



**CITY COUNCIL AGENDA
July 20, 2015**

CALL TO ORDER *Council Chambers*
PLEDGE OF ALLEGIANCE
ROLL CALL

**AWARDS/RECOGNITIONS
ANNOUNCEMENTS**

MATTERS BY THE PUBLIC Public comment permitted for the first 12 speakers who sign up before the meeting (limit 3 minutes per speaker) and at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

COUNCIL RESPONSE TO MATTERS BY THE PUBLIC

1. CONSENT AGENDA* (Items removed from consent agenda will be considered at the end of the regular agenda.)

Approved 5-0

- a. Minutes for July 6
- b. APPROPRIATION: Funding for Thomas Jefferson Area Crisis Intervention Team Coordinator – \$53,700 (2nd of 2 readings)
- c. APPROPRIATION: Funding Restoration of Saturday Operating Hours at Smith Aquatic Center – \$3,098 (2nd of 2 readings)
- d. APPROPRIATION: Additional Funding for Department of Social Services Benefits Programs – \$16,075 (2nd of 2 readings)
- e. APPROPRIATION: Funding for Medicaid/FAMIS Renewal Application Processing – \$10,045 (2nd of 2 readings)
- f. APPROPRIATION: Homelessness Solutions Grant - \$459,941 and Housing Opportunities for Persons with AIDS Grant - \$190,612 (1st of 2 readings) **Carried**
- g. APPROPRIATION: Check and Connect Student Engagement Grant - \$147,000 (1st of 2 readings) **Carried**
- h. RESOLUTION: Amendment to Local Government Support Agreement for Recycling Programs (1st of 1 reading)
- i. ORDINANCE: Lochlyn Hill PUD Amendment (2nd of 2 readings)
- j. ORDINANCE: Amend City Code Relating to the Enforcement of Trespass Violations (2nd of 2 readings)
- k. ORDINANCE: Amendments to Floodplain Management Regulations (2nd of 2 readings)
- l. ORDINANCE: Tree Designation – 1604 E. Market St. (2nd of 2 readings)
- m. ORDINANCE: Lowering Speed Limit on Emmet Street from Ivy Road to Arlington Boulevard (1st of 2 readings) **Carried**
- n. ORDINANCE: Route 250 Bypass Speed Limit Adjustment (1st of 2 readings) **Carried**
- o. ORDINANCE: Quitclaim Gas Easement to VDOT in Boulders Road (1st of 2 readings) **Carried**
- p. ORDINANCE: Quitclaim Gas Easement to VDOT in Briarwood Drive (1st of 2 readings) **Carried**
- q. ORDINANCE: Amendment to Inoperable Motor Vehicles Ordinance (1st of 2 readings) **Carried**

2. PUBLIC HEARING / ORDINANCE* Abandonment of Gas Easement at 10th Street, NE and Water Street Extended (1st of 2 readings) **Carried**

3. ORDINANCE* William Taylor Plaza PUD Amendment (2nd of 2 readings) **Approved (3-2)**

4. RESOLUTION* Special Use Permit for 201 Garrett Street for Micro-Apartments (1st of 1 reading) **Referred back to PC to review only the changes to SUP that Kuttner is now requesting**

5. APPROPRIATION* Police Department Community Response Vehicle - \$62,170 (1st of 2 readings) **Carried (4-1)**

6. RESOLUTION* Bicycle and Pedestrian Master Plan Update – Comprehensive Plan Amendment (1st of 1 reading) **Deferred to future meeting**

7. REPORT Health Department Presentation – Dr. Denise Bonds

8. REPORT Social Services Advisory Board Annual Update

9. RESOLUTION* Organizational Efficiency Study – Scope of Services Proposal (1st of 1 reading) **Deferred – need more information**

Closed Session to discuss litigation

10. RESOLUTIONS* Authorize Settlement Payment in Costello Construction v. City (Fontaine Fire Station) **Approved 5-0**
Approve Transfer of Funds for Settlement of Litigation - \$800,000 **Approved 5-0**

**OTHER BUSINESS
MATTERS BY THE PUBLIC
COUNCIL RESPONSE TO MATTERS BY THE PUBLIC**

*ACTION NEEDED

APPROPRIATION.

\$53,700.

Region Ten Community Services Board Funding for the Thomas Jefferson Area Crisis Intervention Team Coordinator.

WHEREAS, the City of Charlottesville, through the Thomas Jefferson Crisis Intervention Team and the Charlottesville Police Department, has received from Region Ten Community Developmental Services, funding to support a M.O.U. for mentorship of Crisis Intervention Team programs.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$53,700 per fiscal year received from the Region Ten Community Services Board is hereby appropriated in the following manner:

Revenue


\$ 53,700 Fund: 209 CC: 3101003000 G/L: 430080 State Assistance

Expenditure

\$ 53,700 Fund: 209 CC: 3101003000 G/L: 519999 Salaries

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$53,700 per fiscal year from the Region Ten Community Services Board.

Approved by City Council
July 20, 2015


Barbara K. Ronan
Acting Clerk of Council

RESOLUTION.

**Transfer of Funds (\$3,098).
Restoration of Saturday Operating Hours at Smith Aquatic and Fitness Center.**

WHEREAS, City Council, at its meeting of June 15, 2015 voted to restore funding in the FY16 budget to support opening Smith AFC at 5:30 AM on Saturdays; and to fund the restoration from the Council Priorities Fund

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville funding is hereby transferred in the following manner:

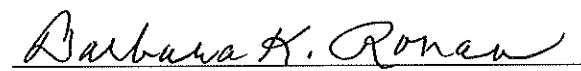
Expenditures – Transfer From

\$3,098 Fund: 105 Cost Center: 1011001000 G/L Account: 599999

Expenditures – Transfer To

\$3,098 Fund: 105 Cost Center: 3631003000 G/L Account: 510030

Approved by City Council
July 20, 2015


Barbara K. Ronan
Acting Clerk of Council

APPROPRIATION.

Additional Funding for Department of Social Services Benefits Programs \$16,075.

WHEREAS, The Charlottesville Department of Social Services has received Federal and State funding in the amount of \$16,075 to be used for benefits programs staffing and operations.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$16,075 is hereby appropriated in the following manner:

Revenue – \$16,075

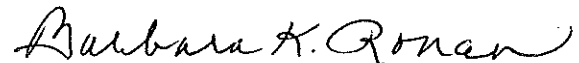
Fund: 212 Cost Center: 9900000000 G/L Account: 430080

Expenditures - \$16,075

Fund: 212 Cost Center: 3301005000 G/L Account: 510060 \$13,075

Fund: 212 Cost Center: 3301005000 G/L Account: 520900 \$ 3,000

Approved by City Council
July 20, 2015



Barbara K. Ronan
Acting Clerk of Council

APPROPRIATION.

Appropriation of funds for Medicaid/F.A.M.I.S. Renewal Application Processing \$10,045.

WHEREAS, The Charlottesville Department of Social Services has received funding in the amount of \$10,045 to be used for processing Medicaid and F.A.M.I.S. (Family Access to Medical Insurance Security) renewal applications.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$10,045 is hereby appropriated in the following manner:


Revenue – \$10,045

Fund: 212 Cost Center: 9900000000 G/L Account: 430080

Expenditures - \$10,045

Fund: 212 Cost Center: 3301005000 G/L Account: 510060

Approved by City Council
July 20, 2015

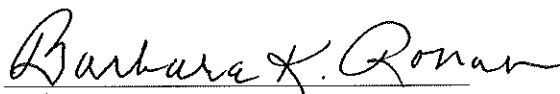

Barbara K. Ronan
Acting Clerk of Council

RESOLUTION

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, that the City Manager is hereby authorized to sign the following document, in form approved by the City Attorney or his designee.

Amendment #4 to Local Government Support Agreement for Recycling Programs between the County of Albemarle, Rivanna Solid Waste Authority, and the City of Charlottesville, extending the expiration date of the Agreement from June 30, 2015 to June 30, 2016.

Approved by City Council
July 20, 2015

A handwritten signature in cursive script that reads "Barbara K. Ronan". The signature is written in black ink and is positioned above a horizontal line.

