10/5/09 AN ORDINANCE AMENDING AND REORDAINING SECTIONS 15-101 OF ARTICLE IV (SPEED LIMITS) OF CHAPTER 15 (MOTOR VEHICLES) OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED, **ESTABLISHING PROCEDURES FOR DESIGNATION OF STREETS SUBJECT TO ENHANCED SPEEDING FINES**

10/5/09 AN ORDINANCE **GRANTING A PERMANENT EASEMENT TO THE RIVANNA WATER AND SEWER AUTHORITY FOR THE RELOCATION AND ENLARGEMENT OF THE SCHENK'S BRANCH SEWER INTERCEPTOR**

11/2/09 AN ORDINANCE APPROVING A REQUEST TO **REZONE PROPERTIES LOCATED ON CHERRY AVENUE AND RIDGE STREET TO PLANNED UNIT DEVELOPMENT (PUD)**

11/16/09 AN ORDINANCE TO AMEND AND REORDAIN SECTION 34-796 (USE MATRIX) OF ARTICLE VI (MIXED USE CORRIDOR DISTRICTS) OF CHAPTER 34 (ZONING) TO **ADD AMUSEMENT CENTERS AS A BY-RIGHT USE IN THE HIGHWAY (HW) CORRIDOR DISTRICT**

11/16/09 AN ORDINANCE APPROVING A REQUEST TO **REZONE PROPERTIES LOCATED AT 1012 MIDLAND STREET, 1106 AND 1410 CARLTON AVENUE, AND 504 RIVES STREET TO PLANNED UNIT DEVELOPMENT (PUD)**

12/7/09 AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 10 (WATER PROTECTION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, BY DELETING SECTIONS 10-51 AND 10-52 AND AMENDING SECTIONS 10-5, 10-50, AND 10-53 THROUGH 10-59, ALL RELATING TO **STORMWATER MANAGEMENT**

12/7/09 AN ORDINANCE **GRANTING PERMANENT AND TEMPORARY EASEMENTS TO THE RIVANNA WATER AND SEWER AUTHORITY FOR THE RELOCATION AND ENLARGEMENT OF THE MEADOW CREEK SEWER INTERCEPTOR**

8/17/09 AN ORDINANCE AMENDING AND REORDAINING SECTIONS 34-1105 AND 34-1171 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, TO **CREATE SPECIFIC HEIGHT LIMITS FOR ACCESSORY BUILDINGS, ACCESSORY STRUCTURES AND EXTERNAL ACCESSORY DWELLING UNITS, AND TO REVISE REGULATIONS PERTAINING TO THE FOOTPRINT OF EXTERNAL ACCESSORY DWELLING UNITS**

9/8/09 AN ORDINANCE AMENDING AND REORDAINING SECTION 15-133 OF ARTICLE V OF CHAPTER 15 (MOTOR VEHICLES) RELATING TO **PARKING SPACES RESERVED FOR PERSONS WITH DISABILITIES**

9/8/09 AN ORDINANCE AUTHORIZING THE **CONVEYANCE OF CITY-OWNED PROPERTY (JEFFERSON PARK AVENUE RIGHT OF WAYAT THE EMMET STREET INTERSECITON) TO TENTH AND MAIN, LLC**

9/21/09 AN ORDINANCE AMENDING AND REORDAINING SECTION 34-972 OF ARTICLE IX (GENERALLY APPLICABLE REGULATIONS) OF CHAPTER 34 (ZONING) OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED, RELATING TO **RESTRICTIONS ON FRONT YARD PARKING IN COMMERCIAL AND MIXED USE DISTRICTS**

9/21/09 AN ORDINANCE TO RE-ENACT CHAPTER 26 (SOLID WASTE) OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED, RELATING TO **LITTERING, REFUSE COLLECTION, AND RECYCLING**

9/21/09 AN ORDINANCE AMENDING AND REORDAINING SECTIONS 34-1, AN 34-971 OF ARTICLE IX, OF CHAPTER 34 (ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, RELATING TO **PARKING EXEMPT ZONES**

10/5/09 AN ORDINANCE TO **QUITCLAIM NATURAL GAS LINE EASEMENT LOCATED IN FORTUNE PARK ROAD IN ALBEMARLE COUNTY TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION**

7/6/09 AN ORDINANCE AUTHORIZING THE **ABANDONMENT OF A DRAINAGE EASEMENT ON PROPERTY OWNED BY GROVE STREET PROPERTIES LLC ON KING STREET**

7/6/09 AN ORDINANCE APPROVING A REQUEST TO **REZONE PROPERTY LOCATED AT 814 HINTON AVENUE FROM R-1S (RESIDENTIAL) TO NEIGHBORHOOD COMMERCIAL CORRIDOR (NCC)**

7/20/09 AN ORDINANCE AMENDING AND REORDAINING CHAPTER 34 OF THE CODE OF THE CITY OF CHARLOTTESILLE, 1990, AS AMENDED, BY AMENDING SECTIONS 34-420, 34-480, 34-796, AND 34-1200, AND ADDING A NEW SECTION TO BE NUMBERED 34-936, ALL RELATING TO **SINGLE ROOM OCCUPANCY FACILITIES**

7/20/09 ORDINANCE AMENDING AND REORDAINING SECTION 15-204 OF ARTICLE V OF CHAPTER 15 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, **EXPANDING PERMIT PARKING ZONE 9**

7/20/09 AN ORDINANCE AMENDING AND REORDAINING SECTIONS 34-1027, 34-1038, 34-1046, AND 34-1200 OF CHAPTER 34 (ZONING) RELATING TO **CAFÉ AND SANDWICH BOARD SIGNS**

7/20/09 AN ORDINANCE APPROVING A REQUEST TO **REZONE PROPERTY LOCATED ON LONGWOOD DRIVE FROM R-2 (RESIDENTIAL) TO PLANNED UNIT DEVELOPMENT (PUD)**

7/20/09 AN ORDINANCE **CLOSING, VACATING AND DISCONTINUING THAT PORTION OF AN UNACCEPTED RIGHT OF WAY LOCATED OFF MERIDIAN STREET** ON BLOCK 42 OF CITY REAL ESTATE MAP 60, ADJACENT TO PARCELS 46 THROUGH 65 ON CITY TAX MAP 60

8/17/09 AN ORDINANCE AUTHORIZING THE **ABANDONMENT OF A NATURAL GAS EASEMENT GRANTED TO THE CITY BY NEXT GENERATION, LLC**

5/4/09 AN ORDINANCE AMENDING AND REORDAINING SECTION 34-286 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, RELATING TO **APPEALS OF BAR DECISIONS TO CITY COUNCIL**

5/4/09 AN ORDINANCE AMENDING AND REORDAINING SECTIONS 28-211, 28-212 AND 28-214 OF ARTICLE VI OF CHAPTER 28 (STREETS AND SIDEWALKS) RELATING TO **SIDEWALK CAFÉ OPERATIONS**

5/4/09 AN ORDINANCE AUTHORIZING THE **CONVEYANCE OF LAND AT THE INTERSECTION OF WEST HIGH STREET AND MCINTIRE ROAD TO DR. KATHLEEN FREE**

5/18/09 AN ORDINANCE AUTHORIZING THE **CONVEYANCE OF CITY-OWNED PROPERTY (ASHBY PLACE AND NORTH AVENUE RIGHT OF WAY) TO JOSEPH B. MURRAY AND SARAH S. MCIVOR**

5/18/09 AN ORDINANCE AUTHORIZING **ABANDONMENT OF A PERPETUAL EASEMENT FOR STREET AND/OR UTILITY PURPOSES ON PROPERTY OWNEF BY WELLING COURT, LLC ON JOHN STREET; AND ABANDONMENT OF DRAINAGE EASEMENTS** ON PROPERTY OWNED BY WELLING COURT, LLC ON JOHN STREET AND OWNED BY THE FRED APARTMENTS, LLC ON WERTLAND AVENUE

6/1/09 AN ORDINANCE AMENDING AND REORDAINING CHAPTER 31 (UTILITIES) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, TO ESTABLISH **NEW UTILITY RATES AND SERVICE FEES FOR CITY GAS, WATER AND SANITARY SEWER**

6/15/09 AN ORDINANCE TO **ESTABLISH A GRANT PROGRAM TO PROMOTE AND PRESERVE HOMEOWNERSHIP BY LOW- AND MODERATE-INCOME PERSONS** WITHIN THE CITY OF CHARLOTTESVILLE

7/6/09 AN ORDINANCE AUTHORIZING THE **ABANDONMENT OF A DRAINAGE EASEMENT ON PROPERTY OWNED BY GROVE STREET PROPERTIES LLC ON KING STREET**

3/16/09 AN ORDINANCE TO AMEND AND REORDAIN ARTICLE VIII OF CHAPTER 34 (ZONING) BY ADDING A NEW NUMBERED SECTION 34-935, SECTION 34-1200 OF CHAPTER 34 (ZONING) TO EXPAND THE DEFINITION OF A BED AND BREAKFAST, AND AMEND AND REORDAIN SECTION 34-420 (USE MATRIX FOR RESIDENTIAL DISTRICTS), SECTION 34-480 (USE MATRIX FOR COMMERCIAL DISTRICTS), AND SECTION 34-796 (USE MATRIX FOR MIXED USE DISTRICTS), ALL OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, RELATING TO **BED AND BREAKFAST ESTABLISHMENTS**

4/6/09 AN ORDINANCE AMENDING AND REORDAINING SECTION 34-1 OF ARTICLE I OF CHAPTER 34 (ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, TO **READOPT THE ZONING DISTRICT MAP**

4/14/09 AN ORDINANCE TO ESTABLISH THE **ANNUAL TAX LEVY** ON VARIOUS CLASSES OF PROPERTY FOR THE PAYMENT OF INTEREST AND RETIRMENT OF THE CITY DEBT, FOR THE SUPPORT OF THE CITY GOVERNMENT AND CITY SCHOOLS, AND FOR OTHER PUBLIC PURPOSES

4/20/09 AN ORDINANCE TO **RESCIND AN ORDINANCE ADOPTED AUGUST 7, 2006 CLOSING, VACATING AND DISCONTINUING A PORTION OF GROVE STREET EXTENDED**

4/20/09 AN ORDINANCE AMENDING AND REORDAINING CHAPTER 34 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, RELATING TO **COMPLIANCE OF DRIVEWAYS AND WALKWAYS WITH STANDARD AND DESIGN MANUAL, AND REVISING THE DEFINITION OF BUILDING HEIGHT**

4/20/09 AN ORDINANCE APPROVING AND ADOPTING AN AMENDMENT TO THE SCHEDULE OF FEES (RELATED TO **BUILDING PERMIT FEES**) ADMINISTERED BY THE CITY'S DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES

1/20/09 AN ORDINANCE AUTHORIZING THE **CONVEYANCE OF LAND ON ROUTE 20 SOUTH, KNOWN AS THE VISITOR'S CENTER, TO THE COMMONWEALTH OF VIRGINIA FOR USE BY PIEDMONT VIRGINIA COMMUNITY COLLEGE**

1/20/09 AN ORDINANCE AMENDING AND REORDAINING CHAPTER 34 (ZONING), ARTICLE I (ADMINISTRATION) AND ARTICLE VII (SITE PLANS) RELATED TO THE **DEVELOPMENT REVIEW PROCESS**

1/20/09 AN ORDINANCE APPROVING AND ADOPTING AN **AMENDMENT TO THE SCHEDULE OF FEES (RELATED TO SITE PLAN APPROVAL FEES) APPLICABLE TO VARIOUS SERVICES AND FUNCTIONS ADMINISTERED BY THE CITY'S DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES**

2/2/09 AN ORDINANCE APPROVING A **LEASE AGREEMENT FOR THE IVY CREEK NATURAL AREA TENANT HOUSE**

3/16/09 AN ORDINANCE AMENDING AND REORDAINING ARTICLE I (ADMINISTRATION) OF CHAPTER 34 (ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, RELATED TO **REQUIREMENTS TO PROVIDE AFFORDABLE DWELLING UNITS**

3/16/09 AN ORDINANCE AMENDING ARTICLE II (OVERLAY DISTRICTS) OF CHAPTER 34 (ZONING) BY ADDING A NEW DIVISION, TO BE NUMBERED DIVISION 5, ENTITLED "HISTORIC CONSERVATION OVERLAY DISTRICTS," AND AMENDING ARTICLE X (DEFINITIONS), OF THE CHARLOTTESVILLE CITY AS AMENDED, RELATING TO **HISTORIC CONSERVATION DISTRICTS**

3/16/09 AN ORDINANCE AUTHORIZING **THE CONVEYANCE OF CITY-OWNED PROPERTY (104 ELLIOTT AVENUE) TO HABITAT FOR HUMANITY**

AN ORDINANCE
GRANTING PERMANENT AND TEMPORARY EASEMENTS TO THE RIVANNA WATER AND SEWER AUTHORITY FOR THE RELOCATION AND ENLARGEMENT OF THE MEADOW CREEK SEWER INTERCEPTOR.

WHEREAS, the Rivanna Water and Sewer Authority ("RWSA") has requested the City of Charlottesville to grant permanent and temporary sewer easements across portions of City-owned lands in various locations, including portions of Pen Park, Greenbrier Park, and the Charlottesville High School stadium area, briefly described as follows:

1. Temporary and permanent easements, and access easement, across City Tax Map Parcel 48B-1 (Pen Park);
2. Temporary and permanent easements across City Tax Map Parcel 40A-16 (between Earhart Drive and the 250 Bypass);
3. Permanent easement and access easement across City Tax Map Parcels 46-1.2 and 46-2 and Albemarle County Tax Map Parcel 61-193A (near Melbourne Road);
4. Temporary and permanent easements across Albemarle County Tax Map Parcel 61-193 (Charlottesville High School Stadium area); and
5. Temporary and permanent easements, and access easement, across City Tax Map Parcel 42B-85 (Greenbrier Park).

WHEREAS, in accordance with Virginia Code Sec. 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the conveyance of these easements; and

WHEREAS, the proposed easements will allow for the relocation and enlargement of portions of the Meadow Creek Interceptor, a sewer collection line owned by RWSA and serving City and Albemarle County residents; and

WHEREAS, the condition of the existing sewer collector line has deteriorated to a point that, in the opinion of Public Utilities staff, the sewer line should be replaced and enlarged to protect the health and safety of the community; and

WHEREAS, at RWSA's request, the Charlottesville City School Board reviewed the easements which cross the Charlottesville High School Stadium property at a meeting on October 16, 2009, and will meet on December 3, 2009 to approve a Resolution giving their consent on the grant of those easements; and

WHEREAS, City staff have reviewed the request and support the conveyance of said easements to RWSA; now, therefore

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute five (5) Easement Modification Agreements and such other documents as may be requested by RWSA, in form approved by the City Attorney, to convey to the above-described easements to the Rivanna Water and Sewer Authority.

Approved by Council
December 7, 2009

Clerk of City Council

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 10 (WATER PROTECTION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, BY DELETING SECTIONS 10-51 AND 10-52 AND AMENDING SECTIONS 10-5, 10-50, AND 10-53 THROUGH 10-59, ALL RELATING TO STORMWATER MANAGEMENT.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Sections 10-51 and 10-52 of Article III of Chapter 10 are hereby deleted, and Section 10-5 of Article I, and Sections 10-50, and 10-53 through 10-59 of Article III, of Chapter 10 of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, all to read as follows:

ARTICLE I. IN GENERAL

Sec. 10-5. Definitions.

The following terms, whenever used or referred to in this chapter, shall have the respective meanings set forth below, unless the context clearly requires a contrary meaning or any such term is expressly defined to the contrary elsewhere in this chapter:

. . .

Stormwater management facility means a device that controls stormwater runoff and changes the characteristics of that runoff, including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

. . .

ARTICLE II. EROSION AND SEDIMENT CONTROL

. . .

ARTICLE III. STORMWATER MANAGEMENT

Sec. 10-50. Stormwater management plan; applicability.

(a) No person may commence development or redevelopment of any land that is equal to or greater than 6,000 square feet of land disturbance (including, but not limited to developments involving site plans, building permits, road plans, and subdivisions, unless exempted under subsection (d)) until he has submitted a stormwater management plan to the city and has obtained the city's approval of that plan. No building permit, site plan approval or other permit for activities involving land development shall be issued by any city department or official, unless a stormwater management plan has been approved by the program authority consistent with the provisions of this article.

(b) All sites with land disturbance greater than or equal to 6,000 square feet will be required to submit a stormwater management plan as defined by Chapter 3 of the City Standards and Design Manual (most current version).

(c) All sites with land disturbance greater than or equal to one acre must submit a stormwater management plan as defined by Chapter 3 of the City Standards and Design

Manual (most current version), and shall be required to apply to the state for a Virginia Stormwater Management Program (VSMP) General Permit for Stormwater Discharges from Construction Activity and develop a Stormwater Pollution Prevention Plan (SWPPP) that adheres to the requirements of 4 VAC 50-60-1100 et seq. and the most recent edition of the Virginia Stormwater Management Handbook.

~~(b)~~(d) The following activities are exempt from the requirement of a stormwater management plan:

(1) Permitted surface or deep mining operations and projects or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Virginia Code;
(2) Clearing of lands specifically for agricultural purposes and the management, ~~T~~tilling, planting or harvesting of agricultural, horticultural, or forest crops;
(3) Single-family residences separately built and disturbing less than one-acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
~~Construction of single-family residences not part of a residential development or subdivision, including additions or modifications to existing single-family detached residential structures;~~
(4) Land development projects that disturb less than 6,000 square feet ~~one (1) acre (forty-three thousand five hundred sixty (43,560) square feet)~~ in size, not including projects where land development is to be done in phases and the total land disturbance for all phases is greater than 6,000 square feet ~~one (1) acre~~;
(5) Linear development projects, provided that: (i) less than one (1) acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.
(6) Discharges to a sanitary sewer or a combined sewer system;
(7) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use; and
(8) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project and that disturbs less than five (5) acres of land.

~~**Sec. 10-51. Requirements.**~~

~~Each person subject to this article shall submit to the program authority for review and approval a stormwater management plan as provided herein:~~

~~(1) Together with the required stormwater management plan, the owner of property proposed for development or redevelopment shall submit:~~

~~a. An application on a form provided by the program authority;~~
~~b. Any required application fee, as set forth within the most recent fee schedule approved by city council. Each re-submission of a plan following rejection by the program authority shall constitute a new application requiring an additional application fee.~~
~~c. A certification stating that all land clearing, construction, land development and drainage will be done according to the approved plan.~~

d. Maps, calculations, detail drawings, reports, a listing of all major permit decisions and any other information as are determined by the program authority to be necessary to allow a complete review of the plan.

e. A list of all proposed stormwater best management practices (BMP) containing, for each BMP: a description of the type of BMP; its geographic location, by hydrologic unit code; the identity of the owner(s); identification of the water body into which the BMP will discharge; whether or not the BMP will be regularly inspected or maintained, and if so, by whom and how often.

f. A copy of the owner's general permit registration statement for stormwater discharges from construction activities.

(2) Each stormwater management plan shall include specifications that satisfy the following requirements:

a. Stormwater management facilities, best management practices, and modifications to channels shall be designed and constructed in compliance with applicable local, state and federal laws, regulations, and standards, including, but not limited to the Federal Clean Water Act; the Virginia Stormwater Management Act (Va. Code § 10.1-603.2 et seq.) and the stormwater management regulations promulgated by the state Board of Conservation and Recreation, set forth within 4 VAC 3-20-10 et seq.; and the National Flood Insurance Program.

b. Stormwater management facilities and best management practices shall be designed and sited to capture, to the maximum extent practicable, the runoff from the entire land development project area and, in particular, areas of impervious cover within the development project area.

c. Hydrologic parameters shall reflect the ultimate buildout in the land development project area and shall be used in all engineering calculations.

d. Post-development runoff rate of flow shall be maintained, as nearly as practicable, as the pre-development runoff characteristics, subject further to the requirements of section 10-52.

e. The number, type and siting of stormwater management facilities and best management practices shall be designed so as to preserve natural channel characteristics and natural groundwater recharge on a site, to the extent practical.

f. The program authority may allow non-structural measures to satisfy, partially or in whole, the requirements of this article, if such measures are identified in accepted technical literature, are acceptable to the program authority based on its exercise of sound professional judgment, and the program authority finds that the measures achieve equivalent benefit for water quantity and/or quality protection as would otherwise be provided by structural measures. "Non-structural measures" include, but are not limited to, minimization of impervious surfaces, stream buffer reforestation, providing additional stream buffer areas, wetland restoration, waste reuse and recycling, and use of design features or techniques that reduce the rate and volume of runoff.

