysis based on what you could pursue through an SUP. The biggest difference is the density, educational facilities, and the health clinic, which is allowed in R-3 by-right and not allowed in R-2. A health clinic is basically a public clinic that serves the local community.

Applicant- Charlie Armstrong, Southern Development: A few years ago, we bought 3 lots on Stadium Road that had been subdivided off of this property. A short while later, 2 more lots fronting on Maury were offered and we bought those. Manor House itself was then up for sale and we bought that as well. When we bought those first 3 lots we thought that was all we were looking at and planned to do a by-right development with 6 duplexes on 3 lots. When we bought 2 more lots that were not contiguous, we were planning on doing 4 more duplexes. After purchasing the Manor House we still had that plan until we took a step back and thought it might not be the right thing for this parcel. This led us to where we are now. We are suggesting this be rezoned without a plan because in order to get to a point where we have a plan that we could show you that would work, it would take a ballpark figure of about \$100,000 of conceptual architecture. Unless we know the City supports the general idea of increased density under an existing zoning designation that is already used in the City, it isn't something that we are willing to put at risk. The context of this property has R-3 zoned land and apartments across Maury Avenue from it. It has University dorms across Stadium Road from it. Diagonally across it is Scott Stadium. Behind it is R-2U zoned property that is bordered by a few other neighborhood streets. Of those parcels in that square block, only two of them are owner-occupied and the other 20 have already been converted to student rentals. Most likely, we are looking at student housing on this property no matter what. By the acreage calculation, R-3 zoning would allow up to 33 units by-right, which is compared to the 10-12 under R-2U. The staff report indicates that if we rearranged lot lines in the R2-U zone we could get more duplex units, but we haven't looked into that yet. The house is important because it is a Eugene Bradbury house and has a deed restriction on it that is permanent. It was placed there by the family who lived there two owners ago and it cannot be changed by us or the Commission or anyone else. It says the "historic Manor House building located on the conveyed property shall, in perpetuity, excluding natural disasters, fires or unforeseen calamities, be maintained in good repair." We have already started taking action to maintain the house better than it has been in the past. R-3 is really a low-rise multifamily designation. Characterizing it as high density is not how we would describe it because it is more mid-density with the height and density limits. We don't intend to go to an SUP because we don't think the site could sustain higher density than what the zoning has by-right in R-3. The current Comprehensive Plan shows this as low density residential and the two iterations that exist in draft all show this property with higher intensity. Keeping students from overtaking existing neighborhoods like Fry's Springs and Venable is critical. Hopefully the University is already taking steps in that direction and this kind of thing is perfect for student housing. The surrounding block has already largely been converted and being able to take some pressure off of the owner-occupied residential neighborhoods is important and every unit we can put close to the University for something like this can do that. Government moves slowly and we can't wait to see what comes out of a Comprehensive Plan, which has been working for a long time and will likely take a while longer. We need to do something with this sooner and if we are serious about adding housing in places that should support it in the right locations, this is the right location.

COMMISSIONER QUESTIONS

Commissioner Stolzenberg: Is the Manor House likely to be more visible once this stuff is built?

Mr. Armstrong: I would think so. If it's going to remain and be part of some larger development it would be a centerpiece. In R-3 if you do multi-family there is a requirement for some amenities and that could be a place for

that. It could be a place for apartments as well. We haven't planned that or done any architecture so we don't know for sure, but we would want it to be more prominent.

Commissioner Stolzenberg: Why didn't you go for NCC for this instead of rezoning?

Mr. Armstrong: We just never thought to look into it. NCC involves commercial and we don't know if the neighborhood here would support that.

Commissioner Lahendro: How long has Southern Development owned the house?

Mr. Armstrong: A few months, sometime this year we closed on that.

Commissioner Lahendro: It is in bad repair, almost in demolition by neglect, which is a big concern. Part of the porch roof on the back is off, it looks like a fire escape was ripped off, and shingles are lying on the ground. It is pleasing that Southern Development will be taking care of it.

Commissioner Solla-Yates: You stated that this area can't sustain an SUP or additional housing. Can you help me understand this thinking?