Barbara K. Ronan
Acting Clerk of Council

**AMENDMENT NO. 4 TO
LOCAL GOVERNMENT SUPPORT AGREEMENT FOR RECYCLING PROGRAMS
AMONG
THE CITY OF CHARLOTTESVILLE
THE COUNTY OF ALBEMARLE
AND
THE RIVANNA SOLID WASTE AUTHORITY**

This **Amendment No. 4** to the **Local Government Support Agreement for Recycling Programs** (this "Amendment") is made this ___ day of _____, 2015 by and among the **City of Charlottesville, Virginia** (the "City"), the **County of Albemarle, Virginia** (the "County") and the **Rivanna Solid Waste Authority** (the "Authority", individually a "Party", and together referred to as the "Parties").

WHEREAS, the City, the County and the Authority entered into a certain Local Government Support Agreement for Recycling Programs dated August 23, 2011 (the "Original Agreement") providing the terms of the City's and County's shared financial support and Authority's operation of the Recycling Services; and

WHEREAS, the Original Agreement provided that such financial support and operations continue through the Authority's fiscal year ending June 30, 2012, with the City and County retaining an exclusive option to extend the Original Agreement for two successive one-year periods by giving prior written notice to the Authority; and

WHEREAS, the City and County exercised their first option to extend the term of the Original Agreement through June 30, 2013, but the County elected not to exercise its second option to extend the term through June 30, 2014 and instead requested, with the concurrence of the City, an extension of the Original Agreement through December 31, 2013; and

WHEREAS, the City, the County and the Authority entered into Amendment No. 1 to the Original Agreement dated June 5, 2013 extending the term of the Original Agreement through December 31, 2013; and,

WHEREAS, the City, the County and the Authority entered into Amendment No. 2 to the Original Agreement dated October 23, 2013 extending the term of the Original Agreement through June 30, 2014; and,

WHEREAS, the City, the County and the Authority entered into Amendment No. 3 to the Original Agreement dated January 28, 2014 extending the term of the Original Agreement through June 30, 2015 (the Original Agreement, as amended by Amendment No. 1, Amendment No. 2 and Amendment No. 3, hereinafter, the "Agreement"); and,

WHEREAS, the County desires an additional extension of the term of the Agreement through June 30, 2016, and the City is agreeable to an extension for such period.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amendment to Section 4. Section 4 of the Agreement, entitled "Term of Agreement," is amended and restated as follows:

4. Term of Agreement

This Agreement shall be effective upon execution and the financial participation requirements shall be retroactive to July 1, 2011 and shall continue through June 30, 2016.

2. Miscellaneous. Capitalized terms used herein shall have the meanings ascribed to them in the Agreement unless otherwise specifically defined herein. Except as expressly modified hereby, all other terms and conditions of the Agreement shall remain unchanged and shall continue in full force and effect. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the dates below.

CITY OF CHARLOTTESVILLE:

Maurice Jones
City Manager

Date

COUNTY OF ALBEMARLE:

Thomas C. Foley
Thomas C. Foley
County Executive

6/5/15
Date

RIVANNA SOLID WASTE AUTHORITY:

Thomas L. Frederick, Jr.
Executive Director

Date

66045560_1

Approved as to form:

[Signature]
County Attorney

ORDINANCE
REZONING PROPERTY TO AMEND THE LOCHLYN HILL PUD
("AMENDED LOCHLYN HILL PUD")

WHEREAS, Meadowcreek Development LLC is the owner of property within the Lochlyn Hill PUD, and the owner has authorized Milestone Partners LLC ("Applicant") to make application for a zoning map amendment with respect to the Lochlyn Hill PUD (City Application No. ZM15-00002, the "Application") consisting of approximately 22.47 acres of land, identified as City Tax Map 48A Parcel 39, which was previously designated as a planned unit development ("PUD") zoning district, by ordinance of city council approved September 4, 2012 (the "Subject PUD"); and

WHEREAS, pursuant to City Code §34-519 the Applicant seeks an amendment of the Subject PUD, as set forth within the Application and related materials presented to this Council, such related materials including: (i) revisions to the Concept Development Plan required by City Code §34-517(3) and (ii) revisions to the land use plan required by §34-517(4) (referenced by the applicant as pages 6, 7 and 15 of the "code of development" revised as of June 16, 2015) (collectively, the "2015 Application Materials"); and

WHEREAS, following a joint public hearing before this Council and the Planning Commission, duly advertised and held on June 9, 2015, the Planning Commission voted to recommend approval of the Application based on finding that the proposed amendment is required by the public necessity, convenience, general welfare or good zoning practice, and this Council likewise finds and determines that the rezoning proposed by the Application is required by the public necessity, convenience, general welfare or good zoning practice; and

WHEREAS, this Council finds and determines that in its other aspects, the proposed amendments to the Subject PUD conform to the criteria and requirements set forth within Chapter 34, Article V of the City Code; and

WHEREAS, Council further finds and determines that the proposed amendments to the Subject PUD, are consistent with the City's adopted Comprehensive Plan; NOW THEREFORE,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Zoning District Map Incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, be and hereby is amended and reenacted as follows:

Section 34-1. Zoning District Map. Rezoning from Lochlyn Hill PUD (9/4/2012) to Amended Lochlyn Hill PUD, consisting of the following: (i) the Final Proffer Statement approved by Council on September 4, 2012, and (ii) the PUD Development Plan approved on September 4, 2012, amended by the 2015 Application Materials approved this date by Council.

Except as expressly set forth within the 2015 Application Materials approved this date by City Council, the provisions of the PUD Development Plan and the Final Proffer Statement approved for the Lochlyn Hill PUD on September 4, 2012, shall be and continue in full force and effect.

Approved by City Council
July 20, 2015



Barbara K. Ronan
Acting Clerk of Council

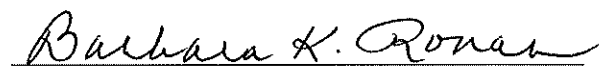
**AN ORDINANCE AMENDING AND RE-ORDAINING
SECTION 20-11, ARTICLE I, CHAPTER 20
OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED
RELATING TO THE DESIGNATION OF POLICE
TO ENFORCE TRESPASS VIOLATIONS**

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Section 20-11, Article I, Chapter 20 of the Charlottesville City Code, 1990, as amended, is hereby amended and re-ordained as follows:

Section 20-11. Designation of police to enforce trespass violations.

The chief of police may accept a designation by the owner, lessee, custodian, or person lawfully in charge as those terms are used in Va. Code §18.2-119, of real property located within the city, designating the Charlottesville Police Department as a "person lawfully in charge of the property" for the purpose of forbidding another to go or remain upon the lands, buildings or premises of the owner as specified in the designation. Any such designation shall be in writing and shall be kept on file with the Charlottesville Police Department. The chief of police shall promulgate rules, regulations and/or a procedure for the acceptance and use of such designation.

Approved by City Council
July 20, 2015


Barbara K. Ronan
Acting Clerk of Council

ORDINANCE
REPEALING THE EXISTING PROVISIONS OF CHARLOTTESVILLE CITY CODE
CHAPTER 34, ARTICLE II, DIVISION 1
(FLOOD HAZARD PROTECTION OVERLAY DISTRICT) AND
ADOPTING, ENACTING AND RE-ORDAINING SUCH DIVISION

WHEREAS, the Virginia Department of Conservation and Recreation (DCR) has notified the City's Department of Neighborhood Development Services (NDS) that the City's floodplain management regulations are outdated and should be replaced with new regulations implementing current minimum federal requirements governing the use and development of flood-prone areas of the city; and

WHEREAS, federal law and regulations specify that, in order for flood insurance under the National Flood Insurance Program (NFIP) to be available within the Charlottesville community, the City must adopt a floodplain management ordinance that includes provisions which meet or exceeds minimum NFIP criteria, as set forth within Title 44 Code of Federal Regulations, Subchapter B (Insurance and Hazard Mitigation), including, without limitation, Part 60 (Criteria for Land Management and Use); and

WHEREAS, DCR provided the City with a model floodplain ordinance to utilize as a guide for implementing the minimum federal requirements; and

WHEREAS, the City's Planning Commission, by motion, has recommended that City Council should approve the following ordinance, after conducting a public hearing upon notice as required by law; and

WHEREAS, this City Council finds and determines that the proposed zoning text amendment is required by the public necessity, convenience, general welfare and good zoning practice; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that:

1. The provisions of Chapter 34 (Zoning), Article II (Overlay Districts), Division 1 (Flood Hazard Protection Overlay District) are hereby **REPEALED** and, in their place the following provisions are hereby adopted, enacted and re-ordained to read as follows:

ARTICLE II – OVERLAY DISTRICTS

DIVISION 1. FLOOD HAZARD PROTECTION OVERLAY

Sec. 34-240. Authorization; purpose.