Sec. 10-52. Control of peak rate and velocity of runoff.

(a) Each stormwater management/BMP plan shall require that land and receiving waterways which are downstream from the development that is subject to the plan be protected from damage from stormwater, as provided herein:

(1) The ten-year post-development peak rate of runoff from the land development shall not exceed the ten-year pre-development peak rate of runoff.

(2) The two-year post-development peak rate and velocity of runoff from the land development shall not exceed the two-year pre-development peak rate and velocity of runoff.

(3) If the land development is in a watershed for which a hydrologic or hydraulic study has been conducted, or a stormwater model developed, the program authority may modify the requirements of paragraphs (1) and/or (2), above, so that stormwater runoff from the site of the land development is controlled in accordance with the findings in the study or model, or to prevent adverse watershed stormflow timing, channel degradation, or localized flooding problems.

(4) In addition to the requirements of paragraphs (1) and (2), above, the program authority may require that the plan include additional measures to address damaging conditions to downstream properties and receiving waterways caused by the land development. In establishing such measures the program authority may refer to state conservation standards, criteria or specifications, or standards, criteria or specifications set forth within any local regulations and guidelines enacted pursuant to the authority of §10-6 of this chapter.

(b) Pre-development and post-development runoff rates determined for purposes of paragraph (a), above, shall be verified by detailed engineering calculations provided by the applicant. Such calculations shall be consistent with accepted engineering practices, as determined by the program authority.

(c) Notwithstanding any other provisions of this section, the following activities are exempt from the requirements of this section:

(1) Land development, or a portion of land development on land which is designated as lying within a floodplain, except in cases where the floodplain has been modified by permitted fill or other activities in compliance with the city's zoning ordinance;

(2) Land development or a portion of land development, on land that is adjacent to a floodplain, and the owner has demonstrated to the reasonable satisfaction of the program authority that off-site improvements or other provisions for the disposition of surface water runoff would equally or better serve the public interest and safety, and that such method of disposition would not adversely affect downstream properties or stream channels;

(3) Any land development related to a final site plan approved by the city prior to the effective date of this chapter.

(d) The program authority may exempt a land development or part thereof from some or all of the requirements of this section, if all of the following conditions are satisfied:

(1) The program authority determines that the application of the requirements of this article would cause damage to the environment to an extent which exceeds the benefits of the strict application of all of the requirements of this article;

(2) The granting of an exemption of any requirement of this section will not create a threat to the public health, safety or welfare, or to the environment; and

~~(3) All requirements that are determined by the program authority to *not* apply to the land development or part thereof shall be specifically identified and set forth in writing within the approved stormwater management plan.~~

Sec. 10-513. Review; approval.

Each stormwater management plan submitted pursuant to this article shall be reviewed and approved as provided herein:

(1) The plan shall be reviewed by the program authority to determine its compliance with the requirements of this article and with applicable federal and state laws and regulations. Where a proposed stormwater management plan includes facilities or BMPs for which design requirements and specifications, and/or maintenance requirements, are specified within the Virginia Stormwater Management (SWM) Handbook and/or the Virginia Stormwater Management Program (VSMP) Permit Regulations set forth within ~~4 VAC 3-20~~ 4 VAC 50-60 et seq., the program authority shall utilize those design requirements, specifications and/or maintenance requirements in reviewing and making decisions as to the acceptability of such facilities or BMPs under this article.

(2) During its review of the plan, the program authority may meet and correspond with the owner from time to time to review and discuss the plan with the owner, and to request any additional data as may be reasonably necessary for a complete review of the plan.

(3) A maximum of 60 calendar days from the day a complete stormwater management plan is accepted for review will be allowed for the review of the plan. During the 60-day review period, the City shall either approve or disapprove the plan and communicate its decision to the applicant in writing. The City shall act on any plan application that has been previously disapproved within 45 days after the application has been revised, resubmitted for approval, and deemed complete. Approval or denial shall be based on the plan's compliance with the City's stormwater management program.

~~(3) The program authority shall approve or disapprove a plan within forty-five (45) days from the date a complete application was received. The decision of the program authority shall be based on the plan's compliance with the requirements of this article and with applicable state laws and regulations. The decision shall be in writing and shall be communicated to the applicant by mail or delivery. If the plan is rejected or disapproved, the specific reasons for such disapproval (with reference to the relevant ordinances, laws or regulations) shall be stated in the decision. If the program authority fails to act on a plan within the forty-five-day period, the plan shall be deemed approved.~~

(4) A disapproval of a plan shall contain the reasons for disapproval.

(5) Nothing in this article or section shall require approval of a plan, or any portion thereof, that is determined by the program authority to pose a danger to the public health, safety, or general welfare, or to deviate from sound engineering practices.

Sec. 10-524. Conditions of approval.

Each stormwater management plan approved by the program authority shall be subject to the following:

(1) The owner shall comply with all applicable requirements of this article, the Virginia Stormwater Management Act (Va. Code § 10.1-603.2 et seq.), the state stormwater regulations set forth in 4 VAC 50-603-20-10 et seq., and the Virginia Stormwater Management Handbook.

(2) If the site construction activities include clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre in size, the owner shall be required to obtain a General Permit for Stormwater Discharges from Construction Activity from the state and develop a Stormwater Pollution Prevention Plan. Applicant shall submit a copy of the state application and a copy of the payment (i.e. copy of check) to the city verifying that the permit process has been initiated. Applicant must also certify in writing (under General Conditions on front page of plans) that all land clearing, construction, land development, and drainage will be done according to the approved plan as well as the conditions and requirements of such permit.

~~(2)The owner shall provide the program authority with a copy of his general permit for stormwater discharges from construction activities, and shall certify in writing that all land clearing, construction, land development and drainage will be done according to the approved plan as well as the conditions and requirements of such permit.~~

(3) Land development shall be conducted only within the area specified within the approved plan.

(4) The rights granted by virtue of the approved plan shall not be transferred, assigned or sold unless a written notice of transfer, assignment or sale is filed with the program authority and the recipient of such rights provides the certification required by provision (2), above.

(5) The program authority shall be allowed, after giving reasonable notice to the owner, occupier or operator of the land development, to conduct periodic inspections of the land development to determine the owner's compliance with the provisions of this article. The program authority may require, as a condition of approval of a stormwater management plan, that the owner enter into a right of entry agreement, or grant an easement, for purposes of inspection and

maintenance. If such agreement or easement is required, the program authority shall not be required to give notice prior to conducting an inspection.

(6) As a condition of approval of a stormwater management plan, the program authority may require the owner to monitor and report to the program authority as follows:

a. Any monitoring conducted by the owner shall be for the purpose of ensuring compliance with the approved stormwater management plan and to determine whether the plan provides effective stormwater management.
b. The condition(s) requiring monitoring and reporting shall state the method and frequency of such monitoring.
c. The condition(s) requiring monitoring and reporting shall state the format of the report and the frequency for submitting reports.

(7) The owner shall maintain and repair all structural ~~and nonstructural stormwater management measures~~ stormwater management facilities required by the plan, as follows:

a. The owner shall be responsible for the operation and maintenance of such facilities ~~measures~~ and shall pass such responsibility to any successor owner, unless such responsibility is lawfully transferred to the city or to another governmental entity.
b. If an approved stormwater management plan requires structural ~~or nonstructural~~ facilities ~~measures~~, the owner shall execute a ~~s~~Stormwater ~~m~~Management/BMP ~~f~~Facilities ~~m~~Maintenance ~~a~~Agreement (maintenance agreement) prior to the program authority granting final approval for any site plan or other development for which a permit is required. The maintenance agreement shall be recorded in the office of the clerk of the circuit court for the City of Charlottesville and shall run with the land. If an owner certifies that it cannot exercise its rights under a purchase agreement until a site plan or other development receives final approval from the city, the program authority may grant its final approval without a signed agreement, provided that the agreement is signed and recorded as provided herein prior to issuance of any certificate of occupancy for the development project. The required ~~stormwater management facilities~~ maintenance agreement shall be in a form approved by the city attorney and shall, at a minimum:

1. Designate for the land development the owner, governmental agency, or other legally-established entity which shall be permanently responsible for maintenance of the structural ~~or non-structural measures~~ facilities required by the plan;
2. Pass the responsibility for such maintenance to successors in title; and
3. Ensure the continued performance of the maintenance obligations required by the plan and by this article.

Sec. 10-535. Amendment of approved stormwater management plans.

An approved stormwater management plan may be changed or amended only as provided herein:

(1) The owner shall submit to the program authority a written request and justification for a change or amendment of an approved stormwater management plan, and shall provide such data as may be required by the program authority in order to determine whether the proposed change will comply with the requirements of this article.

(2) The program authority shall conduct its review and shall make its decision with respect to the proposed change in accordance with the procedures for initial submission and approval of a stormwater management plan.

Sec. 10-546. Exceptions.

Other than requests for permission to develop within a required stream buffer, which requests shall be handled pursuant to section 10-74, a request for an exception to the requirements of this article shall be made and reviewed as follows:

(1) A written request for an exception shall be submitted to the program authority, which shall immediately forward a copy of the request to the city attorney's office. The request shall address the factors listed in paragraph (3e), below.

(2) After receiving and considering a recommendation from the program authority, the city council shall grant or deny a request for an exception within sixty (60) days from the date of the program authority's receipt of the request.

(3) A request for exception may be granted by the city council, upon finding that:

a. A stormwater management plan has been submitted to the program authority for review in accordance with this article, and the plan demonstrates that reasonable alternatives to the exception have been considered and determined to not be feasible through attempts to meet the provisions of this article, the use of non-structural measures, the use of a mitigation plan, or by other means;
b. The exception requested is the minimum necessary to afford relief;
c. Reasonable and appropriate conditions can be imposed to ensure that the purposes of this article are satisfied; and
d. The sole basis for the request is not economic hardship, which shall be deemed an insufficient reason to grant an exception.

Sec. 10-557. Dedication of facilities to the public.

The owner of a stormwater management facility required by this article may offer for dedication any such facility, together with such easements and appurtenances as may be reasonably necessary, as provided herein:

(1) Any such offer shall be made in writing and delivered to the office of the city attorney, with a copy to the program authority. The owner, at his sole expense, shall provide any documents or information requested by the program authority or the city council. The program authority shall make a preliminary assessment as to whether the dedication of such facility is appropriate and will promote the public health, safety and general welfare. In making its assessment, the program authority shall inspect the facility in question and shall determine whether it has been properly

maintained and is in good repair. The program authority shall estimate the annual cost of maintenance and repair of the facility, and of the remaining useful life of the facility. The program authority shall forward a report of its assessment to the city council.

(2) The city council shall review the offer, taking into account the recommendations of the program authority and other city staff or officials, and may accept or refuse the offer of dedication.

(3) If the city council decides to accept the offer of dedication, the document dedicating the stormwater management facility shall be recorded in the office of the clerk of the circuit court for the City of Charlottesville.

(4) If the dedication of a stormwater management facility is required by city ordinance as a condition of approval of a subdivision plat, then the applicable provision of the city's subdivision ordinance shall apply in lieu of this section.

Sec. 10-5~~6~~8. Inspections.

The program authority shall inspect any land subject to an approved stormwater management plan, as provided herein:

(1) During the installation of stormwater management ~~measures~~ facilities, or the conversion of erosion and sediment control measures into stormwater management ~~measures~~ facilities, the program authority shall conduct periodic inspections to determine whether such measures are being installed as provided in the approved plan.

(2) Upon completion of the installation of stormwater management ~~measures~~ facilities, the program authority shall conduct periodic inspections to determine whether such measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan. The inspections shall be conducted at least annually, measured from the date the installation or implementation of the stormwater management ~~measures~~ facilities is deemed by the program authority to be complete. The inability of the program authority to conduct inspections within the time periods set forth in this paragraph shall not be deemed to be a failure of the program authority to perform a mandatory duty or a ministerial function, and no liability to the city, the program authority, or any official or employee thereof shall arise therefrom.

(3) The program authority shall be allowed, after giving notice to the owner, occupier or operator of the land development, to conduct any inspection required by this section. The notice may be either verbal or in writing. Notice shall not be required if the program authority and the owner have entered into a right of entry agreement, or if the owner has granted to the program authority an easement for purposes of inspection and maintenance.

(4) Upon a determination by the program authority that an owner has failed to comply with an approved stormwater management plan, the following procedures shall apply:

a. The program authority shall serve upon the owner a written notice to comply. The notice shall be served by certified mail, to the owner's address of record with the city assessor's office, or by personal delivery to the owner, or by personal delivery to an agent or employee at the site of the permitted activities who is supervising such activities. The notice shall:

1. Instruct the owner to take corrective measures immediately, when immediate action is necessary to prevent or abate drainage, erosion, or water pollution problems;
2. Specify the measures required to comply with the plan;
3. Specify the time within which such required measures must be completed.~~; and~~

b. If the owner fails to take corrective measures stated in the notice, within the time specified in the notice, then the city may revoke any building permit or other permit for activities involving the land development, and the owner shall be deemed to be in violation of this article.

c. If the program authority determines, upon completion of a maintenance inspection, that maintenance or repair of the facilities ~~measures~~ has been neglected, or that any stormwater management facility is a danger to public health or safety, it may perform the work necessary to assure that such ~~measures or~~ facilities are not a danger to public health or safety, and shall be entitled to recover the costs of such work from the owner.

Sec. 10-579. Penalties, injunctions and other legal actions.

Enforcement of this article shall be as follows:

(1) Any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine not exceeding one thousand dollars ($1,000.00), or up to thirty (30) days imprisonment for each violation, or both.

(2) The city may apply to the circuit court to enjoin a violation or threatened violation of the provisions of this article, without the necessity of showing that an adequate remedy at law exists.

(3) Without limiting the remedies that may be obtained pursuant to this section, the city may bring a civil action against any person for violation of any provision of this article, or of any term or condition of a permit, plan, or maintenance agreement. The action may seek the imposition of a civil penalty of not more than two thousand dollars ($2,000.00) against the person for each violation.

(4) With the consent of any person who has violated or failed, neglected or refused to obey, or comply with any permit, obligation or a plan or agreement, or any provision of this article, the program authority may provide, in an order issued by the program authority against such person, for the payment of civil charges for violations in

specific sums, not to exceed the limit specified above in paragraph (3). Such civil charges shall be in lieu of any civil penalty which could be imposed under paragraph (3).

Secs. ~~10-60~~ 10-58--10-70. Reserved.

Approved by Council
December 7, 2009

Clerk of City Council

AN ORDINANCE
APPROVING A REQUEST TO REZONE PROPERTIES LOCATED AT 1012 MIDLAND STREET, 1106 AND 1410 CARLTON AVENUE, AND 504 RIVES STREET TO PLANNED UNIT DEVELOPMENT (PUD)

WHEREAS, KG Associates ("Applicant"), agent for Sunrise Park, LLC, the Owner of properties bordering on Midland Street, Carlton Avenue, Nassau Street and Rives Street, identified on City Tax Map 56 as Parcels 84, 85.1, 85.2, 86.1, 86.2 and 86.3, submitted an application seeking a rezoning of such properties from R-2 (Residential), B-2 (Business), B-2 (Business) with Historic Overlay, and B-3 (Business) to Planned Unit Development (PUD), hereinafter the "Proposed Rezoning"; and

WHEREAS, a joint public hearing on the Proposed Rezoning was held before the City Council and Planning Commission on October 13, 2009, following notice to the public and to adjacent property owners as required by law; and

WHEREAS, on October 13, 2009, the Planning Commission voted to recommend approval of the Proposed Rezoning to the City Council on the basis of general welfare or good zoning practice; and

WHEREAS, the Applicant submitted a Preliminary Proffer Statement, as required by City Code Section 34-64(a), and presented the Preliminary Proffer Statement, with modifications, to the Planning Commission on October 13, 2009; and

WHEREAS, the Applicant has submitted a Final Proffer Statement dated October 15, 2009, as required by City Code Section 34-64(c), and the Final Proffer Statement has been submitted and made a part of these proceedings; and

WHEREAS, legal notice of the public hearing held on October 13, 2009 was advertised in accordance with Va. Code Sec. 15.2-2204; and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare or good zoning practice requires the Proposed Rezoning; that both the existing zoning classifications (R-2 Residential, B-2 Business and B-3 Business districts) and the proposed "PUD" zoning classification (subject to proffered development conditions) are reasonable; and that the Proposed Rezoning is consistent with the 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 R-2 Residential, B-2 Business, B-2 Business with Historic Overlay, and B-3 Business to "Planned Unit Development", subject to the proffered development conditions set forth within the Final Proffer Statement dated October 15, 2009, all of the property located at 1012 Midland Street, 1106 and 1410 Carlton Avenue, and 504 Rives Street, identified on City Tax Map 56 as Parcels 84, 85.1, 85.2, 86.1, 86.2 and 86.3, collectively consisting of approximately 2.26 acres.

Approved by Council
November 16, 2009

Clerk of City Council

AN ORDINANCE
TO AMEND AND REORDAIN SECTION 34-796 (Use Matrix)
OF ARTICLE VI (MIXED-USE CORRIDOR DISTRICTS)
OF CHAPTER 34 (ZONING) TO ADD AMUSEMENT CENTERS
AS A BY-RIGHT USE IN THE HIGHWAY (HW) CORRIDOR DISTRICT.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 34-796 of Article VI of Chapter 34 of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

Sec. 34-796. Use Matrix – Mixed use corridor districts.

For the Highway Corridor zoning district, denote Amusement Center as a by-right use, by adding a "B" to the Use Matrix in the HW column.

Chapter 34. Zoning
Article VI. Mixed Use Corridor Districts
Division 16. Use Matrix

Sec. 34-796. Use matrix—Mixed use corridor districts.

The following uses and residential densities allowed within the city's mixed use corridor districts are those identified within the matrix following below. (For a list of each of the city's zoning districts and their abbreviations, see section 34-216.)

A=Ancillary use
B= by-right use
CR= commercial/residential
M = mixed use development permit

DUA= dwelling units per acre
GFA=gross floor area
MFD=multifamily development
M/S = mixed use or special use permit

P= provisional use permit
S= special use permit
T= temporary use permit
A/S = ancillary use or special

ZONING DISTRICTS	D	DE	DN	WMN	WMS	CH	HS	NCC	HW	WSD	URB	SS	CD	CC
USE TYPES														
. . .														
NON-RESIDENTIAL: GENERAL and MISC. COMMERCIAL														
Access to adjacent multifamily, commercial, industrial or mixed-use development or use														
Accessory buildings, structures and uses	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Amusement center	S	S	S	S	S				B	S	S	S	S	
Amusement enterprises (circuses, carnivals, etc.)														
Amusement park (putt-putt golf; skateboard parks, etc.)														
. . .														

Approved by Council
November 16, 2009

Clerk of City Council

AN ORDINANCE
APPROVING A REQUEST TO REZONE PROPERTIES LOCATED ON CHERRY AVENUE AND RIDGE STREET TO PLANNED UNIT DEVELOPMENT (PUD)

WHEREAS, Southern Development ("Applicant"), agent for Cherry Avenue Investments, LLC, the Owner of property located at 529 Cherry Avenue, and Contract Purchaser of properties at 521-529 Ridge Street, identified on City Tax Map 29 as Parcels 145, 146, 147, 149, 150, 151 and 157, submitted an application seeking a rezoning of such property from R-2 (Residential) with Historic Overlay and R-3 (Residential), and CH (Mixed Use-Cherry Avenue Corridor), to Planned Unit Development (PUD), hereinafter the "Proposed Rezoning"; and

WHEREAS, joint public hearings on the Proposed Rezoning were held before the City Council and Planning Commission on August 11, 2009 and September 9, 2009, following notice to the public and to adjacent property owners as required by law; and

WHEREAS, on September 9, 2009, the Planning Commission voted to recommend approval of the Proposed Rezoning to the City Council on the basis of general welfare or good zoning practice; and

WHEREAS, the Applicant submitted a Preliminary Proffer Statement on June 23, 2009, as required by City Code Section 34-64(a), and presented the Preliminary Proffer Statement, with modifications, to the Planning Commission on August 11, 2009 and September 9, 2009; and

WHEREAS, the Applicant has submitted a Final Proffer Statement dated September 14, 2009, as required by City Code Section 34-64(c), and the Final Proffer Statement has been submitted and made a part of these proceedings; and

WHEREAS, legal notice of the public hearings held on August 11, 2009 and September 9, 2009 were advertised in accordance with Va. Code Sec. 15.2-2204; and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare or good zoning practice requires the Proposed Rezoning; that both the existing zoning classifications (R-2 Residential with Historic Overlay, R-3 Residential, and Mixed Use-Cherry Avenue Corridor districts) and the proposed "PUD" zoning classification (subject to proffered development conditions) are reasonable; and that the Proposed Rezoning is consistent with the 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 R-2 Residential with Historic Overlay, R-3 Residential, and Mixed Use-Cherry Avenue Corridor to "Planned Unit Development", subject to the proffered development conditions set forth within the Final Proffer Statement dated September 14, 2009, all of the property located at 529 Cherry Avenue and 521-529 Ridge Street, identified on City Tax Map 29 as Parcels 145, 146, 147, 149, 150, 151 and 157, consisting of approximately 2.9 acres.