Mr. Armstrong: 33 units on this property could be accommodated around the existing house in a sensible way. If we go denser than that we would need to rearrange the existing building on the property to make it work right and have access. In the watercolor way we've looked at it so far, it doesn't seem like something that could work. If the architect comes up with something we may come back, but it is not a process that we planned for or intend on doing.

Commissioner Solla-Yates: Does the deed restriction maintain the façade roof staying as is with no additions?

Mr. Armstrong: There is an additional sentence that says that "architecturally consistent additions or modifications" could be done.

Commissioner Stolzenberg: Is your plan to rent out the Manor House to students as well or whoever rents it?

Mr. Armstrong: We haven't gotten that far. It could be, but it could also be an amenity space for R-3. There is an argument that there shouldn't be a lot of architecture taken up by amenity space in a location like this with the aquatic fitness center ¼ mile away.

Mr. Palmer: This area is heavily utilized by students, faculty, and staff of the University. We haven't had a chance to look at the numbers of how many live over there but we imagine that it is pretty dense with UVA folks. It is an interesting site with the R-3 across the street, but it is a neighborhood that seems to be trying to maintain some amount of its identity so it is a tricky site. Hearing the applicant speak reminded me of the Oakhurst Inn site at the corner of JPA where they were able to maintain historic house(s) there and add some density and it seems to be a nice development there. I don't have an opinion on whether we need more housing there or not.

PUBLIC HEARING

None.

COMMISSIONER DISCUSSION

Commissioner Lahendro: It is a possible transition site but it is also a very sensitive site with the historic building on it and the neighborhood buildings around it. I am not completely against an upgrading of some kind to allow more dwelling units, but it's important to ensure that it will be done sensitively to the resources that are here. I cannot approve it just in theory to rezone the entire site.

Commissioner Heaton: It is odd that we are being asked to rezone with very little information. Have you done this before? Is there a reason why you couldn't have come with even a conceptual plan?

Mr. Armstrong: The reason is to make sure the conceptual plan is something that could actually work and something that we can stand behind. There is a lot of architectural work to be done and we have had a plan for development for this property before the whole thing was assembled, which is the duplexes, and that works financially and it provides some housing. We have a lot of places zoned R-3 already and we know what the R-3 ordinance is. It allows a limited number of uses, it has buffer restrictions to adjacent lower density residential, it has setbacks established, which all seems to work for what we would do for a higher density situation. It doesn't invent anything new or proffer anything out, it is known and that is why.

Commissioner Stolzenberg: The Census publishes population by age for each block group. There are about 1,500 people in that block group and 90% of them are under the age of 35. This area seems to have gone over the edge of its student area now. When we get complaints from people who are worried about students encroaching in historically non-student residential areas, building more housing near UVA is how you fix that. The text of our existing Comprehensive Plan does support this even though our map doesn't. The Transportation chapter says to "work with UVA officials to encourage students, faculty, and staff to live closer to the University." The Housing chapter says to "encourage housing development where increased density is desirable and to strive to coordinate those areas with stronger access to employment opportunities, transit routes, and commercial services." Not having any substance to the plan makes it difficult to decide. However, of all the areas in the City that need to have higher density by the principles set forth in our Comprehensive Plan and in our general goals, this seems pretty high on the list. I am supportive of the proposal even though I wish we could have seen more details, but we should add a Comprehensive Plan map amendment to it if it passes, as recommended by staff.

Commissioner Dowell: How are we supposed to make a sound, viable decision about something that we don't have sound, viable information about? Being close to the University, if we were going to have high density this may be the area to do it. However, as planners we have to be able to plan accordingly and if we don't have information and materials to do such, how do you do that?

Commissioner Heaton: If we rezoned this R-3, will the next thing we see from the developer probably be a by-right plan?

Ms. Creasy: Potentially. If they do with a by-right development it may not be something that comes to the Commission. It just depends on what they are planning to do.

Commissioner Heaton: So we may never see this again. Is that good planning?

Commissioner Stolzenberg: It seems like we want the housing that comes with R-3, but there are other commercial uses that we don't want.