(a) This ordinance is adopted pursuant to the authority granted to localities by Code of Virginia §§ 15.2 – 2280. This division may be referred to as the city's floodplain ordinance, or as the city's floodplain management regulations.

(b) The purpose of the regulations set forth within this division is to: prevent loss of life and property; deter the creation of health and safety hazards; prevent disruption of commerce and governmental services; avoid extraordinary and unnecessary expenditure of public funds for flood protection and relief; and prevent erosion of the city's tax base, by:

- (1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (2) Restricting or prohibiting certain uses, activities, and development within areas subject to flooding;
- (3) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage; and,
- (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards; and
- (5) Meeting the requirements of the national flood insurance program, so that lands within the city may qualify for flood insurance availability.

Sec. 34-241. Applicability.

(a) The provisions set forth within this division shall constitute the floodplain management regulations for the City of Charlottesville, and they shall apply to the use and development of all privately and publicly owned lands within the jurisdictional boundaries of the City of Charlottesville which have been identified as areas of special flood hazard (SFHA) in accordance with the data and information set forth within the flood insurance study (FIS) and the accompanying flood insurance rate map (FIRM) provided by the Federal Emergency Management Agency (FEMA) to the City.

(b) Upon application to the Floodplain Administrator a permit may be issued for environmental restoration or flood control projects which are (i) designed or directed by the City or by a public body authorized to carry out environmental restoration or flood control measures, (ii) reviewed by the Floodplain Administrator, the City's VESCP and VSMP Administrators, and Director of Public Works, for compliance with the requirements of Chapter 10 of the City Code (Water Protection), and (iii) reviewed by the Floodplain Administrator for compliance with applicable provisions of this division.

Sec. 34-242. Compliance and liability.

(a) All uses, activities and development occurring within any SFHA, including placement of manufactured homes and other structures, shall be undertaken only upon the issuance of a permit by the City's Floodplain Administrator. Such permitted uses, activities and development shall be undertaken, conducted and established only in strict compliance with the provisions of this ordinance and with all other applicable codes and ordinances, such as the Virginia USBC, chapter 10 of the City Code (Water Protection), chapter 29 of the City Code (Subdivisions) and other articles within this chapter 34 (zoning).

(b) The degree of flood protection sought by this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. The applicability of this division to certain lands does not warrant or imply that areas outside the

floodplain, or land uses permitted within the floodplain, will be free from flooding or flood damage.

(c) The enactment of this division shall not create liability on the part of the city, or any officer or employee thereof, for any flood damage that results from reliance on the regulations set forth herein or any administrative determination lawfully made hereunder.

(d) The failure of a building, structure or development to be fully compliant with these floodplain management regulations shall constitute a violation of this ordinance. Any building, structure or development without a permit, certification, elevation certificate or other evidence or documentation of compliance required by this division shall be presumed in violation of this ordinance until such evidence or documentation is provided.

Sec. 34-243. Records.

Records of actions associated with administering this ordinance shall be maintained by the Floodplain Administrator in accordance with the applicable requirements of federal and state law and regulations.

Sec. 34-244. Abrogation; greater restrictions.

The regulations set forth within this division supersede any regulations currently in effect within any SFHAs. Notwithstanding the foregoing, the regulations of any ordinance remain in full force and effect, to the extent that such regulations are more restrictive.

Sec. 34-245. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason, such decision shall not affect the remaining provisions of this division. The remaining provisions shall be and remain in full force and effect, and for this purpose the provisions of this division are hereby declared to be severable.

Sec. 34-246. Penalty for Violations

(a) Any person who fails to comply with any of the regulations set forth within this division shall be subject to the enforcement provisions set forth within City Code Sec. 34-81 through 34-89.

(b) Any person who fails to comply with floodproofing or other requirements of the USBC, or with the requirements of the City's VESCP or VSMP programs, may be subject to the enforcement provisions set forth within the USBC, or Chapters 5 or 10 of the City Code, as applicable.

(c) In addition to the above-referenced enforcement provisions, all other enforcement actions are hereby reserved to the city, including, without limitation, any action seeking declaratory or injunctive relief. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue, and any person upon whom such a fine or penalty has been imposed shall be required to correct, remedy or abate such violations.

(d) Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the city to be a public nuisance and abated as such.

(e) Flood insurance coverage may be withheld from buildings and structures constructed in violation of this division.

Sec. 34-247. Designation of floodplain administrator.

(a) The director of neighborhood development services is hereby designated by city council as the city official responsible for administration of the regulations set forth within this division, and the director is referred to throughout this division as the Floodplain Administrator. The Floodplain Administrator is authorized and directed to administer the provisions of this division, and in doing so the Floodplain Administrator may:

- (1) Perform the duties and responsibilities set forth herein;
- (2) Delegate duties and responsibilities set forth herein to qualified technical personnel, plan examiners, inspectors, and other city officials, employees, or agents;
- (3) Enter into a written agreement or written contract with another locality or independent contractor, to engage such locality or contractor to serve as the city's agent for administration of the provisions of this division, or specific provisions set forth herein; however, administration of any part of these regulations by an agent shall not relieve the city of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program.

(b) The Floodplain Administrator, and any person(s) acting pursuant to Sec. 34-247(2) or (3), above, shall have authority to render interpretations of the provisions of this division and to establish policies and procedures in order to clarify the application of these provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code. Interpretations shall be made by means of written determinations. The administrator's determinations may be appealed to the city's board of zoning appeals, in accordance with the procedures provided within Sections 34-126 through 34-139 of the City Code. Any person who appeals an interpretation of the boundaries of the city's SFHA, as applied to specific land, may submit independent technical evidence to the board.

Sec. 34-248. Duties and responsibilities of floodplain administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (1) Review applications for permits proposing the use or development of land, to determine whether proposed uses, activities, construction and development will be located in a SFHA;
- (2) Interpret floodplain boundaries, and provide BFE and flood hazard information available from the FIS/FIRM or other sources;
- (3) Coordinate with the City's Building Official, to administer and enforce the flood provisions of the USBC and to review applications to determine whether proposed activities will be reasonably safe from flooding;
- (4) Review applications to determine whether all necessary permits have been obtained from

the federal, state or local agencies from which approval is required, including, without limitation: permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures); any alteration of a watercourse; any change of the course, current, or cross section of a stream or body of water, including any change to any BFE;

- (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies as may have authority over such alteration (e.g., the Virginia Department of Environmental Quality, United States Army Corps of Engineers) and have submitted copies of such notifications to FEMA;
- (6) Approve applications and issue permits authorizing development in a SFHA, if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met;
- (7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations, or to determine if non-compliance has occurred or violations have been committed;
- (8) Review elevation certificates and require incomplete or deficient certificates to be corrected;
- (9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analysis prepared by or for the city, within six months after such data and information becomes available, if the analyses indicate changes in BFEs;
- (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (i) The FIS/ FIRM (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (ii) Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations;
- (11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action;
- (12) Advise the board of zoning appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and provide a recommendation;
- (13) Administer the requirements related to proposed work on existing buildings:
 - (i) Make determinations as to whether buildings and structures that are located in SFHAs and that are damaged by any cause have been substantially damaged; and

- (ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage;
- (14) Undertake other actions, as determined appropriate by the Floodplain Administrator due to the circumstances, including, but not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with federal, state, and other local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and rendering determinations as to whether specific properties have been substantially or repetitively damaged by flooding.
- (15) Notify FEMA when the corporate boundaries of the city have been modified and:
 - (i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (ii) If the FIS/FIRM for any annexed area includes SFHAs that have regulatory requirements not set forth in these floodplain management regulations, prepare amendments to adopt appropriate floodplain management regulations for such SFHAs and submit the amendments to the city council for adoption; such adoption shall take place at the same time as, or prior to, the date of annexation and a copy of the amended floodplain management regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and to FEMA;
- (16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHAs, number of permits issued for development in the SFHAs, and number of variances issued for development in the SFHAs;
- (17) Take into account actual flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land use, development and management throughout the entire jurisdictional area of the city, whether or not those hazards have been specifically delineated geographically via mapping, surveying, or otherwise.

Sec. 34-249. Use and interpretation of FIS/ FIRM.