Approved by Council
November 2, 2009

Clerk of City Council

AN ORDINANCE
GRANTING A PERMANENT EASEMENT TO THE
RIVANNA WATER AND SEWER AUTHORITY FOR THE RELOCATION AND ENLARGEMENT OF THE
SCHENK'S BRANCH SEWER INTERCEPTOR.

WHEREAS, the Rivanna Water and Sewer Authority ("RWSA") has requested the City of Charlottesville to grant a permanent easement across a portion of McIntire Park and on City-owned property between the Park and Melbourne Road, as shown on the highway plan sheets 4 and 5 of the Virginia Department of Transportation, for VDOT Project No. U000-104-102, RW-201, C501, dated October 30, 2008 and last revised August 11, 2009; and,

WHEREAS, the proposed easement will allow for the relocation and enlargement of a portion of the Schenk's Branch Interceptor, a sewer collection line owned by RWSA and serving City residents; and,

WHEREAS, in accordance with Virginia Code Sec. 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the conveyance of this easement; and

WHEREAS, City staff have reviewed the request and have no objection to the conveyance of said easement to RWSA.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute one or more Deeds of Easement and such other documents as may be requested by RWSA, in form approved by the City Attorney, to convey the above-described easement to the Rivanna Water and Sewer Authority.

Approved by Council
October 5, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING SECTION 15-101
OF ARTICLE IV (SPEED LIMITS) OF CHAPTER 15 (MOTOR VEHICLES)
OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED,
ESTABLISHING PROCEDURES FOR DESIGNATION OF
STREETS SUBJECT TO ENHANCED SPEEDING FINES.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 15-101 of Article IV of Chapter 15 of the Code for the City of Charlottesville, 1990, as amended, is hereby amended and reordained, as follows:

Sec. 15-101. Enhanced penalties for speeding on certain designated residential streets.

(a) Pursuant to § 46.2-878.2 of the Code of Virginia any person who operates a motor vehicle in excess of the maximum posted speed limit established for any portion of the streets or highways listed in paragraph (c) below, on or after the effective date, shall be guilty of a traffic infraction punishable by a pre-payable fine of two hundred dollars ($200.00), in addition to other penalties provided by law. The maximum speed limit and the penalty for speeding violations shall be displayed on appropriately placed signs on the designated streets. No portion of the fine shall be suspended unless the court orders twenty (20) hours of community service.

(b) The criteria for the designation of streets that will be subject to the increased penalty for speeding shall include the following:

(1) The street or highway is located in a residence district as defined in § 46.2-100 of the Code of Virginia;
(2) The street or highway has a functional classification of minor arterial, collector or local street;
(3) The portion of the street or highway subject to the penalty has a length of not less than three hundred (300) feet;
(4) At the time of designation pursuant to this ordinance, the city traffic engineer, or her designee, has determined that a speeding problem exists on the street or highway, as documented by data demonstrating that motorist regularly exceed the posted speed limit by at least ten (10) miles per hour.

(c) The following streets or highways, having been found to satisfy the criteria of paragraph (b), are hereby subject to the fine imposed by paragraph (a) herein:

(1) Old Lynchburg Road from the City of Charlottesville corporate limits to the intersection with Jefferson Park Avenue;
(2) Avon Street from the City of Charlottesville corporate limits to the intersection with Monticello Avenue;
(3) Altavista Avenue from Monticello Avenue to Avon Street;

~~Effective as of September 1, 2008:~~

(4) Elliott Avenue from Monticello Avenue to Ridge Street;
(5) Brandywine Drive from Hydraulic Road to Yorktown Drive; and
(6) Franklin Street from Nassau Street to Market Street.

The City Council may, at any time, designate by ordinance additional streets or highways for an increased penalty where those streets meet the requirements of section (b) herein.

(d) The City Council may also consider additional streets or highways for an increased penalty upon receipt of a petition by property owners where:

(1) The director of neighborhood development services receives a petition, on a form supplied by the city, and the petition for an enhanced speeding penalty is signed by seventy five (75) percent of the property owners on the affected residential street or highway; and

(2) The city's traffic engineer determines that the residential street or highway identified for such enhanced penalties meets all the requirements of section (b) herein.

(e) Each year any petition(s) filed pursuant to section (d)(1) herein shall be submitted to the department of neighborhood development services between November 1st and January 31st of the succeeding calendar year and shall include the legible name, address, telephone number and dated signature of each petitioning property owner, with one (1) signature per address.

(f) If a proposed residential street or highway or any block(s) therein has been the subject of consideration for an enhanced speeding penalty by council pursuant to this section within the past twelve (12) months, then the city shall not be required to re-evaluate any such street, highway or block, or to act on any petition received that includes that same proposed street, highway or block therein, unless the traffic engineer, with the concurrence of the city manager, determines that conditions have substantially changed since the date of consideration by council. Any petitions received during such twelve month period, or which contain signatures dated within such twelve month period, shall be rejected and returned to the applicant, except where there has been a determination by the city's traffic engineer of a substantial change of condition.

(g) In considering a proposed enhanced speeding penalty, council shall consider all information it deems relevant to the proposal, including, without limitation, any recommendations provided by the traffic engineer, the director of neighborhood development services, the city manager, the chief of police or other individuals. Council shall also consider the residential nature of the development around the designated street or highway before council and the impact, if any, of documented speeding problems to the residential nature of the area served by the street or highway designated for an enhanced penalty. Council may approve or deny the proposed street or highway for an enhanced fine as submitted, or it may approve or deny such enhanced penalty for one or more blocks within the proposed street or highway, provided that such sections of the street or highway approved for an enhanced penalty continue to meet the requirements of section (b) herein.

Additional Speeding Fine Sign Data by Roadway

Roadway	Functional Classification	% Frontage Zoned Residential	% Frontage Residential Land Use	Posted Speed Limit	85th Percentile Speed	Difference 85th % - Posted
First Phase Implemented September 1, 2007						
Altavista Avenue (Monticello Avenue to Avon Street)	Local	100	95	25	41	16
Avon Street (City Line to Monticello Ave)	Minor Arterial	63	75	25/35	51	16
Old Lynchburg Road (City Line to JPA)	Collector	100	88	25	43	18
Second Phase Implemented September 1, 2008						
Brandywine Drive (Hydraulic Road to Yorktown Drive)	Collector	100	100	25	38	13
Elliott Avenue (Monticello Avenue to Ridge Street)	Minor Arterial	91	68	25	41	16
Franklin Street (Nassau Street to Market Street)	Local	100	44	25	38	13

Approved by Council
October 5, 2009

Clerk of City Council

AN ORDINANCE
TO QUITCLAIM NATURAL GAS LINE EASEMENT
LOCATED IN FORTUNE PARK ROAD IN ALBEMARLE COUNTY
TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the Virginia Department of Transportation (VDOT) is prepared to take over maintenance of the roadway known as Fortune Park Road in Albemarle County; and

WHEREAS, the City owns natural gas lines located within this roadway, and also owns an easement for such lines, and VDOT has asked that the foregoing easement be released upon VDOT's acceptance of the roadway; and

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a deed of quitclaim, substantially the same in form as the deed attached hereto, approved by the City Attorney, for release of the above-described gas line easement to the Virginia Department of Transportation conditioned upon receipt by the City of a VDOT permit allowing said lines to continue to be located in said right-of-way.

Approved by Council
October 5, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING SECTIONS 34-1, AND 34-971 OF ARTICLE IX, OF CHAPTER 34 (ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, RELATING TO PARKING EXEMPT ZONES.

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

1. 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 to include the Urban Core Parking Zone, the Corner Zone, and the Parking Modified Zone, as recommended by the Planning Commission on July 14, 2009; and

2. That Section 34-971 of Article IX (Generally Applicable Regulations) of Chapter 34 (Zoning) of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

CHAPTER 34. ZONING

ARTICLE IX. GENERALLY APPLICABLE REGULATIONS

Division 2. Off-Street Parking

Sec. 34-970. Purpose.
. . .

Sec. 34-971. Applicability.
(a) . . .
(b) . . .
(c) . . .
(d) . . .

Delete Graphic Link "Parking Exempt Area"

~~(e) The following area shall be exempt from the requirements of this article except as hereinafter provided ("Parking Exempt Area"): All that area bounded by lines beginning at the underpass on West Main Street where the Chesapeake and Ohio Railway crosses Main Street; thence in an easterly direction along the Chesapeake and Ohio Railway to its intersection with Ridge Street; thence along Ridge Street to Garrett Street in a southerly direction; thence along Garrett Street in an easterly direction to its intersection with Gleason Street; thence along Gleason Street in a southerly direction to its intersection with Monticello Avenue; thence along Monticello Avenue in an easterly direction to its intersection with Second Street; thence along Second Street in a northerly direction to its intersection with Garrett Street; thence along Garrett Street in an easterly direction to its intersection with Sixth Street; thence along Levy Avenue in an easterly direction to its intersection with Avon Street; thence along Avon Street in a northerly direction across the Chesapeake and Ohio Railway overpass and~~

~~along Ninth Street, N.E. in a northerly direction to a point one hundred fifty (150) feet north of the northern margin of High Street; thence along a line in a westerly direction parallel to High Street and running at a distance of one hundred fifty (150) feet from the northern margin of High Street to Altamont Street; thence along Altamont Street in a southerly direction to its intersection with High Street; thence along High Street down Beck's Hill in a southerly direction to its intersection with McIntire Road; thence along McIntire Road in a northerly direction to its intersection with Harris Street; thence along Harris Street in a southwesterly direction to its intersection with the former right-of-way of the Southern Railroad; thence along such old railroad right-of-way in a southerly direction to the intersection of Preston Avenue and Fourth Street, N.W.; thence along Fourth Street, N.W. in a southerly direction to its intersection with Commerce Street; thence along Commerce Street in a westerly direction to its intersection with Sixth Street; thence in a westerly direction along a line parallel to Main Street and running at a distance of two hundred ten (210) feet from Main Street to the intersection of that line with Thirteenth Street, N.W.; thence in a northerly direction along Thirteenth Street to Wertland Street; thence along Wertland Street in a westerly direction to its intersection with Fourteenth and Fifteenth Streets; thence along Fifteenth Street in a westerly direction to a point nearest the right-of-way of the Chesapeake and Ohio Railway; thence along the shortest line to the right-of-way of the Chesapeake and Ohio Railway; thence in a northerly and westerly direction along the right-of-way of the Chesapeake and Ohio Railway to a point nearest the northwest corner of Parcel 149 on City Real Property Tax Map Sheet 9; thence in a line south to such Parcel 9-149 and along the western boundary thereof to the northeastern boundary of Parcel 9-148; thence along such boundary of Parcel 9-148 in a northwesterly direction to a twelve-foot alley; thence along such alley in a southwesterly direction to a pedestrian alley commonly known as Whiskey Alley; thence along Whiskey Alley in a southeasterly direction to Madison Lane; thence along Madison Lane in a southwesterly direction to West Main Street (University Avenue); thence in an easterly direction along West Main Street to the point of beginning.~~

~~(1) Any new construction in the parking exempt area which replaces existing floor area or increases existing floor area by ten (10) percent or less shall be exempt from the requirements of this division.~~

~~(2) Any addition that replaces or increases existing floor area by more than ten (10) percent shall be required to provide one (1) loading space and at least one (1) handicapped space, unless waived by the director due to limitations of the site.~~

~~(3) New construction on a parcel within the parking exempt area, where such parcel was totally vacant in September 1958, shall be required to provide at least one (1) loading space and at least one (1) handicapped space.~~

~~(4) "Existing floor area" as used within this subparagraph, refers to the total floor area existing in September 1958, or as of January 1, 1976, whichever is greater.~~

(e) The following three (3) parking zones shall be subject to the specific requirements set forth hereunder:

(1) The Urban Core Parking Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking shall not be required for a development in the Urban Core Parking Zone unless such development requires a special use permit for increased residential density above that allowed by right. Parking required pursuant to Article IX shall be provided for all additional units allowed as a result of the increased density, unless such requirement is waived by Council. Parking requirements may

be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below.

(2) The Corner Parking Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking shall not be required for a development in the Corner Parking Zone unless such development requires a special use permit for increased residential density above that allowed by right. Parking required pursuant to Article IX shall be provided for all additional units allowed as a result of the increased density, unless such requirement is waived by Council. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection 4 below.

(3) The Parking Modified Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking for a development in the Parking Modified Zone shall be computed using the provisions of §§34-984 and 985. Only if a development requires more than 20 parking spaces pursuant to Sec. 34-984 of this Code shall parking be required as follows: non-residential developments shall provide fifty percent (50%) of the required parking, and residential developments shall provide one space per unit. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below. Affordable housing units (as defined by City Council in its adopted Affordable Housing Policy) created in any development shall not be included in the parking calculation, and parking shall not be required as a result of any such units as long as they remain affordable.

(4) Required parking in the Urban Core Parking Zone, Corner Parking Zone, and the Parking Modified Zone shall be provided either:

(i) on site;
(ii) within 1000 feet of the site, subject to all other conditions of §34-973;
(iii) by payment into a City parking fund in a standard amount per space established by City Council;
(iv) by making a one-time contribution for transit improvements equivalent to the cost of each required parking space in a standard amount per space established by City Council; or by
(v) implementation of alternative transportation improvements equivalent to the cost of each required parking space in a standard amount per space established by City Council , as approved by Planning Commission,

(5) In addition to provision of parking as required herein, all developments requiring a site plan within the Urban Core Parking Zone, Corner Parking Zone, and the Parking Modified Zone shall provide bicycle storage facilities, other than bicycle racks, in accordance with §34-881.

Adopted by City Council
September 21, 2009

Barbara K. Ronan
Barbara K. Ronan, Acting Clerk of Council

AN ORDINANCE TO RE-ENACT CHAPTER 26 (SOLID WASTE) OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED, RELATING TO LITTERING, REFUSE COLLECTION, AND RECYCLING.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Chapter 26 of the Charlottesville City Code, 1990, as amended, as it exists on the date of this enactment, is hereby repealed in its entirety, and said Chapter is re-enacted as follows:

CHAPTER 26 – SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 26-1. Littering.

(a) It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal, or other unsightly matter on public property, including a public street, right-of-way, property adjacent to such street or right-of-way, or on private property without the written consent of the owner thereof or his agent.

(b) When any person is arrested for a violation of this section and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia, section 46.2-936 in making such arrest.

(c) When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such matter. Such presumption shall be rebuttable by competent evidence.

(d)The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

Cross references: Penalty for Class 1 misdemeanor, §1-11; allowing escape of vehicle load, §15-71; depositing hazardous material on street, §28-23.

State law references: Similar provisions and authority of city to adopt above section, Code of Virginia, §33.1-346.

Sec. 26-2. Violations of chapter.

A violation of any provision of this chapter shall constitute a Class 1 misdemeanor.

Sec. 26-3. Definitions.

Curbside customers are those persons who either reside or operate businesses within the city and receive curbside refuse collection service from the city.

Disposal stickers **or** ***decals*** are stickers purchased from the city or its authorized agents. They shall be a distinctive color and shall be printed with the city seal or appropriate words which will readily indicate to city collectors of curbside refuse that the bags or containers on which the stickers are attached are intended for city refuse collection.

Downtown Trash Collection Area means all streets or portions thereof as designated on the most recent Uptown/Downtown Trash Collection Area Map maintained by the Department of Public Works.

Dumpster Can means a large refuse container with a minimum capacity of at least two (2) cubic yards and capable of being lifted mechanically by frontloading refuse trucks.

Garbage see *Refuse.*

Large item means large appliances (white goods), furniture, brush, and other household items too large or bulky to be contained within a thirty-two-gallon bag or container. This does not include hazardous waste, automobile parts, tires, asbestos, inert waste (e.g., dirt, logs, rock), small appliances, cardboard, contractor spoils (e.g., construction materials, tree trimmings or roots, demolition materials), nor refuse which the city regularly collects as part of its curbside collection.

Recyclable materials means the following materials:

(1) All glass containers;
(2) Aluminum cans;
(3) Newspapers, cardboard, mixed paper, magazines and catalogs
(4) Plastic soft drink bottles, milk, water jugs, #1 and #2 plastics;
(5) Steel (tin) cans used for fruits, vegetables, soups, pet foods and other food items.
(6) Any other items designated by the Director of Public Works

Recycling containers are reusable containers approved and provided initially by the city or its agent for use by residential curbside customers or designated multifamily dwellings for the collection of recyclable material.

Refuse means garbage, trash, debris, litter and other solid waste which the city regularly collects as part of its curbside collection. This does not include hazardous waste, white goods, furniture, tires, automobile parts, asbestos and inert waste such as dirt, logs, rock, construction materials, brush (unless tied in bundles less than three (3) feet long) or demolition debris.

Uptown Trash Collection Area means all streets or portions thereof as designated on the most recent Uptown/Downtown Trash Collection Area Map maintained by the Department of Public Works.

Uptown/Downtown Trash Collection Area Map means a printed or electronic map maintained by the Department of Public Works which designates properties, streets or portions thereof that are subject to specific trash placement, collection and payment regulations as outlined in this chapter.

Yard Waste means weeds, brush or brush trimmings not eligible for collection in the Large Item Refuse Collection program.

Secs. 26-4--26-26. Reserved.

ARTICLE II. CURBSIDE COLLECTION BY CITY

Sec. 26-27. General container requirements.

(a) All cooled ashes and kitchen garbage consisting in whole or in part of foodstuff and other damp garbage shall be drained and placed in a closed nonleaking container of not over ninety-six (96) gallon capacity. Containers shall be made of metal, plastic or other suitable material and shall have tight-fitting covers. Plastic bags used as containers shall, in lieu of having tight-fitting covers, be securely tied, be at least 1.5 millimeters thick, and be sufficiently strong to contain the materials enclosed. Paper or cardboard containers (including paper bags) are not approved for use as containers under this chapter.

(b) All animal wastes must be placed in a closed plastic bag and within another container to which a sticker is attached before they are set out for collection by the city.

Sec. 26-28. Yard waste to be placed in containers or bundled.

Yard waste may be placed in containers with the appropriate sticker or decal, if the material is secured so as to prevent the yard waste from being blown therefrom.

Sec. 26-29. Preparation of leaves for collection.

(a) During the months of November through January, it shall be unlawful to place leaves in containers for collection by the city. During such months, leaves shall only be placed in clear plastic bags for curbside collection or placed loose at the curb or street edge for vacuum collection. It shall be unlawful to rake leaves into any street far enough from the curb or street edge so as to create a traffic hazard. The safe distance from a curb or street edge for the deposit of leaves for vacuum collection will vary depending on street widths and other traffic conditions. It shall be unlawful to rake leaves onto a sidewalk so as to cover its entire width and obstruct pedestrian traffic on such sidewalk.

(b) During the months of February through October, any leaves intended for city collection shall be placed in containers with the appropriate sticker or decal as yard waste in accordance with Sec. 26-28. This includes any leaves deposited earlier for vacuum collection if such leaves were not so collected during the months of November through January.

Sec. 26-30. Placement of containers and bundles for collection.

The City or its agent will provide citywide curbside collection service of trash and recyclables to qualifying properties. The collection schedule shall be set by the Director of Public Works, and a copy thereof shall be available to any City resident or business upon request. All collection services shall be subject to the regulations set forth herein, and the fee schedule set forth in this chapter.

(a) Customers located in the Downtown Trash Collection Area shall be subject to the following collection procedures:

(1) Wheeled carts, receptacles, bags, and bins containing garbage shall be placed in areas designated on the Uptown/Downtown Trash Collection Area Map. It shall be unlawful to place carts, receptacles, bags or bins on sidewalks, any brick surface, or on dead end side streets between Market Street and Water Street.
(2) It shall be unlawful for wheeled carts, receptacles, bags and bins to be placed on any street from 10:00 a.m. to 3:00 p.m.
(3) Restaurants shall use only closed, non-leaking containers with tops for refuse collection, with their name and address clearly marked on each container.