Commissioner Dowell: It's also important to have affordable housing and those duplexes are probably not affordable. Every unit that is built can't be affordable, but at this point in the game units that are being built need to be affordable, especially when there isn't a plan. We do need units in the City, but we need affordable units.

Vice Chairman Mitchell: We are being asked to look at the Standards of Review. This falls into #2, which is the general welfare of the entire community. It supports the general welfare of the entire community because it allows us to concentrate the students in one part of the area and it addresses some of the concerns about students spilling into other areas like Fry's Springs. If I did support it, it would be because of that piece of the Standards of Review. We can't look at what is going to be there. We have to determine if it makes sense to make this modification based on the Standards of Review.

Commissioner Solla-Yates: There is a lot of support for this in the Comprehensive Plan. It also complies with #1 in housing, transportation, and community facilities.

Vice Chairman Mitchell: It doesn't comply with the current land use map.

Commissioner Stolzenberg: Right now it's mixed because it conforms to the text but not the map. If we are going to make the change to the zoning map, we should change the Comprehensive Plan map to match what makes sense. In terms of #4, there aren't going to be any negative effects with transportation but it will get us further away from the goal set by Council to have 15% of units be scored for affordable housing. From that perspective, the effects of the proposed change could be negative for #4. However, with #1 it mostly conforms except for the map, which we should change. It helps general welfare and there isn't any clear need or justification, except that we badly need more housing in general.

Commissioner Lahendro: Under #4, the effect of the change on the property itself, considering the historic building and the surrounding properties, is what I am leaning on in terms of knowing more about what is being proposed for the site.

Mr. Armstrong: The affordable housing question is an important one in everything we are doing. The by-right use of duplexes will definitely not have affordable housing. They are not apartment units, they are attached houses so they will be among the less affordable kinds of housing if it is developed as it's designed and intended per the zoning. To get more units in a multifamily style, which probably would be above the one FAR that triggers the City's automatic affordable housing ordinance in R-3, gives lower cost units in an apartment setting. It gives students a chance to live closer to the University, which pulls them out of neighborhoods that have made housing less affordable. If you were doing a comprehensive rezoning of the City today, would you zone this R-2U?

Commissioner Dowell: We are supposed to make a decision based on the current map. We also can't ensure that students are moving into these units because we don't have a plan. We aren't necessarily opposed to the density, we are opposed to the unknown of the plan. People who want affordable units don't only want to live in small apartments. There should be affordable units to fit the family size. Using that as leverage is not a compelling argument.

Commissioner Solla-Yates: Our zoning offers very different building types with different heights across the street from one another and it makes no visual sense or practical sense, but that's what we have. R-3 facing R-3 doesn't bother me, but R-2 facing R-3 does because those are very different looks of buildings. I would not support the current zoning if it were proposed today.

Commissioner Stolzenberg: I hate that our current zoning is so broken that developers can use by-right development as a threat to do things because the default state is so terrible for all of us.

Vice Chairman Mitchell: It seems like the Commission is predisposed to recommend approval of the application, but it also seems like the current zoning is giving the Commission heartburn. Mr. Stolzenberg has a proposal to address the zoning problem as well.

Commissioner Stolzenberg: I'd like to make an amendment to the Comprehensive Plan map if we are going to support this so that the Comprehensive Plan, which should call for high density in this area, changes to note it.

Ms. Robertson: How much time within the 100 days is left on the application?

Mr. Alfele: The application was deemed complete May 30 so we have time.

Ms. Robertson: In theory, if you wanted to defer until another meeting and if Mr. Stolzenberg were to ask for the agenda to be amended and you agreed to initiate consideration of a Comprehensive Plan amendment, those things could come together on an agenda.

Vice Chairman Mitchell: Would that happen at the next meeting?

Ms. Robertson: Yes. You would need to initiate a Comprehensive Plan amendment tonight but it could be advertised for a future meeting, at which this rezoning application would also be on the agenda.

Commissioner Dowell: I'm not comfortable with that, especially when we are talking about amending our Comprehensive Plan. It sounds good in theory but in practicality knowing that we are already working on amending the Comprehensive Plan, the piecemeal method doesn't work.