(a) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of SFHAs on specific lot(s) or parcel(s) of land, using data and information from the FIS/ FIRM, or other data and information permitted by federal law, federal regulations or these floodplain management regulations. Whenever reference is made within this division to delineation of SFHAs, the reference to delineation shall include, without limitation, interpretations of the Floodplain Administrator. The basis for delineation of SFHAs in relation to specific lot(s) or parcel(s) of land

shall be as specified within paragraph (b) of this section and within Sec. 34-254.

(b) The following shall apply to the use and interpretation of the FIS/FIRM by the Floodplain Administrator:

- (1) SFHA designations furnished within the FIS/ FIRM shall govern the location of such SFHAs.
- (2) Where field surveyed topography indicates that adjacent ground elevations contiguous to the flood hazard boundary are below the BFE, even in areas not delineated as a SFHA within the FIS/FIRM, the area shall be considered as a SFHA and shall be subject to the requirements of these regulations;
- (3) Where field surveyed topography indicates that adjacent ground elevations are above the BFE, the area shall be regulated as a SFHA unless the applicant obtains a LOMR removing the area from the SFHA.
- (4) Within SFHAs designated within the FIS/ FIRM, in which BFE and floodway data have not been provided, and in areas where no SFHAs have been designated: any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used by the Floodplain Administrator;
- (5) BFEs and designated floodways identified within the FIS/FIRM shall take precedence over BFEs and floodway boundaries determined using any other sources, if such other sources show reduced floodway widths and/or lower BFE;
- (6) Notwithstanding the foregoing: sources of data other than the FIS/ FIRM shall be reasonably used if such sources show increased BFEs and/or larger floodway areas than are identified within the FIS/FIRM;
- (7) If a preliminary FIS/ FIRM has been provided by FEMA:
 - (i) Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided by FEMA for the purposes of administering these regulations;
 - (ii) Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data and shall be used where no BFEs and/or floodway areas are identified within the effective FIS/FIRM;
 - (iii) Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary BFEs or floodway areas exceed the BFEs and/or designated floodway widths in the existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(c) Any property owner aggrieved by a determination of the Floodplain Administrator rendered pursuant to this section may appeal such determination to the city's board of zoning appeals.

Sec. 34-250. Jurisdictional boundary changes.

(a) In the event that, following the adoption of this ordinance, the jurisdictional boundaries of the city are modified by annexation, then the Albemarle County floodplain ordinance in effect on the date of annexation shall remain in effect within the annexed areas, and shall be enforced by the city, until such time as the city adopts a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIS/ FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the city will adopt amendments to these regulations to adopt the FIS/ FIRM and appropriate requirements for such area, and such adoption shall take place at the same time as, or prior to, the date of annexation and a copy of the amended regulations shall be provided to the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and to FEMA.

(b) The city will notify the Federal Insurance Administration (FIA) and its Virginia State Coordinating Office in writing, whenever the boundaries of the city have been modified by annexation, or the city has otherwise either assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. A copy of a map of the city suitable for reproduction, clearly delineating the new corporate limits or new area for which the city has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Sec. 34-251. SFHA boundary changes.

The delineation of any SFHA relative to a specific lot or parcel of land may be revised by the city's Floodplain Administrator, when natural or man-made changes have occurred; when more detailed studies have been conducted or undertaken by the USACE or other qualified agency; or when a property owner documents the need for such revision. However, prior to any such revision, approval must be obtained from FEMA.

Sec. 34-252. Submitting technical data.

A community's BFEs may increase or decrease as a result of physical land changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the city shall notify FEMA of such changes by submitting technical or scientific data. Such a submission is necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Sec. 34-253. Letters of map revision.

When development in the floodplain causes, or will cause, a change in any BFE, then the landowner, including any state or federal agency, must notify FEMA by applying for a CLOMR (conditional letter of map revision) and then subsequently, a LOMR (letter of map revision). Examples of circumstances requiring action in accordance with this section include, but are not limited to, the following:

- (1) Any development that causes an increase in the BFEs within a floodway;

- (2) Any development occurring in Zones A and AE without a designated floodway, which will cause a rise of more than one (1) foot in the BFE; and
- (3) Any alteration or relocation of a stream, including but not limited to installation of culverts, bridges and crossings.

Sec. 34-254. Basis for delineation of SFHAs; regulatory requirements.

(a) The basis for the delineation of the city's SFHA by the city's Floodplain Administrator shall be the FIS/ FIRM (as defined in Sec. 34-1200), including any subsequent revisions or amendments thereto, and other data and information, in accordance with the provisions of Sec. 34-249 and as provided within paragraph (b) of this section.

- (1) The city may identify and regulate LFHAs (local flood hazard or ponding areas) that are not identified within the FIS/ FIRM. These LFHAs may be delineated on a LFHM (local flood hazard map) using best available topographic data and locally derived information, such as: flood of record, historic high water marks or approximate study methodologies.
- (2) Upon approval of a LFHM by city council in accordance with the procedures for amendment of the city's zoning district map, the LFHM shall be considered SFHAs subject to the city's floodplain management regulations.

(b) The city's SFHA shall consist of AE Zones and A Zones, as defined within Sec. 34-1200.

(c) AE Zone requirements. The following provisions shall apply within AE zones:

- (i) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the BFE more than one (1) foot at any point within the city.
- (ii) Development activities which increase the BFE by more than one (1) foot may be permitted, provided that the applicant first applies, with the endorsement of the Floodplain Administrator on a community acknowledgement form, for a CLOMR and receives the approval of FEMA.
- (iii) All new construction and substantial improvements shall comply with all applicable regulations set forth within this division, including, without limitation, secs. 34-256 to 34-261.

(d) *A Zone Requirements.* The following provisions shall apply within A Zones:

- (i) The Floodplain Administrator shall obtain, review and reasonably utilize any BFEs and floodway information from federal, state, and other acceptable sources, when available. Where the specific BFE cannot be determined within this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Floodprone Quadrangles, etc., then the applicant for a proposed use, activity or development shall determine the BFE. The applicant shall use federal, state and other sources of information acceptable to the Floodplain Administrator, and shall use technical methods in accordance with subparagraph (ii), below, for any development that involves 5 acres or 50 lots

(whichever is less). However the Floodplain Administrator may require the use of technical methods for other uses, activities or developments, as appropriate to achieve the purposes of this division.

- (ii) Technical methods shall correctly reflect currently accepted non-detailed technical concepts, consistent with methods used in the FIS, such as flood hazard analyses, point on boundary, known high water marks from past floods, or detailed methodologies including hydrologic and hydraulic engineering analysis. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.
 - (iii) The Floodplain Administrator shall have the authority to require hydrologic and hydraulic engineering analysis for any development and to determine the BFE. When such BFE data is utilized, the lowest floor shall be elevated to or above a point that is one (1) foot above the BFE. During the permitting process the Floodplain Administrator shall obtain the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and, if the structure has been flood-proofed in accordance with the requirements of this division, documentation of the elevation to which the structure has been flood-proofed.
 - (iv) Upon establishment of a BFE and floodway in accordance with this section, development within an approximated floodplain shall be subject to the requirements of paragraphs (b)(1) and (b)(2) of this section, as applicable.
- (e) *Floodway requirements.* The following provisions shall apply within a floodway:
- (i) Within a floodway, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic engineering analysis that the proposed encroachment will not result in any increased flood levels within the community, affect normal flood flow, increase erosion within or adjoining to the floodway, cause the diversion of flood waters during the occurrence of the base flood discharge, increase peak flows or velocities in a manner likely to lead to added property damage or hazards to life, or increase the amounts of damaging materials that might be transported in floods during the occurrence of the base flood discharge. Hydrologic and hydraulic engineering analysis shall include an engineer's certification that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.
 - (ii) The placement of manufactured homes is prohibited, except that, in an existing manufactured home park or subdivision, A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the encroachment standards of section (iii), below, are met and provided further that the requirements of Sec. 34-258(4) are satisfied.
 - (iii) Development or uses which increase the BFE may be permitted, provided that the applicant first applies – with the endorsement of the Floodplain Administrator on a community acknowledgement form—for a CLOMR in accordance with Sec. 34-253 and receives the approval of FEMA.
 - (iv) All new construction and substantial improvements shall comply with all

applicable regulations within this division, including, without limitation, secs. 34-256 to 34-261.