(b) Customers located in the Uptown Trash Collection Area shall be subject to the following collection procedures:

(1) Receptacles or bundles containing refuse and recyclables shall be placed along the edge of the sidewalk or roadway for collection on such days as may be scheduled by the director of public works and his/her designee.
(2) Such garbage and refuse shall be so placed for collection not earlier than 6:00 p.m. on the day preceding the scheduled collection for such location nor later than 7:00 a.m. of the day of scheduled collection.

(3) Emptied receptacles, except those installed below the ground, shall be removed by the owner thereof from the sidewalk or roadway and taken behind the building setback line no later than 12 pm (noon) the day of collection.

(c) Customers located outside of the Uptown Trash Collection Area and Downtown Trash Collection Area shall be subject to the following collection procedures:

(1) Receptacles or bundles containing refuse and recyclables shall be placed along the edge of the sidewalk or roadway for collection on such days as may be scheduled by the director of public works and his/her designee.
(2) Such garbage and refuse shall be so placed for collection not earlier than 6:00 p.m. on the day preceding the scheduled collection for such location nor later than 7:00 a.m. of the day of scheduled collection.
(3) Emptied receptacles, except those installed below the ground, shall be removed by the owner thereof from the sidewalk or roadway and taken behind the building setback line within twelve (12) hours after collection.

Sec. 26-31. Certain wastes not to be collected by city.

Factory cuttings, trade wastes, rejected building materials and hot ashes will not be collected by the city. Removal and proper disposal of such materials are the responsibility of the property owner.

Sec. 26-32. Placement for collection of garbage or refuse from outside city.

It shall be unlawful for any nonresident of the city or any owner of a business not situated within the city limits, or any agent of either, to bring bagged, boxed or bundled household or business garbage or recyclables from outside the city into the city and deposit it anywhere in the city for collection by the City or its agent.

Sec. 26-33. Prohibition against use of curbside collection service.

Any property or parcel of land on a street receiving once a week city curbside collection which on the average generates refuse each week which would fill more than twelve (12) thirty-two-gallon containers will be denied city curbside collection service, in which case the property owner is responsible to arrange for proper disposal of refuse through a private company.

Sec. 26-34. Additional curbside collection regulations.

The director of public works is hereby authorized to publish, implement and enforce reasonable regulations necessary to administer the city's curbside collection program. Such regulations shall serve as a supplement to this article.

Secs. 26-35 – 26-44. Reserved.

ARTICLE III. CURBSIDE RECYCLING

Sec. 26-45. Purpose.

This council finds that reduction of the solid waste stream through recycling efforts is one effective means of addressing the growing problem and related escalating costs of solid waste disposal. Recycling should also aid in conservation of our nation's material resources. For these reasons, the council finds that

the public interest will be better served if the following provisions are enacted to enable the city's curbside recycling program to operate as efficiently as is practicable.

Sec. 26-46. Voluntary recycling program.

All curbside customers may participate in the city-wide residential recycling program by (1) collecting all of their recyclable materials, and (2) placing such materials in recycling containers in the same location and manner as refuse is placed on the designated day for collection of those materials. Recycling containers shall be removed in the same manner as refuse containers.

Sec. 26-47. Ownership of recycling containers.

Title to all recycling containers provided to customers by the City or its agent shall remain with the city or its agent. In the event a customer moves, the customer shall leave the recycling container behind to be used by the next customer occupying the property being served.

Sec. 26-48. Ownership of recyclable materials.

Once a customer places recyclable materials in a recycling container at a designated curbside collection point, title to those materials shall be deemed to be vested in the city or its designated agent. No person shall remove, take, collect or transport any recyclable material that has been placed in a recycling container from any curbside, street right-of-way, alley or other designated collection point without the express authority of the city.

Sec. 26-49. Sole purpose of recycling containers.

No person shall use recycling containers for anything but participation in the city's curbside recycling program. No person may place garbage or other refuse in a recycling container. It shall be unlawful for any person to borrow, steal, damage or otherwise remove any recycling container from use in the curbside recycling program.

Sec. 26-50. Additional recycling regulations.

The director of public works is hereby authorized to publish, implement and enforce reasonable regulations necessary to administer the city's curbside recycling program. Such regulations shall serve as a supplement to this article.

Secs. 26-51--26-59. Reserved.

ARTICLE IV. FEES FOR CURBSIDE REFUSE COLLECTION AND DISPOSAL

Sec. 26-60. Purpose.

This council finds that reduction of the solid waste stream through imposition of volume based user fees is one effective means of addressing the growing problem and escalating costs of solid waste disposal. Such fees should also encourage recycling and help our locality meet the state mandate of reducing our locality's waste stream by twenty-five (25) percent. For these reasons, the council finds that the public

interest will be better served if the following provisions are enacted.

Sec. 26-61. Scope of service.

City-wide curbside collection and refuse disposal service shall be provided only to curbside customers of the city who comply with this article and other applicable code provisions.

Sec. 26-62. Conditions of service.

To qualify for this service under this article curbside customers must place all accumulated refuse in a closed, nonleaking container of not over ninety-six gallon capacity, which meets the following conditions:

(1) Each container must have affixed to it a disposal sticker or decal purchased from the city or an authorized agent of the city.

(2) For curbside customers receiving once-per-week collection service, each container or bag must be placed at the designated curbside point of collection not earlier than 6:00 p.m. on the day preceding the scheduled collection nor later than 7:00 a.m. on the day of scheduled collection. Containers shall be removed within the time frame set forth in this chapter.

(3) Notwithstanding other provisions of this chapter, for those customers receiving collection service more frequently than once per week, refer to Sec. 26-30 of this Code.

Sec. 26-63. Fees for purchasing disposal stickers and decals.

(a) Disposal stickers shall be sold by the city or its authorized agents at the following prices:

Per large container sticker (up to 32 gallon capacity and up to 50 pounds)	$2.10
Per small container sticker (up to 13 gallon capacity and up to 25 pounds)	1.05

For weekly collection:

Per annual 32 gallon container and up to fifty pounds decal if purchased between July 1 and September 30	$ 94.50
Per annual 32 gallon container decal if purchased between October 1 and December 31	68.25
Per annual 32 gallon container decal if purchased between January 1 and March 31	46.25
Per annual 32 gallon container decal if purchased between April 1 and June 30	23.25
Per annual 50 gallon container and up to 75 pounds decal if purchased between July 1 and September 30	147.50
Per annual 50 gallon container decal if purchased between October 1 and December 31	110.25
Per annual 50 gallon container decal if purchased between January 1 and March 31	73.50
Per annual 50 gallon container decal if purchased between April 1 and June 30	36.75
Per annual 64 gallon container and up to 100 pounds decal if purchased between July 1 and September 30	189.00
Per annual 64 gallon container decal if purchased between October 1 and December 31	141.75
Per annual 64 gallon container decal if purchased between January 1 and March 31	94.50
Per annual 64 gallon container decal if purchased between April 1 and June 30	47.25
Per annual 96 gallon container and up to 150 pounds decal if purchased between July 1 and September 30	283.50
Per annual 96 gallon container decal if purchased between October 1 and December 31	204.75
Per annual 96 gallon container decal if purchased between January 1 and March 31	138.75

Per annual 96 gallon container decal if purchased between April 1 and June 30	69.75

For daily collection:

Per quarterly 64 gallon container decal (pro-rated daily after the beginning of each quarter)	$327.60
Per quarterly 96 gallon container decal (pro-rated daily after the beginning of each quarter)	491.40

(b) Authorized agents who sell disposal stickers for the city at retail may purchase disposal stickers from the city at a five (5) percent discount of the list price, but they may not sell the stickers at a higher price than the list price set forth herein.

Sec. 26-64. Reduced fees for certain customers.

As many as four (4) large container stickers per month or one annual thirty-two (32) gallon decal may be obtained directly from City Hall, at no charge to the curbside customer, provided that:

(1) No more than one customer per dwelling unit may obtain such free stickers, and

(2) Such customer is also eligible to receive relief or subsidies under any of the following programs:
   a. The federal or state food stamp program;
   b. Medicaid;
   c. The city's rent relief program for the elderly and the disabled; or
   d. The city's real estate tax relief program for the elderly and disabled.

Sec. 26-65. Disposal of refuse; prohibited in parks, private dumpsters and certain other places.

(a) Persons eligible to be curbside customers shall dispose of refuse by:

(1) Using the city's curbside collection service, where available, and by adhering to this chapter;
(2) Using the services of a private refuse hauler; or
(3) Transporting and disposing of refuse in any approved landfill, provided that the load of refuse so transported is tightly covered and secured.

(b) No person shall transport his or her refuse to a city park or to any other location on public or private property without the written consent of the owner and every person shall comply with the anti-littering provisions found elsewhere in this chapter (section 26-1).

(c) No person shall place any refuse or other waste material at or near any curb, sidewalk or street other than the curb, sidewalk or street immediately in front of their property from which such refuse was generated unless they obtain express consent for such placement from the director of public works, except as provided in Sec. 26-30(a).

Sec. 26-66. Uncollected refuse or other material.

Where the city has not collected refuse or other material from curbside points of collection or elsewhere because such refuse or other materials were not placed or prepared in accord with this article, the persons responsible for such placement shall remove that refuse or other material as soon as practicable after the city has refused collection, and in any event, by the end of the designated collection day.

Sec. 26-67. Noncompliance with provisions of this article.

Whenever a person places refuse or other waste material for collection by the city under its curbside collection program without complying with all the provisions of this article, in addition to or in lieu of prosecution of such person for a Class 1 misdemeanor violation, the city may do also either of the following:

(1) The city may choose not to collect the refuse or material. In such case, the city shall affix a notice to the rejected container, refuse or material explaining the reason for the rejection. A similar notice may be given to the property owner of the property in front of which such uncollected refuse or material was placed. The latter notice may be verbal or written and shall be provided as soon as is feasible after the rejection; or

(2) The city may collect the refuse or material notwithstanding the fact that its placement or packaging does not comply with the provisions of this article. In such cases, the city shall after reasonable notice assess a special service charge against the owner of the property in front of which such waste material was placed. Such special service charge shall be in accord with the following:

Containers of 96 gallons or less, per occasion requiring a service charge for the first two (2) containers $15.00
For each additional container. . . . . $ 5.00

These assessments shall be billed to the owner. Such assessments may be billed and collected as taxes and levies are collected, or in separate billings, including but not limited to, those related to utility payments. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property.

Sec. 26-68. Landlord and tenant responsibility.

Owners of property in the city whose property is eligible for service under this curbside collection program and their tenants must comply with provisions of this article.

Sec. 26-69. Collection by private refuse haulers.

(a) Private refuse haulers operating in the city must require their customers to use containers which are approved by the city to make certain such containers are clearly distinguishable by color, markings or otherwise from those containers which will be handled by city refuse collectors.

(b) Collection of refuse by private haulers shall occur on the same day as collection of curbside refuse by the city.

(c) Each container of refuse for private collection must be placed and removed in the same manner as would be required for curbside collection in Sec. 26-30 of this Code.

Sec. 26-70. Unauthorized or counterfeit stickers.

It shall be unlawful to (a) manufacture, make, possess, sell, market, use or distribute disposal stickers which have not been authorized by the city for use in the curbside collection program under this chapter, or (b) counterfeit or otherwise produce with an intent to deceive disposal stickers which imitate those stickers duly authorized by the city.

Sec. 26-71. Additional regulations.

The director of public works is hereby authorized to publish, implement and enforce reasonable regulations necessary to administer the city's curbside refuse user fee program. Such regulations shall serve as a supplement to this article.

Secs. 26-72--26-74. Reserved.

ARTICLE V. LARGE ITEM REFUSE COLLECTION AND DISPOSAL

Sec. 26-75. Purpose.

Collection of refuse items too large or bulky to fit into thirty-two-gallon containers will be available to curbside customers under the conditions set forth in this article.

Sec. 26-76. Scope of service; fee.

City-wide large item collection service shall be provided by the city only to curbside customers of the city who comply with this article and other applicable code provisions. Scheduled collections for large item pick-up must be made by telephone or in writing to the city's public works department (public service division), and a non-refundable fee of twenty-five dollars ($25.00) per collection shall be paid to the Treasurer's Office. Only two (2) large item collections per residential address shall be permitted during one fiscal year (July 1--June 30).

Sec. 26-77. Conditions of service.

To qualify for service under this article curbside customers must place all accumulated large items for collection near the curb no later than 7:00 a.m. on the day of the scheduled large item collection, and no earlier than 7:00 a.m. on the day before the scheduled large item collection.

Sec. 26-78. Uncollected refuse or other material.

Where the city has not collected large items from curbside points of collection because such refuse was not placed or prepared in accord with this article, the persons responsible for such placement shall remove the rejected item(s) from the curbside as soon as practicable after the city has refused collection, and in any event within twenty-four (24) hours after the scheduled collection day.

Sec. 26-79. Noncompliance with provisions of this article.

Whenever a person places refuse for collection by the city under its large item collection program without complying with all the provisions of this article, in addition to or in lieu of prosecution of such person for a Class 1 misdemeanor violation, the city may do either of the following:

(1) The city may choose not to collect the refuse or material. In such case, the city shall affix a notice to the rejected refuse or material explaining the reason for the rejection. A similar notice may be given to the property owner of the property in front of which such uncollected refuse or material was placed. The latter notice may be verbal or written and shall be provided as soon as is feasible after the rejection; or

(2) The city may collect the refuse or material notwithstanding the fact that its placement does not comply with the provisions of this article. In such cases, the city shall after reasonable notice assess

the actual cost of collection, which shall not exceed one hundred fifty dollars ($150.00) per dump truck load, against the owner of the property in front of which such refuse was placed.

This charge shall be billed to the owner, and collected as taxes and levies are collected, or in separate billings, including but not limited to, those related to utility payments. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property.

Sec. 26-80. Landlord and tenant responsibility.

Owners of property in the city whose property is eligible for service under this large item collection program and their tenants must comply with provisions of this article.

Sec. 26-81. Additional regulations.

The director of public works is hereby authorized to publish, implement, and enforce reasonable regulations necessary to administer the city's large item collection program. Such regulations shall serve as a supplement to this article.

Adopted by City Council
September 21, 2009

Barbara K. Ronan

Barbara K. Ronan, Acting Clerk of Council

AN ORDINANCE
AMENDING AND REORDAINING SECTION 34-972
OF ARTICLE IX (GENERALLY APPLICABLE REGULATIONS)
OF CHAPTER 34 (ZONING) OF THE
CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED,
RELATING TO RESTRICTIONS ON FRONT YARD PARKING
IN COMMERCIAL AND MIXED USE DISTRICTS.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 34-972 of Article IX of Chapter 34 of the Code of the City of Charlottesville, 1990, as amended, is hereby amended and reordained as follows:

CHAPTER 34. ZONING

ARTICLE IX. GENERALLY APPLICABLE REGULATIONS

. . .

Sec. 34-972. Location, yard areas, and driveways.

(a) For lots containing a single-family detached dwelling or a two-family dwelling, parking may be located within any yard. Driveways and off-street parking spaces, regardless of zoning district, shall be subject to the following location and dimensional requirements, with such requirements applying to the portion of the driveway and off-street parking spaces located between the right-of-way and the building line.

(1) No driveway entrance or exit shall intersect with a street at a location closer than fifteen (15) feet to any street intersection;
(2) No driveway within a residential district, or used for residential purposes, shall be located within three (3) feet from the line of an adjacent property;
(3) For driveways and off-street parking spaces, except those off-street parking spaces provided in a garage or carport, the portion of the driveway and off-street parking area located between the right-of-way and the building setback line shall not exceed a maximum of twenty-five (25) percent of the lot area between the right-of-way and building line. This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet;
(4) The above language notwithstanding, all driveway entrances shall meet a minimum width requirement of twenty (20) feet and shall not exceed a maximum width of thirty (30) feet.

(b) Driveways and common parking areas, except for single-family detached or two-family dwellings, shall also be subject to the following location and dimensional requirements, with such requirements applying to the portion of the driveway located between the right-of-way and the building line:

(1) No driveway entrance or exit shall intersect with a public street at a location closer than fifteen (15) feet to any street intersection, or less than five (5) feet from the end of a curb radius;

(2) The total width of driveway entrances (curb cuts) shall not exceed thirty-three (33) percent of the lot frontage. This does not prohibit a lot from having one (1) two-way driveway entrance of a maximum width of thirty (30) feet;

(3) Parking shall be located in side or rear yards, except that: (i) Parking may not be located within any yard that faces a public street; and (ii)Parking may be located within any yard in the following districts: Urban Corridor, Highway Corridor, and Industrial Corridor. If a lot faces more than one public street, parking shall be prohibited in the yard that fronts on the public street with the highest functional classification rating. If all roads abutting the yard have the same functional classification, parking shall be prohibited in the yard serving as front yard for the parcel.

(4) Parking may be located in any yard for the following uses:
   (i) Gas stations and other automobile service related uses
   (ii) Motor vehicle dealerships
   (iii) Industrial uses

(5) Parking may be located underground, or on one (1) or more floors of a building served by such parking (for example, in townhouse developments, parking may be located under each individual unit); or within common areas;

(6) No off-street parking area shall be located closer than three (3) feet to any side or rear property line. No driveway within a residential district, or used for residential purposes, shall be located within three (3) feet from the line of an adjacent property.

(7) Any parking established in yards that face any public street(s) shall be subject to the street buffer provisions of section 34-873(b), and, in addition must include a masonry or similar type wall between the parking area and the public street(s). The wall shall be no less than 32 inches in height.

(c) For lots containing a single-family attached dwelling, parking may be located within any yard. Driveways and off-street parking spaces, except those off-street parking spaces provided in a garage or carport, shall not exceed a maximum of twenty-five (25) percent of the lot area between the right-of-way and building setback line. This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet.

(d) When more than one (1) driveway is provided along a frontage in a single ownership, there shall be a separation of at least twenty (20) feet at the curb line between each driveway, and a six-inch raised protective curb parallel to the street extending not less than two-thirds (2/3) the length of the island shall be placed inside the property line between the driveways.

(e) Parking spaces must be designed and used in such a manner as to prevent cars parked in a driveway from encroaching into the public right-of-way.

(f) For zoning purposes, driveways begin at the boundary separating a property from the right-of-way. Driveways may only be constructed using materials permitted by Sec. 34-982. Entrances must conform to designs listed in the most recent version of the City of Charlottesville Standards and Design Manual.

(g)The location and design of entrance and exit driveways shall be approved by the director of neighborhood development services to ensure a safe and convenient means of ingress and egress, using current access management principles.

Adopted by City Council
September 21, 2009

Barbara K. Ronan

Barbara K. Ronan, Acting Clerk of Council

AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF
CITY-OWNED PROPERTY (JEFFERSON PARK AVENUE RIGHT OF WAY AT THE EMMET STREET INTERSECTION)
TO TENTH AND MAIN, LLC

WHEREAS, Tenth and Main, LLC, the owner of property designated as Parcels T.M. 11-1, 11-2, 11-3, and 11-4, wish to acquire a portion of the adjoining Jefferson Park Avenue right of way, as shown as Parcel X on the attached plat; and

WHEREAS, in accordance with Virginia Code sections 15.2-1800 (B) and 15.2-2006, a public hearing was held to give the public an opportunity to comment on the proposed conveyance of the City property as requested by Tenth and Main, LLC; and,

WHEREAS, the City Assessor, Department of Neighborhood Services, Department of Public Works, and Department of Parks and Recreation have reviewed the proposed conveyance and have no objection thereto;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is authorized to execute a deed of quitclaim, in form approved by the City Attorney, for that portion of the Jefferson Park Avenue right of way, approximately 5,770 square feet in area, adjacent to Parcels T.M. 11-1, 11-2, 11-3, and 11-4 and shown on the attached plat as Parcel X. Compensation to the City for the conveyance shall be nominal consideration. The City Manager is hereby authorized to execute an agreement with Tenth and Main, LLC governing the terms of conveying Parcel X for nominal consideration. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said property conveyance.

Approved by Council
September 8, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING SECTION 15-133
OF ARTICLE V OF CHAPTER 15 (MOTOR VEHICLES)
RELATING TO PARKING SPACES RESERVED
FOR PERSONS WITH DISABILITIES.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 15-133 of Article V (Stopping, Standing and Parking) of Chapter 15 (Motor Vehicles) of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained as follows:

Sec. 15-133. Designation of parking spaces reserved for persons with disabilities; unlawful use of such spaces.