Commissioner Heaton: We may be in a time where we have to be willing to do that extra work as Commissioners to serve our community. Otherwise the logjam wins.

Commissioner Dowell: We shouldn't do extra work on something that we don't have any clue or idea what we are doing extra work for. We can defer it, but if we don't have a proposal to examine we are just chasing our tails.

Commissioner Stolzenberg moves to recommend approval of this application to rezone the subject properties from R-2U, to R-3, on the basis that the proposal would service the interests of the general public and good zoning practice. Seconded by Commissioner Solla-Yates Motion is approved 4-2.

Commissioner Stolzenberg moves to modify tonight's agenda to add an item to consider initiating a Comprehensive Plan Land Use Map amendment to make the mapped area relevant to this parcel high density residential. Seconded by Commissioner Solla-Yates. Motion is approved 5-1.

Ms. Robertson: Now the Commission can talk about it and someone will need to make a motion on it.

Commissioner Lahendro: Can we really change the zoning for this corner of the block without considering the rest of the block and the impacts?

Commissioner Stolzenberg: Perhaps this whole block should be marked as high density, given that it's already almost all student housing. It's an area so close to grounds and we're seeing so many students spill out so much

further so it makes sense to designate in the 2013 Comprehensive Plan that it become high density residential, which just means 15 units per acre. We wouldn't do any rezoning now but people can come to us in the future if they want their property rezoned, ideally with plans.

Commissioner Lahendro: It seems draconian to change the zoning of these people's property without their engagement or participation.

Ms. Robertson: It isn't the zoning. It is the recommendation for where you see the development patterns in the future.

Commissioner Heaton: I understand Mr. Lahendro's concern but serving this community and being responsive is really important and we have to find ways to be responsive.

Commissioner Lahendro: Are we being responsive to the community by doing it unilaterally without their participation?

Mr. Alfele: Page 3 of the staff report provides a context for the land use designation for the area and surrounding area.

Commissioner Stolzenberg: Did you have something in mind when you made the recommendation to amend whether it would be these parcels specifically or the block?

Mr. Alfele: Staff was trying to point out that if it was rezoned, it would not conform to the Land Use Map. The Land Use Map would call for low density residential, which is below 15 and a certain type of dwelling units. High density is above 15 or apartments, townhomes, or a different type of dwelling unit. Staff's recommendation was just to make sure that the Comprehensive Plan Land Use Map would align to the zoning for the parcel. Currently the zoning aligns with the Comprehensive Plan Land Use Map. If City Council were to rezone the parcel, the parcel would no longer conform.

Ms. Robertson: In some places, applicants actually bring forward Comprehensive Plan amendments with their rezoning applications together. It is a little different than the comprehensive review that you do on a rolling 5 year basis. It's something we haven't used a lot before, but if we ever get through the process of getting a new Comprehensive Plan and updated zoning ordinance, it's something we should consider from time to time.

Vice Chairman Mitchell: To be clear, we are altering the Land Use Map just for the parcels that we just voted to rezone.

Commissioner Heaton: We acknowledge that this isn't the perfect way to do this but it is a way to move in the direction we want to move.

Ms. Creasy: If that doesn't change and the property were to be rezoned and if they wanted to move to another step that required some sort of land use analysis, the Comprehensive Plan Map and the zoning would be out of sync. Whatever you decide to do with the land use map, it would follow the proper process.

Ms. Robertson: Once you meet the 100 day timeline, there is no shot clock on when City Council has to take it up, but they would likely be willing to schedule it on a date when both things come before them at the same time.

Commissioner Heaton: We are in odd territory, so we can either vote this down to leave it as is or do this odd thing and see if it serves the public.

Commissioner Lahendro: Have we defined if this would just be for the parcels of this particular application or the whole block?

Commissioner Stolzenberg: It makes sense to do it for the ones along Maury and back to the depth of this parcel. However, if we were planning this from scratch, the whole area seems like a great candidate for NCC.

Commissioner Dowell: We are about to make a major change on properties that haven't even requested that they wanted this change.