(v) Subject to compliance with (i), above, and other applicable provisions of these floodplain regulations, the following uses may be permitted by the Floodplain Administrator within a floodway, if otherwise allowed within the underlying zoning district classification, so long as they do not require any new structure(s): fill, dumping of materials or waste, storage of materials or equipment; (A) agricultural uses and (B) outdoor recreational uses; (C) open uses, such private alleys and driveways, off-street parking, and loading areas related to uses outside the floodway; and (D) public facilities, including public streets and alleys, railroads, bridges, and facilities of public service corporations.

(vi) The following uses may be permitted within a floodway, following the approval of a special exception granted by the board of zoning appeals, if such use is otherwise allowed within the underlying zoning district classification: (A) accessory uses; (B) uses which may be authorized by a temporary use permit; (C) lots for the sale of new and used cars, trucks, farm equipment, campers, mobile homes; boats; (D) marinas, boat rentals, docks, piers, wharves; and (E) storage yards for non-floatable and readily transportable equipment or machinery. Prior to granting any such special exception, in addition to any other standards to be applied by the board of zoning appeals, the board of zoning appeals must find that the requirements of subsection (i), above are satisfied.

Sec. 34-255. Overlay concept.

(a) The requirements of this division shall govern the use and development of land within SFHAs, and these floodplain management regulations shall apply within SFHAs in addition to the regulations of any other district(s) enumerated in city code Sec. 34-216 and in addition to other development regulations set forth within chapters 34 (zoning) or 29 (subdivisions).

(b) If there is any conflict between the provisions of this division and the requirements of any other ordinance, law, or regulation, the provisions of Sec. 34-6(b) shall govern the interpretation of the conflicting provisions.

Sec. 34-256. Permit and application requirements.

(a) *Permit required*--No use, activity or development shall be established or conducted within any SFHA, except upon the approval of a permit by the Floodplain Administrator. Under no circumstances shall a permit be issued to authorize any use, activity, and/or development that would adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Every permit approved by the Floodplain Administrator shall be subject to the conditions set forth within Sec. 34-257 of this division.

(b) *Applications*—Every application seeking a permit from the Floodplain Administrator, and all other applications seeking an approval from the city allowing the use or development of land, or authorizing any land disturbing activity, within any SFHA shall include the following information:

(1) The BFE at the site, obtained from the FIS/ FIRM or, if not established on the FIS/ FIRM,

established in accordance with Sec. 34-254(b)(2);

- (2) The proposed elevation of the lowest floor (including basement);
- (3) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed;
- (4) Information from a topographic survey, showing existing and proposed ground elevations; and
- (5) Documentation or evidence of the location of the applicable SFHA, as determined in accordance with Secs. 34-249 and 34-254(b)(2).

Sec. 34-257. General permit conditions.

The following provisions shall each apply as a condition of the validity of every permit approved by the Floodplain Administrator:

- (1) New construction and substantial improvements shall be performed in accordance with the requirements of this division and the USBC, and shall be anchored as necessary to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be securely anchored to an adequately anchored foundation system, to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment

to them or contamination from them during flooding and approved by the local health department;

- (9) In all SFHAs, the following requirements shall apply:
- (i) Prior to any proposed alteration or relocation of any wet channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the USACE, VADEQ, and the VAMRC (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the VADCR (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.
 - (ii) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Sec. 34-258. Elevation and construction standards.

In all SFHAs where BFEs have been provided in the FIS/ FIRM or established in accordance with Sec. 34-254, above, the following provisions shall apply:

- (1) *Residential construction*--new construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above a point that is one (1) foot above the BFE.
- (2) *Non-Residential Construction*--New construction or substantial improvement of any commercial, industrial, or other non-residential building (including manufactured homes) shall have the lowest floor, including basement, elevated to or above a point that is one (1) foot above the BFE. Non-residential buildings may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE, plus 1 foot, are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A professional engineer or architect licensed by the Commonwealth of Virginia shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation to which such structures are floodproofed, shall be provided at the time the finished floor is completed. An Elevation Certificate shall be provided and maintained by the Floodplain Administrator within the records required by this division.
- (3) *Space Below the Lowest Floor*—in the SFHAs, any fully enclosed areas of new construction or of substantially improved structures, which are below the lowest floor:
 - (i) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator); and
 - (ii) Shall be constructed entirely of flood resistant materials below the lowest floor, and

shall include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings shall either be certified by a professional engineer or architect licensed by the Commonwealth of Virginia, or must meet or exceed the minimum design and installation criteria referenced in subparagraphs (iii) – (viii) below.

- (iii) There must be provided a minimum of two openings on different sides of each enclosed area subject to flooding.
- (iv) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed floor area subject to flooding.
- (v) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
- (vi) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- (vii) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- (viii) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(4) *Manufactured homes and recreational vehicles:*

- (i) all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including, without limitation, applicable elevation and anchoring requirements referenced in Sec. 34-257 and this Sec. 34-258.
- (ii) all recreational vehicles placed on a site within an SFHA must: be on the site for fewer than 180 consecutive days and must either: be fully licensed and ready for highway use, or meet all the elevation and anchoring requirements set forth within this division for manufactured homes.

(5) *New above-ground storage tanks* - all above-ground propane storage tanks, including new tanks installed to replace an existing tank, must meet the following requirements:

- (i) Tanks that are associated with new or existing utility service or that are attached to or located under a building, tank inlets, fill openings, outlets, and vents, shall be elevated above the elevation specified in ASCE / SEI 24.05 or most current standard.
- (ii) Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(6) *Placement of fill materials*—in addition to other applicable requirements set forth within this division, proposed development that involves or includes the use of fill shall meet the following requirements:

- (i) Fill shall be of a material that does not pollute surface water or groundwater;
- (ii) Fill shall be the minimum amount necessary to achieve the intended purpose. The application for a permit shall include a statement of the intended purpose of the proposed fill; provided, however, that if the purpose of the fill is to achieve elevation requirements of this division, the permit application shall include a geotechnical engineer's certified analysis of alternative elevation methods;
- (iii) The application for a permit shall include the compaction specifications to be utilized in the placement of the fill, along with the location and dimensions of the proposed fill area(s); the amount, type and source of fill material; and the certification of a geotechnical and/or structural engineer that the quantity of proposed fill is the minimum necessary to achieve the intended purpose of the fill; and
- (iv) The area(s) proposed for fill shall be effectively protected against erosion, by measures described within an erosion and sediment control plan approved pursuant to Chapter 10 of the City Code. For a development that is not subject to the requirement for an erosion and sediment control plan, the fill area(s) shall be protected by vegetative cover, riprap, gabions, bulkhead or other method(s) deemed necessary by the Administrator that the proposed development will be reasonably safe from flooding and does not create any health or safety hazards.

Sec. 34-259. Standards for subdivisions and other developments.

(a) All proposed subdivisions and other developments shall be designed in a manner consistent with the need to minimize flood damage;

(b) All proposed subdivisions and other developments shall have public utilities and facilities such as sewer, gas, electrical and water systems located and designed for construction in a manner that will minimize flood damage;

(c) All proposed subdivisions and other developments shall provide drainage adequate to reduce exposure to flood hazards, and

(d) All final development plans for commercial, industrial, or residential developments shall include BFE data obtained from the FIS/ FIRM or established using detailed technical methods referenced within Sec. 34-254(b)(2).

Sec. 34-260. Existing structures.

(a) A structure, or use of a structure or premises, located within an SFHA and which lawfully existed before the enactment of this division, but which is not in conformity with the regulations of this division, may be continued subject to the following conditions:

- (1) Existing structures and uses in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic engineering analysis performed in accordance with standard engineering practices that the proposed expansion or enlargement would not increase the

BFE.

- (2) Substantial improvements to an existing structure, or use of an existing structure, shall be allowed only if the entire structure, inclusive of such improvements, will conform to the USBC and applicable provisions of this division.
- (3) Except as provided in (1) and (2), preceding above, any other modification, alteration, repair, reconstruction, or improvement to an existing structure, or use of an existing structure, of any kind, shall conform to the USBC and applicable provisions of this division.

(b) For any application seeking a permit for work referenced within (a)(2) or (a)(3), above, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate market value, or require the applicant to obtain a professional appraisal, prepared by a qualified independent appraiser, of the fair market value of the building or structure before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement, or repair of substantial damage; and
- (4) If the Floodplain Administrator determines that the work constitutes substantial improvement, or repair of substantial damage, he or she shall notify the applicant that compliance with the flood resistant construction requirements of this division and of the USBC is required.