(a) The city manager and traffic engineer may designate spaces on city streets (subject to the process set forth within City Code section 15-4) and within public parking lots of the city, and the owners or persons in control of parking areas of privately owned shopping centers and business offices open to the public, may designate spaces in such areas to be reserved for the exclusive use of persons with disabilities. Such designated spaces shall be identified by above-grade signs erected and maintained in accordance with the requirements of the Code of Virginia § 36-99.11; however, no violation of this section or of section 15-132 shall be dismissed for a property owner's failure to comply strictly with any requirements for disabled parking signs set forth in Va. Code § 36-99.11, provided that the applicable parking space is clearly distinguishable as a parking space reserved for persons with disabilities.

(b) Any vehicle properly displaying a disabled parking license plate or removable windshield placard issued pursuant to Va. Code §46.2-731, §46.2-739(b) or §46.2-1241 may be parked in a parking space reserved for persons with disabilities for up to twenty-four (24) hours, subject to the restrictions set forth in subsection (c) herein. It shall be unlawful for a vehicle not displaying disabled parking license plates or removable windshield placards issued pursuant to Va. Code §46.2-731, §46.2-739(b) or §46.2-1241 to be parked in any space reserved for persons with disabilities.

(c) It shall be unlawful for a person who is not disabled to park a vehicle in a parking space reserved for persons with disabilities, unless the vehicle is being used to transport a disabled person and is properly displaying a disabled parking license plate or removable windshield placard issued pursuant to Va. Code § 46.2-731, It shall be unlawful for a person who is not disabled to park a vehicle in a parking space reserved for persons with disabilities, unless the vehicle is being used to transport a disabled person and is properly displaying a disabled parking license plate or removable windshield placard issued pursuant to Va. Code § 46.2-731, § 46.2-739(B) or § 46.2-1241.

(d) Any police officer or other uniformed personnel employed by the city, and any volunteer serving in a unit established by the chief of police to enforce violations of this section, may issue a summons or parking ticket for any violation of this section, and the owner of a private parking area shall not be required to obtain a warrant for or in connection with any such violation.

(e) In any prosecution charging a violation of this section, proof that the vehicle described in the summons or parking ticket was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

Approved by Council
September 8, 2009

Clerk of City Council

Adopted by City Council on 8/17/09

AN ORDINANCE
AMENDING AND REORDAINING SECTIONS 34-1105 AND 34-1171 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, TO CREATE SPECIFIC HEIGHT LIMITS FOR ACCESSORY BUILDINGS, ACCESSORY STRUCTURES AND EXTERNAL ACCESSORY DWELLING UNITS, AND TO REVISE REGULATIONS PERTAINING TO THE FOOTPRINT OF EXTERNAL ACCESSORY DWELLING UNITS.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that Sections 34-1105 and 34-1171 of Chapter 34 (Zoning) of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, as follows:

CHAPTER 34. ZONING
ARTICLE IX. Generally Applicable Regulations

. . .

Sec. 34-1105. Accessory buildings and structures.

(a) No accessory building or structure shall:

(1) Be constructed upon a lot until the construction of the main building has been actually commenced;

(2) Be used for dwelling purposes (except for accessory apartments, where such apartments are otherwise permitted within a residential zoning district);

(3) Be located within any front yard; or, on a corner lot, project into the required yard adjacent to any street frontage; or

(4) ~~Exceed the height of the principal building or structure on the same lot.~~ Exceed twenty five (25) feet in height or the highest point of the primary dwelling unit's roof surface, whichever is less, and the eave of the accessory structure shall not be higher than the eave of the primary structure.

(b) Accessory buildings may be erected in a required rear yard, provided that in any residential zone, accessory buildings and structures (when located within a required rear yard):

(1) Cumulatively shall not occupy more than thirty (30) percent of a rear yard, and

(2) Shall not be nearer than five (5) feet to any side or rear lot line. However, when a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley.

(c) Fences may be located within any required yard.

. . .

Sec. 34-1171. Standards—Accessory apartments.

(a) In addition to the requirements of section 34-1105, accessory apartments authorized by a provisional use permit shall be subject to the following regulations. Any property containing an accessory apartment shall comply with the following:

(1) One (1) of the two (2) dwelling units on the subject property must be occupied by the owner of the property.

(2) Use and occupancy of each dwelling unit must comply with all applicable building code regulations.

(3) No accessory unit shall exceed twenty five (25) feet in height or the highest point of the primary dwelling unit's roof surface, whichever is less.

(4) Notwithstanding any other residential occupancy provisions set forth within this zoning ordinance, no accessory apartment may be occupied by more than two (2) persons.

(b) In addition to the requirements set forth above in paragraph (a), the following shall apply to interior accessory apartments:

(1) The accessory apartment may not have its own separate entrance located on any façade of the principal ~~structure~~ dwelling that fronts on a public street. No exterior stairs providing access to the accessory apartment shall be visible from any public street.

(2) The accessory apartment must be entirely contained within the principal structure.

(3) The gross floor area of the accessory apartment may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located.

~~(4) In addition to the requirements set forth above in paragraph (a), exterior accessory apartments must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building code regulations.~~

(c) In addition to the requirement set forth in paragraph (a), the following shall apply to exterior accessory apartments:

(1) Must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building code regulations.

(2) The footprint of the exterior accessory apartment may not exceed forty (40) percent of the footprint of the primary dwelling on the property.

Approved by City Council
August 17, 2009

Barbara K. Ronan
Acting Clerk of Council

AN ORDINANCE
AUTHORIZING THE ABANDONMENT OF
A NATURAL GAS EASEMENT GRANTED TO THE CITY BY
NEXT GENERATION, LLC

WHEREAS, Next Generation, L.L.C. is the owner of property located on Route 29 (National Ground Intelligence Center) in the County of Albemarle; and

WHEREAS, Next Generation L.L.C. has requested abandonment of a portion of the permanent natural gas easement granted to the City by deed dated June 27, 2000, of record in the Albemarle County Circuit Court Clerk's Office in Deed Book 1931, page 330, which crosses the above-referenced property; and

WHEREAS, the Director of Public Utilities has reviewed the request and determined that the City no longer has a need for the above-described easement; now, therefore,

WHEREAS, in accordance with Virginia Code Sec. 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the abandonment of this easement; and

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Abandonment of Easement, in form approved by the City Attorney, to abandon the above-described natural gas easement.

Approved by Council
August 17, 2009

Clerk of City Council

AN ORDINANCE
CLOSING, VACATING, AND DISCONTINUING
THAT PORTION OF AN UNACCEPTED RIGHT OF WAY
LOCATED OFF MERIDIAN STREET ON BLOCK 42
OF CITY REAL ESTATE TAX MAP 60,
ADJACENT TO PARCELS 46 THROUGH 65 ON CITY TAX MAP 60.

WHEREAS, the owners of properties adjoining an alley off Meridian Street and adjoining Parcels 46 through 65 on City Tax Map 60 have initiated a petition seeking to close the alley located adjacent to their properties; and

WHEREAS, the Alley which is the subject of this petition was created, circa 1894, by a subdivision plat recorded in the Albemarle County land records at Deed Book 96, page 72, and subsequently annexed into the City; however, the City has never formally accepted the 12-foot right-of-way by establishing any public street in this location; and

WHEREAS, the following utility easements cross a portion of the alley and are of record in the Charlottesville Circuit Court Clerk's Office in Deed Book 401, page 252 (sanitary sewer and storm water lines by easement dated April 18, 1979) and Deed Book 402, page 189 (sanitary sewer and storm water lines by easement dated April 12, 1979); and

WHEREAS, owners along the Alley proposed to be vacated have been duly notified; and

WHEREAS, following notice to the public pursuant to Va. Code Sec. 15.2-2272, a public hearing by the City Council was held on July 6, 2009, and comments from the City staff, and the public were made and heard; and

WHEREAS, after consideration of the factors set forth within the City's Street Closing Policy, adopted by Council on February 7, 2005, as well as matters specified within § 15.2-2272 of the Code of Virginia, this Council finds and determines that the petitioners' request should be granted; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the subject Alley off Meridian Street is hereby closed, vacated and abandoned, the portion to be vacated being more particularly described as follows:

> A twelve (12) foot platted alley, shown on the 2009 City Real Estate Tax Maps on Tax Map 60, in Block 42, adjoining Parcels 46 through 65 on 2009 City Tax Map 60.

PROVIDED, HOWEVER, that the City of Charlottesville hereby reserves unto itself a perpetual easement ten feet in width on either side of the center line of any water, gas, sanitary or storm sewer mains presently located in the area being vacated, including the perpetual right of ingress and egress over the vacated area for the purpose of installing, maintaining, repairing or replacing such utility lines or mains.

BE IT FURTHER ORDAINED that, unless an appeal from Council's enactment of this ordinance is made to the Charlottesville Circuit Court within thirty (30) days of the date of adoption, the Clerk of the Council shall send a copy of this ordinance with plat attached to the Clerk of the Circuit Court for recordation in the current street closing book.

Approved by Council
July 20, 2009

Clerk of City Council

AN ORDINANCE APPROVING A REQUEST TO REZONE PROPERTY LOCATED ON LONGWOOD DRIVE FROM R-2 (RESIDENTIAL)TO PLANNED UNIT DEVELOPMENT (PUD)

WHEREAS, Neighborhood Investments, LLC ("Applicant"), the Owner of property located on Longwood Drive (101-106, 124-A, 126, 128-A, 129, 130-A, and 131-135), identified on City Tax Map 20 as Parcels 263 through 272 and Tax Map 21A as Parcels 130, 131, 132, 132.1, 144, 144.1, 145 and 146, submitted an application seeking a rezoning of such property from R-2 Residential to Planned Unit Development (PUD), hereinafter the "Proposed Rezoning"; and

WHEREAS, a joint public hearing on the Proposed Rezoning was held before the City Council and Planning Commission on January 13, 2009, following notice to the public and to adjacent property owners as required by law; and

WHEREAS, the Applicant prepared a Preliminary Proffer Statement dated December 23, 2008, as required by City Code Section 34-64(c), and presented it to the Planning Commission on January 13, 2009; and

WHEREAS, on January 13, 2009, the Planning Commission voted to recommend denial of the Proposed Rezoning to the City Council because of traffic concerns and the impact on the availability of affordable housing; and

WHEREAS, in accordance with Sec. 34-65(1) of the City Code, this Council on May 18, 2009 declined to consider modifications to the above-referenced Preliminary Proffer Statement, presented to Council as the Statement of Final Proffer Conditions, dated March 20, 2009; and

WHEREAS, on May 18, 2009, this Council deferred the Proposed Rezoning to its meeting on July 6, 2009, at which meeting there will be a public hearing on the Proposed Rezoning to include consideration of the Statement of Final Proffer Conditions, dated March 20, 2009; and

WHEREAS, legal notice of the public hearing to be held on July 6, 2009 was advertised in accordance with Va. Code Sec. 15.2-2204; and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare or good zoning practice requires approval of the Proposed Rezoning; that both the existing "R-2" Residential and the proposed "PUD" (subject to proffered development conditions) zoning classifications are reasonable; and that the Proposed Rezoning is consistent with the 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 "R-2 Residential" to "Planned Unit Development", subject to the proffered development conditions set forth within the Statement of Final Proffer Conditions dated March 20, 2009, all of the property located on Longwood Drive (101-106, 124-A, 126, 128-A, 129, 130-A, and 131-135), identified on City Tax Map 20 as Parcels 263 through 272 and Tax Map 21A as Parcels 130, 131, 132, 132.1, 144, 144.1, 145 and 146, consisting of approximately 4.58 acres.

Approved by Council
July 20, 2009

Clerk of City Council

AN ORDINANCE AMENDING AND REORDAINING SECTIONS 34-1027, 34-1038, 34-1046, AND 34-1200 OF CHAPTER 34 (ZONING) RELATING TO CAFÉ AND SANDWICH BOARD SIGNS.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Sections 34-1027, 34-1038 and 34-1046 of Article IX (Generally Applicable Regulations), and Section 34-1200 of Article X (Definitions), of Chapter 34 (Zoning) of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, as follows:

CHAPTER 34. ZONING

ARTICLE IX. Generally Applicable Regulations
Division 4. Signs

Sec. 34-1027. Signs permitted in all districts without permits.

Regardless of the zoning district in which they are located, no permit shall be required for the following signs, if they are erected, installed, and maintained in accordance with applicable requirements of this article:

(1) Signs not exceeding four (4) square feet in area which advertise for sale or rental the land or building upon which such signs are located. Such signs shall not be illuminated and shall not be more than four (4) feet in height.

(2) Professional name plates or plaques, not exceeding one (1) square foot in area, affixed to the wall of a building.

(3) Signs not over twenty-five (25) feet in area identifying municipal or governmental buildings and offices or buildings used for religious purposes, when erected upon the building or land upon which such building is located.

(4) Commemorative plaques, historical markers, memorial signs, monumental inscriptions or tablets as approved by the city's board of architectural review where required. No such sign shall exceed fifteen (15) square feet.

(5) Signs denoting the architect, engineer or contractor when placed at a construction site. Such signs shall not be illuminated and shall not exceed an area of sixteen (16) square feet, nor shall they remain standing after construction has been completed.

(6) Traffic, utility, municipal, legal notice, directional, informational signs, railroad crossing signs, danger, safety, temporary or emergency signs and holiday decorations or signs/banners across a public right-of-way when erected, established or required by a public authority or by the city manager.

(7) Signs not exceeding six (6) square feet in area designating entrances, exits or conditions of use for parking lots (including, without limitation, any handicapped parking spaces), or providing similar, non-commercial information, when such signs are required by any public authority.

(8) Subdivision or housing development signs, provided that such signs do not exceed six (6) feet in height and are less than twenty-five (25) square feet in area. No such sign shall contain information other than the name of the residential development.

(9) On a property used for residential purposes, signs identifying a single-family dwelling, its occupant, or its location, or a home professional office (but not a home occupation) not exceeding one (1) square feet in area.

(10) "No trespassing" signs, and similar signs posted for security or warning purposes, not exceeding one (1) square foot.
(11) Political signs.
(12) Flags flying from a flagpole, where no more than three (3) flags are displayed at any one (1) time, no individual flag exceeding fifty (50) square feet in area.
(13) Signs indicating the hours of operation for a business (other than a home occupation), where located in the window of a business and not in excess of two (2) square feet.
(14) Signs containing the words "Private drive," not exceeding two (2) square feet, limited to one (1) sign per entrance drive.
(15) Signs requested and approved as part of a provisional use permit.
(16) Official notices or advertisements posted according to statutory notice or other advertising requirements imposed by law by any public, local or state official, or court officer or any trustees under deeds of trust or other similar instruments.
(17) No more than two (2) "entrance" or "exit" signs at each vehicular entrance to and exit from a parking lot, not to exceed two (2) square feet each. Signs specifying parking restrictions, not to exceed three (3) square feet each, may be affixed to a wall and located no less than twenty-five (25) feet apart. The signs may be freestanding if no larger than two (2) square feet, located on the perimeter of a parking lot no less than twenty-five (25) feet apart, and at a height no greater than four (4) feet.
(18) Window signs, provided they do not obscure more than fifty (50) percent of the total glazed area on each facade of the building.
(19) Café signs, used for the purpose of café identification or the display of menus, may be located within the boundaries of an outdoor café or attached to the café bollards or supports. Café signs shall be no taller than five (5) feet in height and the sign face shall have an area no greater than three (3) square feet in area per side. A business may be permitted to have a café sign or a sandwich board sign, but not both.

Sec. 34-1038. General sign regulations.

(a) *Awning or canopy sign.* . . . .
(b) *Freestanding signs.* . . . .
(c) *Marquee signs.* . . . .
(d) *Monument signs.* . . . .
(e) *Pole mounted signs.* . . . .
(f) *Projecting signs.* . . . .
(g) *Sandwich board signs.*
(1) Sandwich board signs are permitted subject to the conditions set out in this section.
(2) One (1) sandwich board sign, limited to two (2) faces, may be located on property occupied by a lawful use in any zoning districts allowing commercial uses. Only one (1) such sign shall be allowed per city tax map parcel.
(3) Such sign shall not exceed a height of four (4) feet, or an area of eight (8) square feet per sign face.
(4) Such sign shall allow for at least a thirty-six (36) inch wide clearance if placed within any public pedestrian Right-of-way.
(5) Such sign may not be illuminated.
(6) No sandwich board sign shall be located in any required off-street parking space, driveway, alley or fire lane.
(7) Businesses fronting on the downtown pedestrian mall ~~(but not on any side street stemming from the downtown pedestrian mall)~~ may place a sandwich board sign on the mall immediately in front of their place of business, and on top of the drain channel

that runs parallel to the building facades. ~~, and b~~Businesses fronting on each side street leading from the Downtown Mall to either Water Street or Market Street, fronting on West Main Street from Ridge-McIntire to 13th Street, NW, and fronting on the "Corner" district along University Avenue from 13th Street, NW to Chancellor Street and along Elliewood Avenue and 14th Street, NW from University Avenue to Wertland Street may place a sandwich board sign immediately adjacent to their property, provided that:

a. The sign is removed during non-business hours;
b. The sign is no wider than twenty-four (24) inches and allows for a minimum of thirty-six (36) contiguous inches of open sidewalk space;
c. The person placing the sign first agrees to indemnify the city against any liability arising from the placement of such a sign; and
d. No more than one (1) such sign shall be allowed per city tax map parcel.

(8) No sandwich board sign may be placed in an architectural design control or entrance corridor district unless it is first approved by the board of architectural review or planning commission, respectively, in the case of new construction, or by the director, in all other cases.

Sec. 34-1046. Reserved.

~~**Sec. 34-1046. Downtown mall wayfinding signs--Special regulations.**~~

~~(a) Businesses fronting on each sidestreet leading from the Downtown Mall to either Water Street or Market Street may have signs which are part of a wayfinding sign placed at the locations on the Mall designated by the city; provided that the person placing the sign first agrees to indemnify the city against any liability arising from the placement, damage to or loss of such signs and that each individual business sign panel shall be eighteen (18) inches in width by twenty-four (24) inches in height with a three-quarter-inch black border.~~

(b) ~~Businesses in the downtown area bounded by the properties on the north side of East High Street to Ridge-McIntire to Garrett Street to Avon Street, may have signs which are part of the wayfinding signs placed at the designated locations on the downtown mall as set forth in subsection (a) above; provided that the person placing the sign first agrees to indemnify the city against any liability arising from the placement, damage to or loss of such signs and that each individual business sign panel shall be eighteen (18) inches in width by five (5) inches in height with a three-quarter-inch black border, beige background color and lettering in the "CHARLOTTESVILLE" style of the city directional signs. Upon request Neighborhood Development Services will provide specifications illustrating this style. Such signs shall be in grouping of no more than four (4) signs within the eighteen-inch wide by twenty-four inch long area allowed for signs in subsection (a) above.~~

~~GRAPHIC LINK: Click here~~

Sec. 34-1200. Definitions.

The following words, terms and 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:

. . .

Sign, back lit or halo means a sign consisting of individual letters with opaque faces and returns, usually mounted on a wall surface. A lighting source is mounted on the back of the letters so that

it is not directly visible, but illuminates the wall surface behind the opaque letter.

Sign, café means a sign associated with and located within or attached to an outdoor café, for the purposes of café identification, display of menus, or other information related to the operation of the café.

Sign, canopy means a sign attached to or displayed on a canopy.

. . .

Approved by Council
July 20, 2009

Clerk of City Council

ORDINANCE
AMENDING AND REORDAINING SECTION 15-204
OF ARTICLE V OF CHAPTER 15 OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
EXPANDING PERMIT PARKING ZONE 9.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 15-204 of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

Sec. 15-204. Designation of permit parking zones.

The following areas of the city are hereby designated as permit parking zones, and any streets referenced as boundaries shall be deemed included as part of such zones:

Zone 1. That area bounded on the north by Ivy Road, from the city limits to Emmett Street, then along Emmett Street to Barracks Road, then along Barracks Road to Rugby Road; bounded on the east by Rugby Road to Cabell Avenue, then along Cabell Avenue to Grady Avenue, then along Grady Avenue to 10th Street, then along 10th Street to West Street, then along West Street in a line extending to the Southern Railroad tracks; bounded on the south by the Southern Railroad tracks; and bounded on the west by the city limits.

Zone 4. That area bounded on the north by Perry Drive, Park Lane East, and Poplar Street, on the east by Locust Avenue, on the south by East High Street, and on the west by Altamont Street and McIntire Road and including Altamont Circle and Walker Street.