Commissioner Lahendro: We should just do it for this particular application.

Commissioner Stolzenberg moves to initiate a Comprehensive Plan future Land Use Map amendment to re-designate the parcels in question in the 209 Maury application to high density residential. Seconded by Commissioner Lahendro. Motion is approved 5-1.

IV. COMMISSION'S ACTION ITEMS

1. ZM18-00003 – Flint Hill PUD

Staff Report, Matt Alfele: This is a continuation of a discussion from the public hearing held at the May 14 meeting. At that meeting, seven people spoke. There were concerns that the development would create more traffic, that this portion of the City lacks infrastructure to support such a large development, the proposed townhomes won't be affordable, the development could adversely impact the schools, sidewalks aren't safe in the area, the Fry's Springs Neighborhood Association is neutral on the proposal and would welcome any new neighbors, and that the development would be good for the area by adding additional housing. Planning Commission granted a deferral so the applicant could work on a few of the concerns. The applicant took that time to make clarifying changes but there were no real substantive changes to the rezoning request. There are some proffer changes and proffer #2 corresponds that the City would have no cost in the donation of proposed parkland. The applicant added another reference to a code section on affordability and that the ADU requirements shall be recorded as a deed restriction on each ADU lot. Section 34-12(g) was added to the proffer statement and says that "City Council may from time to time adopt regulations by resolution, for the administration of the provisions of this section. Pursuant to section 34-82(b)(1), the failure of any person to comply with such regulations shall constitute unlawful conduct in violation of this section." The applicant updated the intersection of Flint and Keene Court, which was a scaling issue. They corrected it and added some dimensional lines that the City Traffic Engineer looked at and had no more concerns with. The applicant also added a supplemental page that showed details for wired backed silt fence and the limits for disturbance and tree protection, which ties into the critical slope application related to this. The applicant made some clarifying points to the critical slopes application, which were to show more clearly the limits of disturbance and adding a note that the limits of disturbance shall be staked by a licensed surveyor and that tree protection fencing shall be applied 1' off of limits of disturbance with wire supported silt fence 3' off of the limits of disturbance. Staff still has some concerns regarding the administration of affordable dwelling units from the PUD. The applicant has worked with engineering and legal department on the critical slope. During the pre-meeting you were given updated motions and conditions based on the critical slopes. Staff is in support of that in the rewording of those conditions.

COMMISSIONER QUESTIONS

Commissioner Lahendro: One of the public comments mentioned the lack of environmental protection features both during and after construction. Is that something to be appropriately addressed here or would it be more appropriately addressed during the site plan review by City staff?

Mr. Alfele: On the level of critical slope disturbance, staff is comfortable with the conditions placed that would protect some of the environmental concerns. It would need to be looked at closer at site plan for detailed information, but the bones of how they be protected is outlined in the critical slope. From a larger standpoint, those areas would not be developed because they are part of the open space and donated area.

Commissioner Lahendro: They need to be protected during the construction. The Planning Commission aren't the appropriate specialists to be able to determine the most appropriate kind of protection that is needed.

Mr. Alfele: That was a concern that staff had as well, that the applicant would delineate the critical slope areas and not the wetlands area. The wetlands area is not delineated. Condition 1(B) would take care of that.

Vice Chairman Mitchell: Are you comfortable that we are doing everything possible to mitigate any adverse effects to Moore's Creek?

Mr. Alfele: Yes. Staff is comfortable with the recommendations for the impact to Moore's Creek. There isn't a specific callout to Moore's Creek, but by protecting the wetlands and the critical slopes in the conditions, it wouldn't have an impact on Moore's Creek.

Vice Chairman Mitchell: Why is it better to have a super silt fence than a wire supported silt fence?

Mr. Alfele: A super silt fence would be staked at a shorter interval so it won't fall over or have debris going underneath it. A regular silt fence is the plastic with stakes about ever 5-6' to stop a lot of runoff. This is all to prevent silt runoff into the waterways until the land is stabilized.

Commissioner Stolzenberg: Is there some time after construction while the new vegetation is planted that it stays?