Sec. 34-261. Variances.

(a) Variances shall be granted by the BZA only upon a determination (i) that a failure to grant the variance would result in exceptional hardship to the applicant; (ii) that the granting of such variance will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense, any nuisances, any fraud or victimization of the public, or any conflict with federal, state or city laws, regulations or ordinances. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

(b) Generally, the granting of variances will be limited to lots having a size of less than one-half acre; however, circumstances may require the BZA to deviate from this general provision. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the BZA for new construction or substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, in conformance with the provisions of this section.

(c) Variances may be granted by the BZA for new construction, substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria of this section are met, and the structure, use or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(d) In considering applications for variances, the BZA shall consider relevant factors and procedures specified by state statutes and city ordinances, and the BZA shall also consider the following additional factors:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway that will increase the BFE.
- (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon the additional determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the proposed variance is the minimum necessary to preserve the historic character and design of the structure.
- (13) Such other factors which are relevant to the purposes of this ordinance.

(e) The BZA may refer any application for a variance, and accompanying documentation, to a professional engineer licensed by the Commonwealth of Virginia, or other qualified person or agency, for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

(f) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the approval of a variance to construct a structure below the BFE increases the risks to life and property and will result in increased premium rates for flood insurance. A record shall be maintained by the Floodplain Administrator of this notification as well as all actions of the BZA pursuant to this section, including justification for the issuance of the variances. Any variances approved by the BZA shall be noted in the annual or biennial report submitted by the Floodplain Administrator to the Federal Insurance Administrator.

2. That Section 34-1200 of Article X (Definitions) of Chapter 34 (Zoning), are hereby amended and re-enacted, to read as follows:

ARTICLE X. DEFINITIONS

Sec. 34-1200. Definitions.

The following words or phrases, when used in this chapter, will have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

...

"A" Zone – The areas shown on the city's FIS/ FIRM as areas for which no detailed flood profiles or elevations (BFEs) are provided, but the boundary of the base flood has been approximated. Such areas may also be referred to as the "approximated floodplain".

"AE" Zone – The areas shown on the city's FIS/ FIRM as areas for which BFEs have been provided and the floodway has not been delineated.

Adjacent grade means, when used within the City's floodplain management regulations (see Article II, Division 1), the elevation of the ground surface next to the walls of a structure. The lowest adjacent grade refers to the lowest natural elevation of the ground surface next to the walls of a structure. The highest adjacent grade refers to the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year. Also known as "regulatory flood", the "one-hundred-year flood", and the "one-percent-annual-chance flood".

BFE, or base flood elevation means the crest elevation in relation to mean sea level expected to be reached by the regulatory flood at any given point in an area of special flood hazard water surface elevations of the base flood in relation to the datum specified on the FIS/ FIRM; that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

Basement means a portion of the building partly underground, but having more than half its clear height below the average grade of the adjoining ground. When used within the City's floodplain management regulations (see Article II, Division 1), the term "basement" means any area of a building or structure having its floor sub-grade (below ground level) on all sides.

Development means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any commercial or industrial purpose or is to contain three (3) or more residential dwelling units. As the term is used within the city's floodplain management hazard protection district regulations (see Article II, Division 1), it shall also mean any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

Elevated building for purposes of Article II, section 34-240 et seq. means, when used within the City's floodplain management regulations (see Article II, Division 1), a non-basement building

constructed so that ~~which~~ has its lowest elevated floor is elevated raised above ground level by means of fill, solid foundation perimeter walls, pilings, or columns; (posts, and piers), or shear walls.

Encroachment – When used within the City’s floodplain management regulations (see Article II, Division 1), the term shall mean the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing structure means, when used within the City’s floodplain management regulations (see Article II, Division 1), buildings and structures for which the start of construction occurred prior to June 15, 1979.

FEMA means the Federal Emergency Management Agency.

FIRM, or flood insurance rate map (“official flood map”) means the Flood Insurance Rate Map prepared by FEMA for Albemarle County, Virginia and incorporated areas and the independent City of Charlottesville, dated February 4, 2005, and subsequent revisions or amendments thereto. This document is an official map of ~~a community~~ the city established by FEMA ~~on which the Federal Emergency Management Agency~~ on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the land within the jurisdictional boundaries of the City of Charlottesville ~~community~~. The term shall include the digital version of such FIRM provided by FEMA, referred to as a Digital Flood Insurance Rate Map (DFIRM). The FIRM accompanies the FIS; whenever reference is made to the “FIRM”, or to “FIS/ FIRM” such references shall include information and data included within the FIS. Also known as the “official flood map.”

FIS, or flood insurance study means the ~~official~~ Flood Insurance Study dated February 4, 2005, prepared by FEMA for Albemarle County, Virginia and incorporated areas and the independent City of Charlottesville, and any subsequent revisions or amendments thereto. This study is a report provided by FEMA, containing information and maps, that compiles and presents flood risk data for specific flood hazard areas within the City. The FIS ~~the Federal Emergency Management Agency~~. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood ~~examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations.~~ The FIS is commonly referred to as being accompanied by the FIRM; whenever reference is made to the “FIS” or to “FIS/FIRM” such references shall include information and data included within the FIRM.

Flood or flooding means, when used within the City’s floodplain management regulations (see Article II, Division 1), ~~for purposes of Article II, section 34-420 et seq.~~ a general and temporary condition of partial or complete inundation of normally dry land areas from: (i) the overflow of inland or tidal waters, and (ii) the unusual and rapid accumulation of runoff of surface waters from any source, ~~including, without limitation: or (ii) the collapse or subsidence of land along the shore of a lake or other body of water, as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event.~~ The terms shall also include mudflows which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Floodplain: See means “SFHA or “area of special flood hazard area.”

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to properties structures ~~that are subject to flooding and~~ which will reduce or eliminate flood damage to ~~real estate or~~ improved real property, water and sanitary sewer facilities, structures and ~~their~~ contents of buildings or structures. Whenever documentation of the elevation to which structures have been floodproofed is required, such documentation shall show such elevation in relation to the datum specified on the city's FIS/ FIRM.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved ~~in order to carry and discharge the base flood waters of the one hundred year flood, as designated in the FEMA flood study/ map dated February 4, 2005, as amended,~~ without cumulatively increasing the water surface elevation ~~at any point more than one foot at any point more than one (1) foot above the base flood elevation and provided that hazardous velocities are not produced.~~ The area within a floodway shall be either (a) areas defined in the FIS and shown on the accompanying FIRM, or (b) established in accordance with methods and procedures specified in Sec. 34-255.

Floodway fringe ~~means that portion of the floodplain that lies between the floodway and the outer limits of the floodplain, as designated in the flood study/ map prepared by FEMA dated February 4, 2005 (as amended).~~

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building or structure.

Historic structure means, when used within the City's floodplain management regulations (see Article II, Division 1), any structure that is: (i) listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on such National Register; (ii) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (iii) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (iv) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior, in states without approved programs.

Hydrologic and Hydraulic Engineering Analysis means analyses performed by a professional engineer licensed by the Commonwealth of Virginia, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, BFEs, floodway information and boundaries, and flood profiles.

LOMC or letter of map change means an official FEMA determination, given by letter, that amends, revises or reviews the effective FIS/ FIRM for the city. Letters of Map Change include: LOMAs, LOMRs, and CLOMRs, which are described as follows:

LOMA or letter of map amendment means an amendment based on technical data showing that a property was incorrectly included in a designated SFHA. A LOMA amends or revises the effective FIRM and establishes that an area of land, as described with reference to

specific metes and bounds, or a building or structure, is not located in an SFHA.

LOMR or letter of map revision means a revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of map revision based on fill (LOMR-F) is a determination that a building, structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer exposed to flooding associated with the base flood; in order to qualify for a LOMR-F, the fill must have been permitted and placed in accordance with the city's floodplain management regulations.

CLOMR or conditional letter of map revision means a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements with respect to delineation of SFHAs. A CLOMR does not revise the effective FIS/ FIRM.

Lowest floor means the floor of the lowest enclosed area (including basement) of a building or structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements of the city's floodplain management regulations.