Zone 6. That area bounded on the east by 5th Street, N.W., on the north by the southern property line of the city maintenance yard, on the west by 7 1/2 Street, N.W., on the south by Elsom Street, the 100 block of 7th Street, N.W. and Commerce Street.

Zone 7. That area bounded on the north by Grove Street, Estes Street and the CSX Railroad, on the west by Baker Street and North Baker Street, on the south by Cherry Avenue, and on the east by 5th Street, S.W.

Zone 8. That area consisting of South Street from Ridge Street to its terminus at Second Street, S.E.

Zone 9. That area bounded on the north by ~~High~~ Hazel Street, on the east by Meade Avenue, on the south by East Market Street, and on the west by 10th Street, N.E and Locust Avenue.

Approved by Council
July 20, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING CHAPTER 34
OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
BY AMENDING SECTIONS 34-420, 34-480, 34-796, AND 34-1200, AND
ADDING A NEW SECTION TO BE NUMBERED 34-936,
ALL RELATING TO SINGLE ROOM OCCUPANCY FACILITIES.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Sections 34-420, 34-480, 34-796 and 34-1200 of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, and a new section to be numbered 34-936 is hereby added to the Charlottesville City Code, 1990, as amended, all to read as follows:

CHAPTER 34. ZONING

ARTICLE III. RESIDENTIAL ZONING DISTRICTS
Division 7. Use Matrix.

Sec. 34-420. Use matrix—Residential zoning districts.

The uses and residential densities allowed within the city's residential zoning districts are those identified within the matrix following below. (For a list of each of the city's zoning districts and their abbreviations, see section 34-216.)

ZONING DISTRICTS	R-1	R-1U	R-1S	R-1SU/ R-1US	R-2	R-2U	R-3	R-UMD	R-UHD	MR	MHP
. . .											
Occupancy, residential											
3 unrelated persons	B	B	B	B	B	B	B	B	B	B	
4 unrelated persons	B		B		B	B	B	B	B	B	
Residential density (developments)											
1-21 DUA							B	B	B	B	
22-43 DUA							S	B	B	S	
44-64 DUA							S		B		
65-87 DUA							S		S		
88-200 DUA											
Residential treatment facility											
1-8 residents	B	B	B	B	B	B	B			B	
8+ residents					S	S	S				
Shelter care facility							S				
Single room occupancy facility							S			S	
. . .											

. . .

ARTICLE IV. COMMERCIAL DISTRICTS
DIVISION 4. USE MATRIX

Sec. 34-480. Use matrix—Commercial districts.

The uses and residential densities allowed within the city's commercial zoning districts are those identified within the matrix following below. (For a list of each of the city's zoning districts and their abbreviations, see section 34-216.)

ZONING DISTRICTS	B-1	B-2	B-3	M-I	ES	IC
. . .						
Occupancy, residential						
3 unrelated persons	B	B	B	B		
4 unrelated persons	B	B	B	B		B
Residential density (developments)						
1-21 DUA	B	B	B	S		M
22-43 DUA	S	S	S			S
44-64 DUA	S	S	S			S
65-87 DUA	S	S	S			
88-200 DUA						
Residential treatment facility						
1-8 residents	B	B	B	B	B	B
8+ residents						
Shelter care facility	B	B	B			
Single room occupancy facility	S	S	S	S		S

ARTICLE VI. MIXED USE CORRIDOR DISTRICTS
DIVISION 16. USE MATRIX

Sec. 34-796. Use matrix—Mixed use corridor districts.

The uses and residential densities allowed within the city's mixed use corridor districts are those identified within the matrix following below. (For a list of each of the city's zoning districts and their abbreviations, see section 34-216.)

ZONING DISTRICTS	D	DE	DN	WMN	WMS	CH	HS	NCC	HW	WSD	URB	SS	CD	CC
Occupancy, residential														
3 unrelated persons														
4 unrelated persons	B	B	B	B	B	B	B	B		B	B	B	B	
Residential density (developments)														
1-21 DUA	B	B	B	M	M	B	B	M	B	B	B	B	B	B
22-43 DUA	B	M/S	M	M/S	M	M/S		S	S	B	S	B	M	M/S
44-64 DUA	S	M	S		M					B	S	S	S	S
65-87 DUA	S	M	S		S	S				B		S	S	S
88-120 DUA	S	S	S	S	S					S		S	S	S
121-200 DUA	S	S		S	S					S		S		
201-240 DUA	S	S			S					S		S		
Residential treatment facility														
1-8 residents	B	B	B	B	B	B	B	B	B	B	B	B	B	B
8+ residents	S	S	S	S	S		S	S	S	S	S	S	S	S
Shelter care facility	S	S	S	S	S		S	S	S	S	S	S	S	S
Single room occupancy facility	S	S	S	S	S	S	S			S	S	S	S	S

. . .

ARTICLE VIII. IMPROVEMENTS REQUIRED FOR DEVELOPMENTS
Division 6. Additional Standards for Specific Uses.

. . .

Sec. 34-936. Single room occupancy facility.

(a) An application for a special use permit for a single room occupancy facility (SRO) shall include all of the documents required for an application for a special use permit under section 34-158 and a preliminary site plan as required by section 34-827. The applicant shall also provide an outline of operational policies and regulations for the facility and a description of the supportive services that will be provided for residents.

(b) In determining whether to grant a special use permit for a single room occupancy facility, in addition to other general criteria, the city council shall consider:
- (1) The proximity of the proposed facility to mass transit lines and to retail, medical, recreational, employment centers and other services necessary to support the residents of the facility;
- (2) The proposed layout of the site, including open space and landscaping;
- (3) The massing and scale of the project and the compatibility of the proposed building with nearby residential and commercial areas; and
- (4) The information required by subsection (a) above.

(c) Single room occupancy facilities shall be subject to the following standards:
- (1) Double occupancy units shall not make up more than fifteen (15) percent of an SRO facility;
- (2) The maximum number of single room occupancy units in the facility shall be established by city council in the special use permit, irrespective of the maximum dwelling unit density permitted in the zoning district in which the facility is located. In addition to general criteria for special permits and the requirements in subsection (b) above, city council may consider surrounding density and adjacent land uses.
- (3) Twenty-four hour on-site management must be provided, including a manager who shall reside in a unit within the facility. The rules and enforcement shall be reviewed as part of the special use permit.
- (4) There shall be one (1) parking space provided for every three (3) units plus one (1) space for each employee, based on largest shift, provided that city council may allow a lesser number as part of the special use permit.
- (5) There shall be bicycle storage space to accommodate one (1) bicycle space for every four (4) dwelling units.
- (6) The facility must be located within one-fourth (1/4) mile of an active public transit stop.
- (7) Laundry facilities shall be required, as follows: one (1) washer and one-half (1/2) dryer for every eight (8) units, plus one (1) additional dryer for every sixteen (16) units. There shall be a minimum of two (2) washers and two (2) dryers on site.

(8) SRO units shall be for the purpose of providing affordable housing and shall not serve the purpose of recreational or travel needs.

ARTICLE X. DEFINITIONS

Sec. 34-1200. Definitions.

. . .

Single room occupancy (SRO) facility means a residential building or buildings which contain multiple single room dwelling units. Each unit is for occupancy by no more than two (2) individuals and must meet the building code's minimum floor area standards and have a maximum square footage of 450 square feet. The unit must contain food preparation and sanitary facilities. The facility must provide counseling and training for social, behavioral, and job seeking/training skills for residents.

. . .

Approved by Council
July 20, 2009

Clerk of City Council

AN ORDINANCE
APPROVING A REQUEST TO REZONE PROPERTY LOCATED AT
814 HINTON AVENUE
FROM R-1S (RESIDENTIAL)TO NEIGHBORHOOD COMMERCIAL CORRIDOR (NCC)

WHEREAS, William Ewell, Lillian Ewell and Ian Day ("Applicant"), the Owners of property located at 814 Hinton Avenue, identified on City Tax Map 58 as Parcel 263, submitted an application seeking a rezoning of such property from R-1S Residential to Neighborhood Commercial Corridor (NCC), hereinafter the "Proposed Rezoning"; and

WHEREAS, the Applicant prepared a Preliminary Proffer Statement dated December 23, 2008, as required by City Code Section 34-64(a), and presented it to the Planning Commission on May 12, 2009; and

WHEREAS, a joint public hearing on the Proposed Rezoning was held before the City Council and Planning Commission on May 12, 2009, following notice to the public and to adjacent property owners as required by law; and

WHEREAS, on May 12, 2009, the Planning Commission voted to recommend denial of the Proposed Rezoning to the City Council because of traffic and noise concerns in the Belmont neighborhood; and

WHEREAS, in accordance with Sec. 34-65 of the City Code, the Applicant submitted a Final Proffer Statement dated May 22, 2009; and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare or good zoning practice requires the Proposed Rezoning; that both the existing "R-1S" Residential district and the proposed Neighborhood Commercial Corridor district (subject to proffered development conditions) zoning classifications are reasonable; and that the Proposed Rezoning is consistent with the 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 "R-1S Residential" to "Neighborhood Commercial Corridor", subject to the proffered development conditions set forth within the Final Proffer Statement dated May 22, 2009, all of the property located at 814 Hinton Avenue, identified on City Tax Map 58 as Parcel 263, consisting of approximately 6,930 square feet of land.

Approved by Council
July 6, 2009

Jeanne Cox
Clerk of City Council

AN ORDINANCE
AUTHORIZING THE ABANDONMENT OF A DRAINAGE EASEMENT ON PROPERTY OWNED BY GROVE STREET PROPERTIES LLC ON KING STREET.

WHEREAS, Grove Street Properties, LLC, the owner of property located on King Street, has requested abandonment of a drainage easement across property designated as Parcels 75 and 85 on City Real Estate Tax Map 30, as shown on the attached two-page plat made by Earl W. Mottley, L.S., dated February 4, 2009; and

WHEREAS, in accordance with Virginia Code ' 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the abandonment of this easement; and

WHEREAS, the staff of Engineering and Public Utilities have reviewed the request and determined that the City no longer has a need for the above-described easement because Grove Street Properties, LLC will be establishing a new storm drainage system, as shown on the approved site plan; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Abandonment of Easement, in form approved by the City Attorney, to abandon the above-described easement.

Approved by Council
July 6, 2009

Jeanne Cox
Clerk of City Council

AN ORDINANCE TO ESTABLISH A GRANT PROGRAM TO PROMOTE AND PRESERVE HOMEOWNERSHIP BY LOW- AND MODERATE-INCOME PERSONS WITHIN THE CITY OF CHARLOTTESVILLE

WHEREAS, effective July 1, 2006, §50.7 of the Charter of the City of Charlottesville authorizes City Council to make grants and loans of funds to low- or moderate-income persons to aid in the purchase of a dwelling within the City; and

WHEREAS, this City Council desires to offer a monetary grant for Fiscal Year ~~2008-2009~~ 2009-2010, to aid low- and moderate-income citizens with one of the ongoing expenses associated with the purchase of a dwelling, *i.e.* real estate taxes; and

WHEREAS, public funding is available for the proposed grant;

NOW, THEREFORE, effective July 1, ~~2008~~ 2009 and for calendar year ~~2008~~ 2009, the Charlottesville City Council hereby ordains:

Grant—provided.

(a)There is hereby provided to any natural person, at such person's election, a grant in aid of payment of the taxes owed for the taxable year on real property in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. The grant provided within this section shall be subject to the restrictions, limitations and conditions prescribed herein following.

(b)If, after audit and investigation, the commissioner of revenue determines that an applicant is eligible for a grant, the commissioner of revenue shall so certify to the city treasurer, who shall implement the grant as a prepayment on the applicant's real estate tax bill due on December 5 of the taxable year.

(c)The amount of each grant made pursuant to this ordinance shall be $525 for taxpayers with a household income of $0-25,000, and shall be $375 for taxpayers with a household income from $25,001-$50,000, to be applied against the amount of the real estate bill due on December 5, ~~2008~~ 2009.

Definitions.

The following words and phrases shall, for the purposes of this division, have the following respective meanings, except where the context clearly indicates a different meaning:

(1)*Applicant* means any natural person who applies for a grant authorized by this ordinance.

(2)*Dwelling* means a residential building, or portion such building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which a grant is sought pursuant to this ordinance.

(3)*Grant* means a monetary grant in aid of payment of taxes owed for the taxable year, as provided by this ordinance.

(4)*Spouse* means the husband or wife of any applicant who resides in the applicant's dwelling.

(5)*Real estate* means a city tax map parcel containing a dwelling that is the subject of an grant application made pursuant to this ordinance.

(6)*Taxes owed for the current tax year* refers to the amount of real estate taxes levied on the dwelling for the taxable year.

(7)*Taxable year* means the calendar year beginning January 1, ~~2008~~ 2009 .

(8)*Household income* means (i) the adjusted gross income, as shown on the federal income tax return as of December 31 of the calendar year immediately preceding the taxable year, or (ii) for applicants for whom no federal tax return is required to be filed, the income for the calendar year immediately preceding the taxable year: of the applicant, of the applicant's spouse, and of any other person who is an owner of and resides in the applicant's dwelling. The commissioner of revenue shall establish the household income of persons for whom no federal tax return is required through documentation satisfactory for audit purposes.

Eligibility and restrictions, generally.

A grant awarded pursuant to this ordinance shall be subject to the following restrictions and conditions:

(1)The household income of the applicant shall not exceed $50,000.

(2)The assessed value of the real estate owned by the applicant shall not exceed $365,000.

(3)The applicant shall own an interest in the real estate that is the subject of the application (either personally or by virtue of the applicant's status as a beneficiary or trustee of a trust of which the real estate is an asset) and the applicant shall not own an interest in any other real estate (either personally or by virtue of the applicant's status as a beneficiary or trustee of a trust of which the real estate is an asset).

(4)As of January 1 of the taxable year and on the date a grant application is submitted, the applicant must occupy the real estate for which the grant is sought as his or her sole residence and must intend to occupy the real estate throughout the remainder of the

taxable year. An applicant who is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care shall be deemed to meet this condition so long as the real estate is not being used by or leased to another for consideration.

(5)An applicant for a grant provided under this ordinance shall not participate in the real estate tax exemption or deferral program provided under Chapter 30, Article IV of the City Code (Real Estate Tax Relief for the Elderly and Disabled Persons) for the taxable year, and no grant shall be applied to real estate taxes on property subject to such program.

(6)An applicant for a grant provided under this division shall not be delinquent on any portion of the real estate taxes to which the grant is to be applied.

(7)Only one grant shall be made per household.

Procedure for application.

(a)Between July 1 and September 1 of the taxable year, an applicant for a grant under this ordinance shall file with the commissioner of revenue, in such manner as the commissioner shall prescribe and on forms to be supplied by the city, the following information:

(1)the name of the applicant, the name of the applicant's spouse, and the name of any other person who is an owner of and resides in the dwelling;

(2)the address of the real estate for which the grant is sought;

(3) the household income;

(4)such additional information as the commissioner of revenue reasonably determines to be necessary to determine eligibility for a grant pursuant to this ordinance.

(b)Changes in household income, ownership of property or other eligibility factors occurring after September 1, but before the end of the taxable year, shall not affect a grant once it has been certified by the commissioner of the revenue, in which case such certified grant shall be applied to the subject real estate.

(c)Any person who willfully makes any false statement in applying for a grant under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $500 for each offense.

Approved by Council
June 15, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING
CHAPTER 31 (UTILITIES) OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
TO ESTABLISH NEW UTILITY RATES AND SERVICE FEES
FOR CITY GAS, WATER AND SANITARY SEWER

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

1. Sections 31-56, 31-57, 31-60, 31-61, 31-62, 31-153 and 31-156 of Chapter 31, of the Code of the City of Charlottesville, 1990, as amended, are hereby amended and reordained as follows:

CHAPTER 31. UTILITIES

ARTICLE II. GAS

DIVISION 2. TYPES OF SERVICE; SERVICE CHARGES

Sec. 31-56. Rates - Generally.

The firm service gas rates based on monthly meter readings shall be as follows:

Basic Monthly Service Charge	$ 10.00	
First 3,000 cubic feet, per 1,000 cubic feet	$ ~~18.5264~~	12.7844
Next 3,000 cubic feet, per 1,000 cubic feet	$ ~~17.4148~~	12.0173
Next 144,000 cubic feet, per 1,000 cubic feet	$ ~~15.5622~~	10.7389
All over 150,000 cubic feet, per 1,000 cubic feet	$ ~~15.1916~~	10.4832

Sec. 31-57. Same - Summer air conditioning.

(a) Gas service at the following rate shall be available to customers who request such service in writing and who have installed and use air conditioning equipment operated by natural gas as the principal source of energy. The air conditioning rate will be available for bills rendered during the months of May through October of each year and shall be as follows:

(1) *Single Family Residential.* For the first four thousand (4,000) cubic feet of gas used per month, the charge shall be the sum as set forth under section 31-56, and for all gas used in excess of four thousand (4,000) cubic feet per month, the rate shall be ~~fourteen dollars ($14.00)~~ nine dollars ($9.00) per one thousand (1,000) cubic feet.

(2) *Other.* All gas used for summer air conditioning shall be separately billed at the rate of ~~fourteen dollars ($14.00)~~ nine dollars ($9.00) per one thousand (1,000) cubic feet. All gas used during billing periods other than May through October of each year shall be at the rates set forth in section 31-56, 31-60 or 31-61 of this Code, as applicable.

(b) The director of finance may, when it is impracticable to install a separate meter for air conditioning equipment, permit the use of one (1) meter for all gas delivered to the customer, in which instance the director of finance shall estimate the amount of gas for uses other than air conditioning and shall bill for such gas at the rates provided in applicable sections of this division.

. . .

Sec. 31-60. Interruptible sales service.

(a) *Conditions. . . .*

(b) *Customer's agreement as to discontinuance of service. . . .*

(c) *Basic monthly service charge.* The basic monthly charge for interruptible sales service shall be sixty dollars ($60.00).

(d) *Rate.* For all gas consumed by interruptible customers the rate shall be ~~$15.1041~~ 10.0170 per one thousand (1,000) cubic feet for the first six hundred thousand (600,000) cubic feet, and ~~$13.9652~~ 8.4431 per one thousand (1,000) cubic feet for all volumes over six hundred thousand (600,000) cubic feet.

(e) *Annual Minimum Quantity.* Interruptible rate customers shall be obligated to take or pay for a minimum quantity of one million two hundred thousand (1,200,000) cubic feet of gas annually. Each year, as of June 30, the director of finance shall calculate the total consumption of each interruptible customer for the preceding twelve (12) monthly billing periods, and shall bill any customer that has consumed less than the minimum quantity for the deficient amount at the rate of ~~$13.9652~~ 8.4431 per one thousand (1,000) cubic feet. Any new customer shall be required to enter into a service agreement with the City prior to the start of service. If an interruptible customer terminates service the annual minimum requirement shall be prorated on the basis of one hundred thousand (100,000) cubic feet per month for each month the customer has received service since the last June 30 adjustment.

(f) *Contract required. . . .*

Section 31-61. Interruptible Transportation Service.

(a) *Generally. ...*

(b) *Rate.* The rate for transportation service shall be ~~$4.5603~~ 4.3724 per decatherm for a combined IS and TS customer and ~~$3.07~~ 2.94 per decatherm for a customer receiving only TS gas.

(c) *Basic Monthly Service Charge.* Each combined IS and TS customer shall pay a monthly service charge of $150.00 per meter for the right to receive TS service plus the basic monthly service charge of $60.00 per meter for IS gas. TS only customers shall pay a monthly service charge of $150 per meter.

(d) . . .
(e) . . .
(f) . . .
(g) . . .
(h) . . .
(i) . . .
(j) . . .

Section 31-62. Purchased gas adjustment.

In computing gas customer billings, the basic rate charges established under sections 31-56, 31-57, 31-60 and 31-61 shall be adjusted to reflect increases and decreases in the cost of gas supplied to the city. Such increases or decreases shall be computed as follows:

(1) For the purpose of computations herein, the costs and charges for determining the base unit costs of gas are:

a. Pipeline tariffs;
b. Contract quantities; and
c. Costs of natural gas, in effect or proposed March 1, ~~2008~~ 2009.

(2) Such base unit costs are ~~$11.041~~ 6.2961 per one thousand (1,000) cubic feet for firm gas service and ~~$10.0508~~ 4.8311 per one thousand (1,000) cubic feet for interruptible gas service.

(3) In the event of any changes in pipeline tariffs, contract quantities or costs of scheduled natural gas, the unit costs shall be recomputed on the basis of such change in accordance with procedures approved by the city manager. The difference between the unit costs so computed and the base unit costs shall represent the purchased gas adjustment to be applied to all customer bills issued beginning the first billing month after each such change.