Mr. Alfele: There are guidelines that the VSMP and storm water administrator says. We often run into the problem where the fence is not removed and the developers need to remove the silt fence.

Vice Chairman Mitchell: In the original report staff mentioned that some of the building footprints could be reconfigured to limit the impact of steep slopes. Did the applicant opt not to alter the footprints?

Mr. Alfele: Correct. Staff felt that those buildings could be moved closer to the street, but it doesn't necessarily fall in the line with the building layout that the applicant wants to do.

Commissioner Stolzenberg: There are conditions that talk about the upland mature wooded area. Is the idea with those conditions that leaving them in place will help absorb the runoff so it won't get to the critical slopes?

Mr. Alfele: It is pretty far from the critical slopes. It's just an environmental feature that is being left and memorialized in the conditions. In their application, the applicant stated that they would preserve it and so it is stated as such in the conditions.

Applicant – Charlie Armstrong, Southern Development: Thank you for a deferral so we could work on some of these items. We have worked extensively in the last month with multiple departments of City staff and we have arrived at something that we like. Regarding the slope waiver, staff has stated that it is acceptable now with the

new conditions and it is also acceptable to us. Regarding the super silt fence, it has multiple sandwiched layers of the filter fabric that keeps the silt from leaving the site. It is turned down and covered with soil for a longer distance so that any water that hits it cannot go under or around. It also has the wire and posts.

COMMISSIONER QUESTIONS

Vice Chairman Mitchell: How are we going to administer, enforce, and ensure compliance with the affordable housing component?

Mr. Armstrong: By adding the code reference to the existing city code about administration that we could follow some already promulgated ordinance and guidelines that the City has. We added that it would be done as defined in 34-12(g), which is not entirely specific but it does have guidelines about how to administer some of it.

Commissioner Stolzenberg: Do you know if Section 34-12(g) for the standard operating procedures that Stacy Pethia wrote up were adopted under that? Is that what it refers to?

Ms. Robertson: Yes. Under the supervision of the department head, Ms. Pethia developed regulations that say how affordable dwelling units that are required by the zoning ordinance would be administered. There are requirements for periodic reporting and how to calculate periods of affordability, although in this proffer they are offering a term so that piece wouldn't need to be calculated.

Mr. Alfele: There are still concerns by staff and some of the concerns are that if the applicant gives the affordable units to a nonprofit they have satisfied their proffer. The City has concerns with grouping these affordable units if it were to go to something like Habitat.

Commissioner Lahendro: Another concern was giving the parcels to a nonprofit that might satisfy the terms of the proffer but still the units may not be built for some time after that.

Mr. Alfele: Correct. They are offering a proffer and how they could do it. If they built it they could have 1 for every 10 CO, but if they can't do that then they have this way where they could give it to someone who could build it. It would then relieve them of any responsibility of having it done per every 10 COs.

Commissioner Solla-Yates: What is the issue with a row of affordable homes versus interspersed?

Mr. Alfele: Staff would prefer to see interspersed affordable units. There is a Comprehensive Plan goal that speaks about having them interspersed with market rate. Planning Commission could view that as having a row of affordable units within a development that is market rate as being interspersed, but staff prefers to see them not just all in one row.

Ms. Robertson: The regulations that NDS developed under the ordinance reflects that preference.

Commissioner Stolzenberg: It says that they "shall be dispersed throughout the project with no more than 25% of them located on any one floor of the building or any one section or development phase of the project, except in cases where the owner demonstrates that the requirements of a federal or state funded program necessitate alternate arrangements or if by reason of lot configuration or other circumstances of the development render such dispersal unachievable, undesirable, or impractical." It would seem to violate that section.

Ms. Roberson: We may need to clarify what is being administered under the ordinance in regulations that we have and what would be the requirement for something going to a nonprofit entity.

Commissioner Stolzenberg: There are other things that don't conform between the SOPs and the PUD. Would the things in the proffer or the PUD take precedence over the SOPs?

Ms. Roberson: Proffers become zoning regulations so you generally try to have two sets of regulations that are not in conflict with each other. It's better if a proffer can clarify how it will work with the other regulations if it covers similar territory.