Manufactured home means a structure subject constructed to federal standards, as described within Code of Virginia § 36-85.16, regulation which is transportable in one (1) or more sections, and is (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site, which is built on a permanent chassis and is designed to be used as a single family dwelling, for use as a dwelling, with or without a permanent foundation, when connected to the required utilities, and The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. For purposes of the city's floodplain management regulations the term "manufactured home" also means recreational vehicles (e.g., park trailers, travel trailers, and other similar vehicles) placed on a site located within an SFHA for greater than 180 consecutive days.

Manufactured home park or manufactured home subdivision - When used within the City's floodplain management regulations (see Article II, Division 1), the term shall mean means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MSL or Mean Sea Level means the National Geodetic Vertical Datum (NGVD) to which base flood elevations shown on the FIRM are referenced an elevation point that represents the average height of the ocean's surface, such as the halfway point between the mean high tide and the mean low tide, which is used as a standard in reckoning land elevation.

New construction means, when used within the City's floodplain management regulations (see Article II, Division 1), and for the purposes of determining insurance rates, construction of improvements to real property, for which the start of such construction commenced on or after June 15, 1979, and includes any subsequent improvements to such structures.

NFIP - the National Flood Insurance Program.

Recreational vehicle - When used within the City's floodplain management regulations (see

Article II, Division 1), the term shall mean~~means~~ a vehicle which is: ~~(i)~~ built on a single chassis; ~~four hundred~~ ~~(ii)~~ 400 square feet or less when measured at the largest horizontal projection; ~~(iii)~~ designed to be self-propelled or permanently towable by a light duty truck; and ~~(iv)~~ designed primarily ~~not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use and not for use as a permanent dwelling~~. A recreational vehicle is deemed ready for highway use if it is on wheels or a parking system, is attached to a site only by quick-disconnect type utilities ~~and~~ or security services, and has no permanent attached additions.

SFHA or special flood hazard area means an area of land subject to a one percent (1%) or greater chance of being flooded in any given year, the boundaries or dimensions of which shall be as identified within the city's FIS/ FIRM or as determined by the city's floodplain administrator in accordance with the provisions of Article II, Division 1 of this ordinance.

Start of construction - When used within the City's floodplain management regulations (see Article II, Division 1), the term shall mean the date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the date on which the building permit was issued. Actual start shall be interpreted to refer to the first placement of permanent construction of a building or structure on a site (e.g., the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Relative to the substantial improvement of a building or structure within an SFHA, the actual start shall be interpreted to refer to the first alteration of any wall, ceiling, floor, or other structural part of a building or structure, whether or not that alteration affects the external dimensions of the building or structure. Permanent construction excludes land preparation (e.g., clearing, grading, and filling); installation of streets and/or walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings and structures, such as garages or sheds not designed for use as a permanent dwelling or not part of the main building or structure on the site.

Structure means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things: dwellings, buildings, etc. When used within the City's floodplain management regulations (see Article II, Division 1) includes a building or other structure, including, without limitation, a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. For the purpose of determination of setback, signs shall be excluded as structures.

Substantial damage means for purposes of Article II, section 34-420, et seq., when used within the city's floodplain management regulations (see Article II, Division 1) damage of any origin sustained by a building or structure, whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the fair market value of the structure. The fair market value of the building refers to (i) the appraised value of the initial repair or improvement, or (ii) in the cause of damage, the assessed value of the building prior to the damage occurring.

Substantial improvement means, when used within the City's floodplain management regulations (see Article II, Division 1), for purposes of Article II, section 34-240, et seq., any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure; (i) the cost of which equals or exceeds fifty (50) percent (50%) of the fair market value of the building or structure before the start of construction of the improvement, or (ii) such ~~This term includes building or structures which has have~~ incurred substantial damage, regardless of the actual repair work

performed. The term does not, however, include either: (i) any project for improvement of a building or structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. Historic structures undergoing any repair or rehabilitation that would constitute a "substantial improvement" as such term is used for purposes of the city's floodplain management regulations, must comply with all floodplain management regulations that do not preclude the structure's continued designation as a historic structure. Documentation that a specific floodplain management regulation will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the state's Historic Preservation Officer.

USACE – the United States Army Corps of Engineers

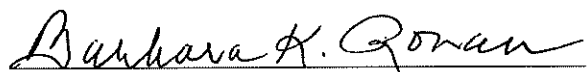
USBC or uniform statewide building code means the effective version of the Virginia Uniform Statewide Building Code, and building regulations adopted and promulgated pursuant thereto, applicable to a specific development or construction activity.

VADEQ – the Virginia Department of Environmental Quality.

Watercourse means a natural or artificial channel through which water flows, including, without limitation: any lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically, as well as any specifically designated areas of special flood hazard, in which substantial flood damage may occur.

...

Approved by City Council
July 20, 2015


Barbara K. Ronan
Acting Clerk of Council

ORDINANCE
DESIGNATING A CERTAIN TREE AS A PROTECTED TREE
UNDER THE CITY'S TREE CONSERVATION ORDINANCE

WHEREAS, the City of Charlottesville (the City) adopted a Tree Conservation Ordinance on November 4, 2013 to preserve certain significant trees within the City of Charlottesville; and

WHEREAS, per Section 18-5 *et seq.* of the City Code (Tree Conservation Ordinance), the City Arborist and Tree Commission may make recommendations to Council on a quarterly basis to consider designation of certain trees as Heritage, Memorial, Specimen, or Street trees; and

WHEREAS, Bill Emory, owner of the property at 1604 East Market Street, has made application to the City to designate a White Oak tree (*Quercus alba*) on his property as a Memorial tree because it is the offspring of a massive white oak tree near Brooks Hall on the UVA grounds that was destroyed on September 18, 2003 by Hurricane Isabel; and

WHEREAS, after the required review by City staff, the City Arborist and the Tree Commission, the Tree Commission has recommended that the above-described tree be afforded protection by designation under the Tree Conservation Ordinance; and

WHEREAS, City Council has considered the report and recommendation of the City Arborist and the Tree Commission, and conducted a public hearing on July 6, 2015; now, therefore,

BE IT ORDAINED by the Council for the City of Charlottesville that the above-described White Oak tree, located on private property at 1604 East Market Street, is hereby designated as a Memorial Tree, notable as the offspring of the White Oak tree near Brooks Hall (UVA) destroyed by Hurricane Isabel in 2003.

**AN ORDINANCE
APPROVING A REQUEST TO AMEND THE PUD DEVELOPMENT PLAN
APPLICABLE TO PROPERTY LOCATED WITHIN
THE WILLIAM TAYLOR PLAZA PLANNED UNIT DEVELOPMENT ("PUD")**

WHEREAS, Cherry Avenue Investments, LLC ("Applicant"), by its agent Southern Development Company has filed application number ZM14-00002, seeking a rezoning of property located at 529 Cherry Avenue and 512-529 Ridge Street (City Tax Map 29, Parcels 145, 146, 147, 149, 150, 151 and 157), consisting, of approximately 125,321.5 square feet of land (2.90 acres) (together, the "Subject Property"), in order to amend the zoning regulations applicable to the Subject Property as a result of the PUD zoning district classification, PUD development plan and proffered development conditions previously approved by City Council for the Subject Property on November 2, 2009; and

WHEREAS, a joint public hearing on the Proposed Rezoning was held before the City Council and Planning Commission on May 12, 2015, following notice to the public and to adjacent property owners as required by law; and

WHEREAS, legal notice of the public hearing held on May 12, 2015 was advertised in accordance with Va. Code Sec. 15.2-2204; and

WHEREAS, as part of its Proposed Rezoning also submitted a Preliminary Amended Proffer Statement, as required by City Code Section 34-64(a), and presented the Preliminary Proffer Statement to the Planning Commission on May 12, 2015; and

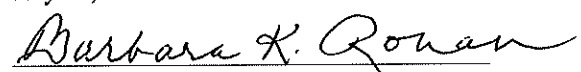
WHEREAS, on May 12, 2015, the Planning Commission voted to recommend denial of the Proposed Rezoning to the City Council, based on their finding that the rezoning is not required by the public necessity, convenience, general welfare or good zoning practice; and

WHEREAS, the Applicant's various application materials reviewed by the Planning Commission for the Proposed Rezoning have been compiled into a complete updated plan of development, consisting of (i) a proposed PUD Development Plan, dated July 13, 2015, and (ii) a Final Proffer Statement dated July 13, 2015, signed by an individual authorized to bind the LLC to the provisions therein stated, as required by City Code Section 34-64(c) (together, the materials included within (i) and (ii) constitute the "Proposed Amended PUD"); and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare or good zoning practice requires the Proposed Rezoning/ Amended PUD; that the existing PUD zoning classification (inclusive of the 2009 Final Proffer Statement) as well as the Proposed Amended PUD are both reasonable; that the Proposed Amended PUD is consistent with the Comprehensive Plan; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia **THAT:** the zoning regulations applicable to the William Taylor Plaza PUD shall be and hereby are amended and reenacted as follows: the zoning regulations applicable to the use and development of the William Taylor Plaza PUD shall be (i) those generally applicable within Chapter 34 of the City Code, and (ii) those matters set forth within the PUD plan dated July 13, 2015 and the Final Proffer Statement dated July 13, 2015, which, together, are hereby approved and established as the approved PUD development plan for the William Taylor Plaza PUD, for purposes of Chapter 34, Article V of the City Code.