. . .

ARTICLE IV. WATER AND SEWER SERVICE CHARGES

. . .

Sec. 31-153. Water rates generally.

(a) Water rates shall be as follows:

	May-September	October-April
(1) Monthly service charge.	$4.00	$4.00
(2) Metered water consumption, per 1,000 cu. ft .	~~$48.17~~ 48.79	~~$37.06~~ 37.53

(b) This section shall not apply to special contracts for the consumption of water which have been authorized by the city council.

Sec. 31-156. Sewer service charges generally.

(a) Any person having a connection directly or indirectly, to the city sewer system shall pay therefor a monthly charge as follows:

(1) A basic monthly service charge of four dollars ($4.00).

(2) An additional charge of ~~thirty-eight dollars and fifty-seven cents ($38.57)~~ forty dollars and thirty cents ($40.25) per one thousand (1,000) cubic feet, of metered water consumption.

(b) Any water customer not discharging the entire volume of water used into the city's sanitary sewer system shall be allowed a reduction in the charges imposed under this section, provided such person installs, at his expense, a separate, City-approved water connection to record water which will not reach the City sewer system. The cost and other terms of City Code section 31-102 shall apply. For customers with monthly water consumption in excess of thirty thousand (30,000) cubic feet, where the director of finance considers the installation of a separate meter to be impracticable, the director may establish a formula which will be calculated to require such person to pay the sewer charge only on that part of the water used by such person which ultimately reaches the city sewers.

2. The foregoing amendments shall become effective July 1, 2009.

Approved by Council
June 1, 2009

Clerk of City Council

AN ORDINANCE
AUTHORIZING ABANDONMENT OF A PERPETUAL EASEMENT FOR STREET AND/OR UTILITY PURPOSES ON PROPERTY OWNED BY WELLINGTON COURT, LLC ON JOHN STREET; and ABANDONMENT OF DRAINAGE EASEMENTS ON PROPERTY OWNED BY WELLINGTON COURT, LLC ON JOHN STREET AND OWNED BY THE FRED APARTMENTS, LLC ON WERTLAND AVENUE.

WHEREAS, Wellington Court, LLC ("Wellington"), the owner of property designated as Parcel 245 on City Tax Map 4, and Parcel "X" adjacent thereto, has requested abandonment of a perpetual easement for street and/or utility purposes, granted to the City in 1969, across Wellington's property, and shown on the attached plat made by Roudabush, Gale & Associates, Inc., dated December 11, 2008; and

WHEREAS, The Fred Apartments, LLC ("The Fred"), the owner of property designated as Parcel 245.1 on City Tax Map 4, and Wellington, together have requested abandonment of a portion of a drainage easement granted to the City in 1980 across the respective parcels of The Fred and Wellington, and shown on the attached plat made by Roudabush, Gale & Associates, Inc., dated August 19, 2008; and

WHEREAS, in accordance with Virginia Code ' 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the abandonment of the subject easements; and

WHEREAS, the City Engineer and the staff of Neighborhood Development Services have reviewed the requests for abandonment and determined that the City no longer has a need for the above-described easements since Wellington and The Fred have agreed to grant the City new easements for sanitary sewer and drainage lines, and there are no plans to use the easement across Parcel "X" for street purposes; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Abandonment of Easements, in form approved by the City Attorney, to abandon the above-described easements. This approval is conditioned upon execution by Wellington and The Fred, as applicable, of a deed of easement, in form approved by the City Attorney, for new or relocated utility lines, as shown on the above-referenced plats dated August 19, 2008 and December 11, 2008.

Approved by Council
May 18, 2009

Clerk of City Council

AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF
CITY-OWNED PROPERTY (ASHBY PLACE AND NORTH AVENUE RIGHT OF WAY)
TO JOSEPH B. MURRAY AND SARAH S. McIVOR

WHEREAS, Joseph B. Murray and Sarah S. McIvor, the owners of property designated as Parcel 52.6 on City Real Estate Tax Map 47, wish to acquire a portion of the adjoining Ashby Place and North Avenue right of way, as shown on the attached plat dated March 19, 2009; and

WHEREAS, in accordance with Virginia Code sec. 15.2-1800 (B), a public hearing was held to give the public an opportunity to comment on the proposed conveyance of the City property as requested by Joseph B. Murray and Sarah S. McIvor; and,

WHEREAS, the City Assessor, Department of Neighborhood Services, Department of Public Works, and Department of Parks and Recreation have reviewed the proposed conveyance and have no objection thereto;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is authorized to execute a deed of quitclaim, in form approved by the City Attorney, for that portion of the Ashby Place and North Avenue right of way, approximately 366 square feet in area, adjacent to Parcel 52.6 on City Tax Map 47, and shown on the attached plat as Parcel X. Compensation to the City for the conveyance shall be $4.44 per square foot, for a total purchase price of $1,625.04. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said property conveyance.

Approved by Council
May 18, 2009

Xanne Cox
Clerk of City Council

AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF LAND
AT THE INTERSECTION OF WEST HIGH STREET AND MCINTIRE ROAD,
TO DR. KATHLEEN FREE.

WHEREAS, Dr. Kathleen Free has requested from the City a conveyance of land , approximately 1,222 square feet in area (the "Property"), shown and identified as "Parcel Y" on the attached plat made by Lincoln Surveying, dated March 31, 2009 (the "Plat"); and

WHEREAS, the conveyance of the Property is requested so Dr. Free can create a landscaped buffer area between her property at 400 West High Street and adjoining City parcel of land; and

WHEREAS, the City Assessor has placed a valuation of $2.00 per square foot on the Property, for a total value of $2,444.00, which Dr. Free is willing to pay to purchase the Property; and

WHEREAS, in accordance with the requirements of Virginia Code Section 15.2-1800(B) and Section 15.2-1813, a public hearing was duly advertised and held to give interested members of the public the opportunity to comment on the proposed conveyance of the Property; and

WHEREAS, the City Engineer, the Director of Neighborhood Development Services, and the Public Utilities Manager have reviewed the proposed conveyance of Property and have no objection thereto; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Quitclaim Deed, in form approved by the City Attorney, conveying the above-described Property to Dr. Kathleen Free. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said conveyance.

Approved by Council
May 4, 2009

Jeanne Cox
Clerk of City Council

AN ORDINANCE AMENDING AND REORDAINING SECTIONS 28-211, 28-212 AND 28-214 OF ARTICLE VI OF CHAPTER 28 (STREETS AND SIDEWALKS) RELATING TO SIDEWALK CAFÉ OPERATIONS.

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that Sections 28-211, 28-212 and 28-214 of Article VI (Sidewalk Cafés) of Chapter 28 (Streets and Sidewalks) of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, as follows:

ARTICLE VI. SIDEWALK CAFÉS

DIVISION 1. GENERALLY

Sec. 28-186. Responsibilities of zoning administrator under article.

The zoning administrator shall be responsible for receiving and approving applications for permits under this article and for administering the requirements of this article.

Sec. 28-187. Compliance with state and local laws and regulations.

(a) The operation of a cafe pursuant to a permit granted under this article shall comply with all provisions of state and local building codes and health laws and regulations regarding the service and preparation of food and also, where applicable, the operations of an outdoor cafe shall be conducted in accordance with the regulations of the state alcoholic beverage control board.

(b) No person operating a cafe under a permit granted under this article shall allow any cafe furnishings or equipment to be or remain within any fire lane, or to protrude into the airspace above any fire lane.

Sec. 28-188. Right to limit or deny admission or service.

Within the designated area of a cafe, the operator holding a permit under this article shall have the right to limit access and occupancy to only bona fide paying customers of that operator's restaurant who are behaving in a lawful manner, and shall have the same right to deny admission or service as the operator exercises on his own premises. However, no person shall be denied access or service to the cafe area on the basis of race, religion, national origin, sex, sexual orientation, age or disability.

Secs. 28-189--28-210. Reserved.

DIVISION 2. PERMIT

Sec. 28-211. Required.

(a) No person shall operate an outdoor cafe on a city sidewalk or the downtown pedestrian mall referred to in section 28-212 without a permit issued pursuant to this division.

(b) The city manager shall, from time to time, approve a map identifying the locations along the downtown pedestrian mall which will be eligible for use as outdoor cafe areas. The locations identified on this map shall be the only areas for which any cafe permit(s) may be issued by the zoning administrator for space on the mall. This map shall be maintained available for public inspection within the city's department of neighborhood development services. The city reserves the right to re-define and re-designate spaces available for outdoor cafe use, on an annual basis. Written notice of such changes shall be provided by the city to operators at least thirty (30) days in advance of the commencement of the permit term in which the changes will take place. In the event of any such changes, an incumbent operator will be assigned a space that most closely corresponds to the location occupied during the prior permit year.

(c) For the purposes of this division a "permit term" shall refer to the period from ~~March 2, 2002~~ March 2009 through the last day of February, ~~2004~~ 2010; then, commencing on March 1, 2009 ~~2004~~, consecutive ~~two~~one-year periods thereafter.

(d) The city council will, from time to time, approve a schedule of the rents, fees and charges associated with reservation of outdoor cafe spaces. No space shall be reserved to any person until all applicable rents, fees and charges have been paid.

Sec. 28-212. Application.

(a) The operator of any licensed restaurant in the city may, on or before the commencement of each permit term, apply to the zoning administrator for a permit to operate an outdoor cafe on the city sidewalk contiguous to such restaurant, or in the case of a restaurant abutting the downtown pedestrian mall on Main Street between East Seventh Street and Ridge-McIntire Road, or the adjacent side streets, upon a portion of the mall or any side street located within the same block as the restaurant.

(b) Any operator holding a valid permit for a particular outdoor cafe space shall be deemed to have re-applied for permission to use the same space for a succeeding permit term. Such operator shall pay the required application fees and rent, and shall complete all paperwork required by the zoning administrator, within thirty (30) days of the commencement of the succeeding permit term. During such thirty-day period, the cafe space shall not be assigned by the city to any other operator; however, if the incumbent operator fails to meet all requirements within the thirty (30) days, then the operator's permit shall expire and the city may deem that space to be unassigned. Unassigned spaces (those not subject to any existing permits) shall be let to applicants on a first-come, first-served basis.

(c) No operator shall be assigned all the available space within a single block on the downtown mall. No space in excess of eight hundred (800) square feet will be assigned to any operator. However, any operator who utilizes more than 800 square feet of café space under a permit as of the date of

passage of this ordinance (as indicated in the map referred to in Sec. 28-211(b) currently in use at the time of passage) shall be permitted to continue to do so until ownership of the restaurant changes. ~~This limitation shall not affect space initially reserved to any operator under a permit issued prior to November 30, 2001.~~ Any operator assigned space on a mall corner may include space located on an adjacent numbered side street that is closed to through-traffic. If any such side street is used for parking of motor vehicles, or for one (1) or more loading zones, during certain hours of the day or evening, no outdoor cafe operations shall be authorized during any such hours.

Sec. 28-213. Grant.

The zoning administrator shall grant a permit applied for under this division for a period of not more than one (1) permit term, provided the zoning administrator finds:

(1) That the restaurant requesting the permit is being or will be operated as a lawful use in the zoning district in which it is located. If the proposed cafe will be located in an area subject to design control by the board of architectural review, once the zoning administrator has completed an initial review of the application, then the design and appearance of the cafe structures and furnishings shall be reviewed by the board pursuant to the standards and procedures set forth in Chapter 34 of this Code.

(2) That the proposed cafe will not present a hazard to the public health, safety or welfare.

(3) That all required rents, fees and charges have been paid.

Sec. 28-214. Contents and conditions generally.

(a) A permit granted by the zoning administrator under this division shall identify the permit term, or outstanding portion thereof, during which the operation of the cafe shall be authorized. A permit shall also require that, on or before November 20 of each year, all furniture and equipment used in connection with the cafe shall be removed from the sidewalk or mall; however, upon payment of additional rent (as specified within the most recent fee schedule approved by city council) an outdoor cafe operator may leave furniture and equipment within his assigned outdoor cafe area between November 20 and March 1 of the following year, subject to the following conditions: (i) the furniture and equipment must be utilized as an outdoor cafe at least five (5) days per month during this period, and (ii) if such furniture and equipment is not used by the operator during this period, then the furniture and equipment shall be removed within two (2) business days of a written notice issued by the zoning administrator. Such removal shall be at the expense of the cafe operator.

(b) Permits for cafes on the downtown pedestrian mall may contain additional reasonable conditions and requirements as the zoning administrator may deem necessary. The purpose of any such conditions shall be to ensure that the operation or use of the proposed cafe will not present a hazard to the public health, safety or welfare.

(c) Effective for the permit term commencing in March ~~2002~~ 2009, and each permit term thereafter:

(1) Each applicant for a cafe permit shall pay a permit fee upon submission of such application, in the amount specified on the most recent fee schedule approved by city council. For operators renewing an existing permit this fee shall be due and payable within thirty (30) days following the commencement of the current permit term.
(2) Each operator shall pay rent in the amount specified on the most recent fee schedule approved by city council. Such rent shall be paid ~~in annual installments due and payable~~ on the commencement date of the permit~~, and each subsequent March 1 of the permit~~ term. Any cafe permit for which the holder has not paid rent hereunder within thirty (30) days of the due date shall expire and become null and void.

(d) No food preparation shall be performed in any area which is the subject of a cafe permit issued under this article. The operator of an outdoor cafe which is the subject of any such permit shall promptly remove all food dishes and utensils after each customer has left and shall thoroughly clean the entire cafe area and the sidewalk located within the cafe after the close of each business day. The zoning administrator shall have the authority to require any cafe operator, as an additional condition of a permit, to use only non-disposable dishes, utensils and napkins within the cafe area, upon a determination that the use of paper or plastic tableware or napkins is or has been contributing to litter problems in the area subject to the permit. Upon making such a determination, the zoning administrator shall issue thirty (30) days' advance written notice of the new requirement to each operator whose permit will be affected.

(e) An outdoor cafe subject to a permit required by this article shall be operated only within the area specifically assigned to an operator by a permit issued by the zoning administrator. The operator shall clearly delineate its area of operation through use of any one (1) or more of the following markers: trees, fences, planters and barriers. Where required by the Uniform Statewide Building Code, such markers shall have a detectable bottom. An outdoor cafe shall be in operation only during hours that the restaurant with which it is associated is open.

(f) Musical entertainment shall be allowed within any outdoor cafe area subject to a permit; however, such activity shall be limited to un-amplified vocal or instrumental performances and such activity shall not be conducted during the hours between 12:00 midnight and 11:00 a.m. of any day. Cafes located on the downtown pedestrian mall shall also be subject to the city's noise ordinance established for that area; however, in the event of a conflict between said noise ordinance and the requirements of this section, the stricter requirement shall govern the activities within such outdoor cafe.

(g) No tents or similar structures shall be erected or utilized over or within any outdoor cafe operating under a permit granted pursuant to this article; except that, not more than twice per year, the operator of an outdoor cafe, after receiving approval of the city's board of architectural review, may erect or utilize a tent over or within his outdoor cafe space. No such tent may be utilized or remain in place for longer than seventy-two (72) hours.

(h) Access to and use of city electricity by outdoor cafe operators, including, without limitation, use of any outdoor electrical outlet(s), shall be ~~prohibited~~ permitted for cash registers and credit card machines only to those operators that pay a monthly fee to the City as established by City Council.

(i) Space heaters (other than any heaters requiring use of city electricity or electrical outlets) may be utilized by a cafe operator so long as the use and operation of any such heater is in compliance with all applicable building and fire codes and does not present a threat to the health, safety or welfare of the public.

(j) No cafe permit shall be assigned by any operator without the prior written approval of the zoning administrator. In the event of such assignment, (i) the original operator shall remain fully responsible for compliance with this article unless otherwise agreed in writing by the zoning administrator; and (ii) if the space that is the subject of the permit exceeds eight hundred (800) square feet under circumstances permitted by section 28-212~~(b)(1)~~(c), approval of the assignment shall be conditioned upon a reduction of the area reserved by the permit to not more than eight hundred (800) square feet.

(k) All tables, chairs and equipment located within an outdoor cafe shall be maintained in good, clean condition by the operator.

Sec. 28-215. Conditions for indemnification of city and public liability insurance.

As a condition of a permit granted under this division, the cafe operator shall indemnify the city (including, without limitation, its officers, officials and employees) and hold the city harmless from and against all claims for damages or injuries of any kind whatsoever arising out of the operator's occupancy of the public right-of-way or the operation of the cafe. The operator shall obtain and keep in force throughout the duration of the permit public liability insurance with coverage in the amount of at least one million dollars ($1,000,000.00) combined single limit. The city shall be named an "additional insured" party with respect to such insurance. Prior to issuance of a permit under this division, and on the commencement date of each permit term thereafter, the cafe operator shall be required to provide documentation satisfactory to the city attorney demonstrating that this insurance requirement has been met.

Sec. 28-216. Revocation.

(a) The director of neighborhood development services may revoke any permit granted under this division, upon finding:

(1) A violation any of the requirements or mandatory provisions set forth within this article (including, without limitation: failure to pay or delinquency in payment of rent, failure to obtain written approval prior to an assignment; failure to obtain or maintain required insurance, intrusion into a fire lane or any pedestrian walkway, failure to maintain cafe area free of leaves, ice and snow, etc.);
(2) A violation of any condition of a permit imposed pursuant to section 28-214(b) of this division;
(3) That the continued operation of the cafe poses a threat to the health, safety or welfare of the public or constitutes a public nuisance;
(4) That the cafe has not been substantially utilized for a period of thirty (30) or more days between March 1 and Labor Day of any year. No cafe operator who has elected to shut down operations entirely between Labor Day and February 28 of the succeeding

calendar year, and who has removed all equipment and furnishings from the cafe area during that time, shall be subject to permit revocation during such time;

(5) Violation of any federal or state law, or of any city ordinance, applicable to the cafe or the operation thereof.

(b) A person who has been denied a permit by the zoning administrator, or whose permit has been revoked by the director of neighborhood development services, may appeal the denial or revocation to the city manager. Such appeal shall be made in writing, within five (5) business days following the decision appealed from, and shall set forth the basis on which the person contests the decision. The city manager shall consider the appeal and shall render a written decision within five (5) business days after receipt of the appeal. The decision of the city manager may be appealed by the aggrieved person to the city council, by submitting a written notice of appeal to the city manager within five (5) days of the city manager's decision. After a hearing conducted at any regular meeting of the council, provided the appealing person has been notified of such hearing by written notice delivered to the person's place of business at least five (5) days before such meeting, the council shall make a final decision on the merits of the denial or revocation.

(c) During the pendency of an appeal from a decision of the director of neighborhood development services to revoke a permit, an outdoor cafe may continue to operate, unless the director of neighborhood development services determines, in writing, that allowing such operations to continue would present an unreasonable risk to the health, safety or welfare of the public. Any such determination shall be provided to the cafe operator by hand-delivery at the cafe site to the agent or employee supervising cafe operations, and by certified mail to the mailing address provided by the operator in his application, and may require the cafe operator to immediately cease operation. Any such determination shall be reviewable by the city manager in connection with the operator's appeal.

(d) Any permit issued under this article may be revoked by city council at any time, upon thirty (30) days' advance written notice to a cafe operator, upon a determination that such revocation is necessary to serve the welfare, safety or convenience of the public.

Approved by Council
May 4, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING SECTION 34-286 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, RELATING TO APPEALS OF BAR DECISIONS TO CITY COUNCIL.

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that Section 34-286 of Article II of Chapter 34 of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

CHAPTER 34. ZONING

Article II. Overlay Districts.

. . .

Sec. 34-285. Approval or denial of applications by BAR.

(a) Failure of the BAR to act on an application within forty-five (45) days after receipt thereof shall be deemed approval. With the consent of the applicant this time may be extended to eighty-five (85) days.

(b) Following approval of an application by the BAR, the director of neighborhood development services, or any aggrieved person, may note an appeal of the BAR decision to the city council, by filing a written notice of appeal within ten (10) working days of the date of the decision. If no such appeal is noted, then upon the expiration of the ten-day appeal period, the director of neighborhood development services shall issue the approved certificate of appropriateness.

(c) Upon denial of an application (approval of an application with conditions over the objections of the applicant shall be deemed a denial), the applicant shall be provided written notice of the decision, including a statement of the reasons for the denial or for the conditions to which the applicant objects. Following a denial the applicant, the director of neighborhood development services, or any aggrieved person may appeal the decision to the city council, by filing a written notice of appeal within ten (10) working days of the date of the decision.