Commissioner Solla-Yates: How would those thoughts be captured? Would it be in a motion or in an addendum?

Ms. Robertson: You could use the suggested motion on the updated staff report and add something onto the end saying that the support for the application is qualified in that there are concerns about the clarity of the affordable housing proffer but if it is resolved before it gets to Council then that is the only qualification you have. The concern is with clarity and whether there would be conflicts between the proffer, as written, and the administrative policy that applies to mandatory affordable units.

Commissioner Solla-Yates moves to recommend that City Council should approve ZM18-0003, including the critical slope waiver requested in P19-00013, subject to the following conditions that are necessary to mitigate the potential adverse impacts of development within the critical slope area:

- 1) In order to protect the sensitive on-site wetland features, and also to protect the waters of the adjacent Moore's Creek and its stream buffer areas from the impacts of the proposed development: a) all storm water quantity and quality requirements for the Flint Hill PUD Development will be satisfied through use of facilities of such types, and generally in such locations, as are described and depicted within the storm water management concept submitted for Application # ZM18-0003; b) all storm water outfalls and associated energy dissipaters shall be located outside critical slope areas and wetlands; c) no critical slope area will be disturbed with borings for any sanitary sewer laterals; d. the on-site biofilter shall be designed and installed to offer opportunity for groundwater recharge, and the final storm water management plan for the Flint Hill PUD development shall indicate the design standard for groundwater recharge associated with the particular biofilter that is utilized; e) the mature upland wooded area of the development site will be permanently preserved; f) the following shall be included as part of the erosion and sediment control measures for all construction activities within the development area for the Flint Hill PUD Development: i) use of super silt fence, as described or defined in City standards, to be detailed within the E&S Plan and SWPPP for the area within the PUD; ii) fixed, immovable barriers shall be installed as tree protection measures, in accordance with the City's standard tree protection detail, and the barriers shall be maintained in place throughout all periods of construction activities within the area Flint Hill PUD; this protection requirement shall apply to the protection of the root zones of existing trees within the mature upland wooded area; to existing native woody and herbaceous trees and plantings in the critical slope areas and wetlands; and to protection of other mature trees identified within the tree preservation plan component of the final site plan for the Flint Hill PUD.
- 2) This critical slope waiver is approved only for and in connection with the proposed Flint Hill PUD Development described in Application # ZM19-00003 and shall not apply to any other use or development proposed or conducted on the Subject Property.
- 3) Sec. 34-1120(b) of the City's critical slope ordinance states that a landowner requesting waiver of critical slopes requirements must address how the proposed waiver will satisfy the purpose and intent of the critical slopes ordinance; within materials submitted in support of waiver Application #P19-00013 the Landowner has stated that it is willing to undertake measures to reinforce existing eroded areas in the vicinity of its proposed development (the upper reaches of Stream 2), as a partner with other stream-adjacent landowners, if feasible. Landowner shall confirm at the time of final site plan approval

whether or not any such work will be performed and: (i) if so, the Landowner shall describe in writing the extent of the work and the timing in which the working will be undertaken in relation to completion of construction activities within the PUD development, or (ii) if not, the Landowner shall summarize in writing its efforts to follow-up with landowners to develop a work plan, and shall describe any financial or other impediments render a joint effort infeasible. Landowner shall have no obligation for the off-site work, beyond the actions specified in clauses (i) and (ii) of this paragraph.

This recommendation is on the basis that the streets proposed within the PUD Development are laid out in a manner substantially in accord with the Comprehensive Plan, and approval of the proposed PUD Development is consistent with the Comprehensive Plan and will serve the public necessity, convenience, general welfare and good zoning practice. Although support for the application is qualified, there are concerns about clarity, affordable housing proffer language, and possible conflicts between the proffer as written and administrative policy that applies to affordable units. Seconded by Commissioner Dowell. Motion is approved 6-0.

Commissioner Solla-Yates: Notes that we do need another Planning Commissioner representative for the RFP process.

V. Adjournment

10:00 pm – Commissioner Dowell moves to adjourn until the second Tuesday in July 2019.