Approved by City Council
July 20, 2015


Barbara K. Ronan
Acting Clerk of Council

BEFORE THE CITY COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
IN RE: PETITION FOR REZONING (City Application No. ZM-14-00002)
STATEMENT OF FINAL PROFFER CONDITIONS
For the William Taylor Plaza PUD
Dated as of July 13, 2015

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF THE CITY OF CHARLOTTESVILLE:

The undersigned limited liability company is the owner of land subject to the above-referenced rezoning petition ("Subject Property"). The Owner/Applicant seeks to amend the current zoning of the property subject to certain voluntary development conditions set forth below. In connection with this rezoning application, the Owner/Applicant seeks approval of a PUD as set forth within a PUD Development Plan dated July 13, 2015.

The Owner/Applicant hereby proffers and agrees that if the Subject Property is rezoned as requested, the rezoning will be subject to, and the Owner will abide by, the approved PUD Development Plan as well as the following conditions:

1. In accordance with the "Land Purchase and Sale Agreement" approved by City Council October 6, 2008:
 - A. The Developer shall attempt to incorporate options for the City in the PUD for a designated City bus stop, which stop may be accepted and/or utilized by the City at the City's discretion.
 - B. The Developer will incorporate public access to the "Arboretum" planned for the PUD, or such other passive recreational space as may be approved as part of the PUD, which may be limited as to hours and usage.
 - C. The Developer shall contribute approximately \$253,000, per the terms of the Land Purchase and Sale Agreement, to a Fifeville neighborhood affordable housing fund, another affordable housing fund designated by the City, or for improvements to Tonsler Park, in the discretion of City Council. The contribution shall be made within 30 days of the approval of the final site plan or final plat approval, whichever occurs later.
 - D. All buildings within the Planned Unit Development shall be designed to a minimum rating of "Certified" under the LEED Green Building Rating System in effect at the time the design is made. Prior to issuance of a building permit for any building within the PUD, the Purchaser shall provide to the Director of Neighborhood Services ("DNS") for the City of Charlottesville a written confirmation from a LEED certified architect or engineer that such building, if constructed in accordance with the building plans, is designed to achieve a minimum "Certified" LEED rating. Before the Developer requests a certificate of occupancy for any building for which a LEED certified architect rendered an opinion, the Purchaser shall submit to the City's Director of NDS a written statement from the architect or engineer that the building was built in conformance with plans on which his opinion was based.

2. The Developer has provided the City with a traffic study dated July 13, 2009 analyzing the impact of this project to the existing road networks. The submitted traffic study assumed a build out of 40 residential units and 40,000 square feet of commercial space. The study concluded that William Taylor Plaza would increase peak hour traffic at the most affected intersection by 5%.

Under the above stated unit count and commercial square footage assumptions ("Assumptions"), the Developer shall contribute \$10,000 in cash to the City's Capital Improvements Program (C.I.P.) to be used for pedestrian safety and/or traffic calming improvements on 5th Street between Cherry Avenue and West Main Street. The Developer shall also design an eastbound right turn lane for Cherry Avenue at the intersection with Ridge Street. The design of the turn lane is valued at \$15,000. The Developer shall not be obligated to construct the turn lane, but shall provide the design to the City at no cost for the City's use at its discretion.

In the event that the final site plan shows any variation from the above Assumptions, the Developer shall revise the traffic study for the project and submit the revision to the City for review prior to preliminary site plan approval. If the revised traffic study indicates that William Taylor Plaza will increase peak hour traffic at the most affected intersection by more than 5%, the Developer shall contribute to the C.I.P. an additional \$5,000 cash per 1% increase over the 5% stated herein.

All proffered cash contributions shall be made prior to issuance of a Certificate of Occupancy.

3. All buildings fronting Cherry Avenue shall be restricted to non-residential uses on the ground level and shall have pedestrian access from the ground level onto Cherry Avenue.
4. A minimum of 60% of the total project parking will be accommodated in structured parking under the buildings. Parked cars will not be visible from Ridge Street or Cherry Avenue.
5. Sidewalks with a minimum width of 6 feet will be provided along the Ridge Street and Cherry Avenue road frontage in order to enhance the pedestrian environment. Where possible, 8 foot wide sidewalks will be provided. Sidewalk widths shall be as shown on the PUD Development Plan.
6. The Developer shall contribute \$5,000 to the City to be used toward pedestrian improvements at the intersection of Cherry Avenue and Ridge Street, to include striped crosswalks and countdown pedestrian signals.
7. The developer will provide a minimum of 1 bicycle rack or bicycle locker for every 10 parking spaces to encourage bicycle transportation to and from the development. Bicycle storage shall be provided within the parking garage.

8. A minimum of 45% of the total site area shall be Open Space. Except for utilities, trails and other park amenities, the "Arboretum" shall remain undeveloped and shall occupy a minimum of 25% of the site. Public access to the Arboretum shall be permitted during daylight hours.
9. Existing live trees larger than 6" caliper in the "Arboretum" shall be preserved.
10. A retention basin and other low impact development methods for the control of storm drainage shall be constructed on the property in accordance with specifications approved by the City Engineer for the City of Charlottesville and plans approved by the City Engineer for the City of Charlottesville.
11. Street trees shall be provided along Ridge Street and Cherry Avenue as shown on the PUD Development Plan. Landscaping on the interior of the site shall be provided in accordance with the City Zoning Ordinance. All landscaping and street trees shall be maintained by the Owner and/or Condominium Association.
12. 100% of the waste and debris created by construction shall be taken to a local construction debris recycling facility for sorting and recycling, so long as such a facility continues to operate locally. The Developer shall provide positive documentation to the City upon request.
13. The Developer is in negotiations with the City of Charlottesville to establish a public/private partnership for streetscape improvements such as landscaping, underground utilities, pedestrian safety improvements, and other corridor improvements on Ridge Street and Cherry Avenue that are not necessitated by this development. If an agreement between the parties can be reached, the developer will share in the cost of these improvements up to 50% of the total cost.
14. The uses and residential densities allowed within the PUD shall be those identified within the matrix titled "Use Types – William Taylor Plaza PUD."

WHEREFORE, the undersigned Owner(s) stipulate and agree that the use and development of the Subject Property shall be in conformity with the conditions hereinabove stated, and requests that the Subject Property be rezoned as requested, in accordance with the Zoning Ordinance of the City of Charlottesville.

Respectfully submitted this 13th day of July, 2015.

Owner:
Cherry Avenue Investments, LLC

Owner's Address:
170 South Pantops Drive
Charlottesville, VA 22911

By: _____

Frank Ballif, Manager

RESOLUTION

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, that the City Manager is hereby authorized to sign the following document, in form approved by the City Attorney or his designee.

Settlement and Release Agreement between the City of Charlottesville and Costello Construction of Maryland, Inc. settling all claims and litigation between the parties related to the construction of the Fontaine Fire Station.

Approved by City Council
July 20, 2015

A handwritten signature in cursive script that reads "Barbara K. Ronan". The signature is written in black ink and is positioned above a horizontal line.

Barbara K. Ronan
Acting Clerk of Council

RESOLUTION

**Consolidation of Project Account Funds
\$800,000**

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby transferred in the following manner:

Transfer From

\$800,000

Fund: 426

WBS: P-00349

G/L Account: 599999

Transfer To

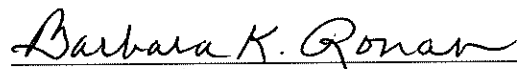
\$800,000

Fund: 426

WBS: P-00433

G/L Account: 599999

Approved by City Council
July 20, 2015



Barbara K. Ronan
Acting Clerk of Council