Sec. 34-286. City council appeals.

(a) An applicant shall set forth, in writing, the grounds for an appeal, including the procedure(s) or standard(s) alleged to have been violated or misapplied by the BAR, and/or any additional information, factors or opinions he or she deems relevant to the application. ~~In considering an appeal of a decision of the BAR, the city council shall review the application as if the application had come before it in the first instance.~~ The applicant, or his agent, and any aggrieved person, shall be given an opportunity to be heard on the appeal.

(b) In any appeal the city council shall consult with the BAR and consider the written appeal, the criteria set forth within section 34-276 or 34-278, as applicable, and ~~may also consider~~ any other information, factors, or opinions it deems relevant to the application~~, including, but not limited to, those provided by the BAR~~.

(c) A final decision of the city council may be appealed by the owner of the subject property to the Circuit Court for the City of Charlottesville, by filing with the court a petition at law, setting forth the alleged illegality of the action taken. such petition must be filed with the circuit court within thirty (30) days after council's final decision. The filing of the petition shall stay the council's decision pending the outcome of the appeal; except that the filing of the petition shall not stay a decision of city council denying permission to demolish a building or structure. Any appeal which may be taken to the circuit court from a decision of the city council to deny a permit for the demolition of a building or structure shall not affect the right of the property owner to make the bona fide offer to sell referred to in subparagraphs (d) and (e), below.

(d) . . .
(e) . . .

Approved by Council
May 4, 2009

Clerk of City Council

AN ORDINANCE
APPROVING AND ADOPTING AN AMENDMENT TO THE SCHEDULE OF FEES (RELATED TO BUILDING PERMIT FEES) ADMINISTERED BY THE CITY'S DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES.

WHEREAS, §15.2-2241 of the Code of Virginia (1950), as amended, provides for the collection of fees and charges for the review of plats and plans, inspection of facilities, and other expenses incident to the administration of zoning and subdivision ordinances and to the filing or processing of any appeal or amendment thereto; and

WHEREAS, the Code of the City of Charlottesville (1990), as amended, provides in various places for City Council's approval from time to time of a schedule of fees associated with such permits ("Fee Schedule"); and

WHEREAS, City staff have proposed that the existing Fee Schedule be amended to provide a permanent 50% reduction for that portion of the building permit fee applicable to construction of a "green roof", as defined in Va. Code Section 58.1-3852, as amended, and to temporarily (for six months) reduce by 50% the building permit fees for new construction, with the remainder of the existing Fee Schedule to be unchanged; now, therefore

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that the above-named changes to the NDS Fee Schedule are hereby approved and adopted, and shall take effect upon the date of enactment, with the remainder of the existing Fee Schedule to be unchanged.

BE IT FURTHER ORDAINED that the amendment for the 50% reduction in building permit fees for new construction shall expire automatically six (6) months from the date of enactment of this ordinance.

Approved by Council
April 20, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING CHAPTER 34
OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, RELATING TO COMPLIANCE OF DRIVEWAYS AND WALKWAYS WITH STANDARDS AND DESIGN MANUAL, AND REVISING THE DEFINITION OF BUILDING HEIGHT.

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Sections 34-828, 34-896, 34-897, 34-934, 34-972, 34-976, and 34-1200 of Chapter 34 of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, as follows:

CHAPTER 34. ZONING

Article VII. Site Plans.

Sec. 34-828. Final site plan contents.
(a) . . .
(b) . . .
(c) . . .
(d) The final site plan shall reflect conditions of approval of the preliminary site plan. In addition to all the information required on the preliminary site plan, the final site plan shall contain the following information:

(1) . . .
(2) . . .
. . .
(10) Signature panels for the director ~~and the city engineer~~.

. . .

Article VIII. Improvements Required For Developments.

Sec. 34-896. Access.
(a) . . .
(b) Each entrance onto any public road for vehicular traffic to and from a development shall be subject to approval of the director or commission. All such entrances shall be designed and constructed in accordance with the requirements and specifications set forth within the most recent version of the City of Charlottesville Standards and Design Manual ~~city's subdivision ordinance~~. For a development of fifty (50) or more dwelling units, reasonably direct vehicular access shall be provided from all residential units to two (2) public street connections. For other residential developments, the commission may require two (2) points of access to a public street where such access is deemed warranted due to the character of the residents of such development, including but not limited to: the elderly, handicapped and developmentally disabled.

. . .

Sec. 34-897. Pedestrian walkways.

(a) . . .

(b) All sidewalks, curbs and gutters proposed to be accepted for maintenance by the city shall be built in accordance with construction standards set forth within the most recent version of the City of Charlottesville Standards and Design Manual ~~established by the city~~.

(c) . . .

(d) . . .

(e) The following standards shall apply to all nonresidential and mixed use developments:

(1) . . .

(2) . . .

(3) . . .

(4) The pedestrian access and circulation system must be of a width specified within the most recent version of the City of Charlottesville Standards and Design Manual ~~city's subdivision regulations~~.

. . .

Sec. 34-934. Parking garages.

(a) . . .

(b) . . .

(c) . . .

(d) Driveway widths at the street line shall be not less than twenty (20) ~~eighteen (18)~~ feet for driveways accommodating one (1) lane of traffic and twenty-four (24) feet for driveways accommodating two (2) lanes of traffic. In no case shall any driveway width at the street line be greater than thirty-six (36) ~~thirty-five (35)~~ feet.

(e) . . .

(f) . . .

Article IX. Generally Applicable Regulations.

Division 2. Off-Street Parking

. . .

Sec. 34-972. Location, yard areas, and driveways.

(a) For lots containing a single-family detached dwelling or a two-family dwelling, parking may be located within any yard~~, provided that in a front yard, no area that is improved for parking or driveway access to parking may exceed eighteen (18) feet in width, or a total area equal to more than twenty-five (25) percent of the front yard, whichever is greater~~. Driveways and off-street parking spaces, regardless of zoning district, shall be subject to the following location and dimensional requirements, with such requirements applying to the portion of the driveway and off-street parking spaces located between the right-of-way and the building line.

(1) No driveway entrance or exit shall intersect with a street at a location closer than fifteen (15) feet to any street intersection;

(2) No driveway within a residential district, or used for residential purposes, shall be located within three (3) feet from the line of an adjacent property;

(3) For driveways and off-street parking spaces, except those off-street parking spaces provided in a garage or carport, the portion of the driveway and off-street parking area located between the right-of-way and the building setback line shall not exceed a maximum of twenty-five (25) percent of the lot area between the right-of-way and building line. This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet;

(4) The above language notwithstanding, all driveway entrances shall meet a minimum width requirement of twenty (20) feet and shall not exceed a maximum width of thirty (30) feet.

(b) Driveways and common parking areas, except for single-family detached or two-family dwellings, shall also be subject to the following location and dimensional requirements, with such requirements applying to the portion of the driveway located between the right-of-way and the building line:

(1) No driveway entrance or exit shall intersect with a public street at a location closer than fifteen (15) feet to any street intersection, or less than five (5) feet from the end of a curb radius;

(2) The total width of driveway entrances (curb cuts) shall not exceed thirty-three (33) percent of the lot frontage. This does not prohibit a lot from having one (1) two-way driveway entrance of a maximum width of thirty (30) feet;

(3) Parking shall be located in side or rear yards, except that:
(i)Parking may not be located within any yard that faces a public street; and
(ii)Parking may be located within any yard in the following districts: Urban Corridor, Highway Corridor, and Industrial Corridor;

(4) Parking may be located in any yard for the following uses:
(i)Gas stations and other automobile service related uses
(ii)Motor vehicle dealerships
(iii)Industrial uses

(5) Parking may be located underground, or on one (1) or more floors of a building served by such parking (for example, in townhouse developments, parking may be located under each individual unit); or within common areas;

(6) No off-street parking area shall be located closer than three (3) feet to any side or rear property line. No driveway within a residential district, or used for residential purposes, shall be located within three (3) feet from the line of an adjacent property.

(c) For lots containing a single-family attached dwelling, parking may be located within any yard. Driveways and off-street parking spaces, except those off-street parking spaces provided in a garage or carport, shall not exceed a maximum of twenty-five (25) percent of the lot area

between the right-of-way and building setback line. This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet.

(d) When more than one (1) driveway is provided along a frontage in a single ownership, there shall be a separation of at least twenty (20) feet at the curb line between each driveway, and a six-inch raised protective curb parallel to the street extending not less than two-thirds (2/3) the length of the island shall be placed inside the property line between the driveways.

(e) Parking spaces must be designed and used in such a manner as to prevent cars parked in a driveway from encroaching into the public right-of-way.

(f) For zoning purposes, driveways begin at the boundary separating a property from the right-of-way. Driveways may only be constructed using materials permitted by Sec. 34-982. Entrances must conform to designs listed in the most recent version of the City of Charlottesville Standards and Design Manual.

(g) The location and design of entrance and exit driveways shall be approved by the director of neighborhood development services to ensure a safe and convenient means of ingress and egress, using current access management principles.

~~(b) For lots containing a single-family attached dwelling, parking may be located within any yard, provided that in a front yard, no area that is improved for parking or driveway access to parking may exceed nine (9) feet in width, or a total area equal to more than twenty-five (25) percent of the front yard, whichever is greater. For lots containing townhouse dwellings parking for individual dwellings may be located under the unit(s) served by such parking.~~

~~(c) For lots containing multi-family dwellings, one (1) or more townhouses, commercial or industrial uses, or mixed-uses, parking located within common parking areas shall be subject to the following conditions:~~

~~(1) The width of any side yard parking area or driveway access to parking shall not exceed thirty-six (36) feet, or twenty-five (25) percent of the total front yard street frontage of a townhouse grouping, whichever is less.~~

~~(2) Parking shall be located in side or rear yards, except that: (i) parking shall not be located within any yard that faces a public street; and (ii) parking may be located within any yard, in the following districts: Urban Corridor, Highway Corridor, and Industrial Corridor.~~

~~(3) Parking for gas stations and other automobile service related uses may be located in any portion of a side or rear yard.~~

~~(4) Motor vehicle dealerships may display vehicles within a front yard.~~

~~(5) For industrial uses, parking may be located in any yard.~~

~~(6) Parking may be located underground, or on one (1) or more floors of a building served by such parking (for example, in townhouse developments, parking may be located under each individual unit); or within common areas.~~

~~(d) Any driveway, parking space or improved access to parking spaces may encroach into a required side or rear yard, provided that no such encroachment shall be located within three (3) feet from the nearest adjacent property line.~~

. . .

Sec. 34-976. Reserved. ~~Driveways.~~

~~The location and design of entrance and exit driveways shall be approved by the director of neighborhood development services to ensure a safe and convenient means of ingress and egress, and all such driveways, except those serving single- and two-family dwellings, shall conform to the following standards:~~

~~(1) No driveway shall exceed fifty (50) feet in width at the property line, or sixty (60) feet in width at the curb line. The minimum driveway width for two-way directional use shall be twenty (20) feet, and for one-way directional use, fourteen (14) feet.~~

~~(2) No driveway shall exceed nine hundred (900) feet in length unless a second means of access is provided to a public street.~~

~~(3) No driveway entering a street at the curb line shall be located within fifteen (15) feet of the right-of-way of an intersecting street, or less than five (5) from the end of the curb radius. Additionally, no driveway:~~

~~a. Within a residential district, or used for residential purposes, shall be located within three (3) feet from the line of an adjacent property, or~~

~~(4) Where more than one (1) driveway is provided along a frontage in single ownership, there shall be a separation of at least twenty (20) feet at the curb line, and a six-inch raised protective curb parallel to the street extending not less than two-thirds (2/3) the length of the island shall be placed inside the property line between the driveways.~~

~~(5) The director of neighborhood development services may allow a joint driveway for adjacent properties facing a public right-of-way, upon a determination that such an arrangement will improve safety and circulation.~~

. . .

Article X. Definitions.

Sec. 34-1200. Definitions.

. . .

Building height means the vertical distance measured from the level of the grade of the building footprint to the level of the highest point of the structure's roof surface. This distance is calculated by measuring separately the average height of each building wall, then averaging them together. The height is measured to the level of a flat roof, to the deck line of a mansard roof, and to the average height level between the eaves and ridge for gable, hip, or gambrel roofs. ~~curb or the established curb grade opposite the middle of the front of the structure to the highest point of: the roof, if a flat roof; the deck line of a mansard roof; or the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.~~

. . .

Driveway means a form of private vehicular access from a public street, private road or alley to the interior of a lot or parcel of land.

. . .

Grade means, with reference to a building or structure: the average level of the ground adjacent to the exterior walls of the building. In a case where walls are parallel to and not more than 15 feet from a sidewalk, the grade may be measured at the sidewalk. ~~(i) for buildings adjoining one (1) street only, the elevation of the established curb at the center of the wall adjoining the street; (ii) for buildings adjoining more than one (1) street, the average of the elevations of the established curbs at the center of all walls adjoining streets; (iii) for buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building; (iv) all walls approximately parallel to and not more than fifteen (15) feet from a street line are to be considered as adjoining a street; (v) finished grade refers to the final elevation of the land surface of a site after completion of development, and shall be the average grade of the site adjacent to a building.~~

. . .

Approved by Council
April 20, 2009

Joanne Cox
Clerk of City Council

ORDINANCE
TO RESCIND AN ORDINANCE ADOPTED AUGUST 7, 2006
CLOSING, VACATING AND DISCONTINUING
A PORTION OF GROVE STREET EXTENDED

WHEREAS, in January 2006 Joe and Cyndra Kerley (hereinafter Petitioners) petitioned City Council to close a portion of Grove Street Extended, a dedicated but unaccepted street off Valley Road Extended, in order to develop 3 parcels of land which fronted on Grove Street Extended, as shown on the attached drawing; and

WHEREAS, by ordinance adopted August 7, 2006, a copy of which is attached hereto, City Council agreed to close, vacate and discontinue the subject portion of Grove Street Extended, but imposed conditions on such approval; and

WHEREAS, such approval was conditioned on a reservation of easement for an existing water line, approval of a subdivision plat, and conveyance of a conservation easement for stream protection; and

WHEREAS, since August 7, 2006, none of the conditions have been fulfilled, and Petitioners have decided against pursuing the development as originally planned and would like the Ordinance rescinded to clear the title record; and

WHEREAS, Neighborhood Development Services and Public Works support this request; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that this Council hereby RESCINDS the attached Ordinance, adopted August 7, 2006, and the Clerk of Council is directed to make appropriate notations in her files to clearly show the Ordinance adopted August 7, 2006 as "Rescinded".

Approved by Council
April 20, 2009

Clerk of City Council

AN ORDINANCE
CLOSING, VACATING, AND DISCONTINUING
THAT PORTION OF GROVE STREET EXTENDED
LOCATED OFF VALLEY ROAD EXTENDED
ADJACENT TO PARCELS 133-135 ON CITY TAX MAP 23

WHEREAS, the owners of property designated as Parcels 133, 134 and 135 on City Tax Map 23) have initiated a petition seeking to close a portion of a street right of way located adjacent to their properties; and

WHEREAS, the Street which is the subject of this petition was created, circa 1893, by a subdivision plat recorded in the Albemarle County land records at Deed Book 103, page 491 and subsequently annexed into the City in 1939; however, the City has never accepted the dedicated 50-foot right-of-way by establishing any public street in this location; and

WHEREAS, after consideration of the factors set forth within the City's Street Closing Policy, adopted by Council on February 7, 2005, and in accordance with Va. Code §15.2-2272, including a public hearing on June 5, 2006, this Council finds and determines that the petitioners' request should be granted; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that a portion of the Grove Street Extended right of way is hereby closed, vacated and discontinued, the portion to be vacated being more particularly described as follows:

A fifty (50) foot platted right-of-way, running approximately 181.5 feet eastward from Valley Road Extended, and located adjacent to Parcels 133, 134 and 135, as shown on City Tax Map 23, attached hereto.

PROVIDED, HOWEVER, that the City of Charlottesville hereby reserves unto itself a perpetual easement ten feet in width on either side of the center line of the existing water line located in the area being vacated, including a perpetual right of ingress and egress over the vacated area for the purpose of installing, maintaining, repairing or replacing such water line.

PROVIDED, FURTHER, that enactment of this ordinance is conditioned upon:

1. Submittal by Petitioners to the City Attorney's Office of an easement plat, suitable for recordation in the City's land records, showing the twenty foot (20') wide easement for the existing water line referenced above; and
2. Approval by Neighborhood Development Services of a subdivision plat which re-orients Parcels 133, 134 and 135 on City Tax Map 23 to front upon Valley Road Extended.

BE IT FURTHER ORDAINED that, unless an appeal from Council's enactment of this ordinance is made to the Charlottesville Circuit Court within thirty (30) days of the date of adoption, the Clerk of the Council shall send a copy of this ordinance to the Clerk of the Circuit Court for recordation in the current street closing book.

Approved by Council
August 7, 2006

Clerk of City Council

Prepared by:
Office of the Charlottesville City Attorney
P.O. Box 911, Charlottesville, VA 22902

Ref. City of Charlottesville Tax Map 23 Parcel 135

CONSERVATION EASEMENT

THIS DEED OF GIFT OF CONSERVATION EASEMENT ("Conservation Easement"), exempt from all recordation taxes pursuant to Virginia Code §58.1-811(A)(3) and §58.1-811(F), is made this _____ day of _____, 200____ by CYNDRA F. KERLEY, with an address of P.O. Box 7532, Charlottesville, Virginia, 22906 ("Grantor") and the CITY OF CHARLOTTESVILLE, VIRGINIA, a municipal corporation, with an address of P.O. Box 911, Charlottesville, Virginia, 22902 ("Grantee").

RECITALS:

A.The Grantor is the sole owner in fee simple of the property ("Property") legally described in Exhibit A, attached hereto and incorporated by this reference, which consists of approximately 0.1490 acre located in the City of Charlottesville, Virginia.

B.The Commonwealth of Virginia has authorized the creation of conservation easements pursuant to the Virginia Conservation Easement Act, Virginia Code §10.1-1009 *et seq.* (hereinafter, the "Act") and the Grantor and Grantee wish to avail themselves of the provisions of that law.

C.As required under §10.1-1010(E) of the Act, the use of a portion of the Property for the protection of natural resources, more specifically, protection of a portion of Rock Creek, a stream that runs along the western portion of the Property, and for maintaining or enhancing the water quality of Rock Creek, conforms to the City of Charlottesville Comprehensive Plan 2001 ("Comprehensive Plan"). The Comprehensive Plan Vision Statement (Chapter 14) references "insuring the quality of our natural and built environment" and Chapter 1 of the Comprehensive Plan states that watershed planning management policies should support "preservation and enhancement of water quality....[and] use of flood control and stormwater techniques that enhance and restore natural habitats."

D.The Property contains approximately 240 linear feet of frontage along Rock Creek. Stormwater in Charlottesville flows from small creeks, such as Rock Creek, into larger Creeks, such as Moore's Creek and Meadow Creek, and eventually into the Rivanna River, which joins the James River and flows into the Chesapeake Bay. The Rivanna River watershed has been identified as one of the five best examples of a Piedmont freshwater system remaining in Virginia. A goal of the Chesapeake 2000 Agreement, signed by the Governor of Virginia and the Administrator of the U.S. Environmental

Protection Agency, is to "expand the use of voluntary...mechanisms such as easements...to protect and preserve natural resource lands."

E.Preventing development of the Property along Rock Creek, and establishing a buffer along the stream bank, will aid in retarding and filtering stormwater runoff entering Moore's Creek. Thus, this Conservation Easement protects Moore's Creek, the Rivanna River and the Chesapeake Bay, by, among other things, restricting development, construction and disturbance of vegetation on the Property.

F.The Grantor and Grantee have the common purpose of conserving the above-described values of the Property in perpetuity.

NOW THEREFORE, the Grantor, for and in consideration of the facts recited above, and of the mutual covenants, terms, conditions and restrictions contained herein and as an absolute and unconditional gift, hereby gives, grants and conveys unto the Grantee a Conservation Easement in perpetuity over a portion of the Property, of the nature and character as follows:

1. DESCRIPTION. There is hereby established a Conservation Easement, fifty (50) feet in width, measured horizontally from the edge of the public right-of-way for Valley Road extended, along the length of the Property's frontage along Rock Creek.

2. PURPOSES. The purposes of this Conservation Easement are as follows: to restore and enhance stream and riparian resources; to ensure that a portion of the Property will be retained forever predominantly in its natural condition; and to protect water quality within the Rivanna River watershed.

3. PROPERTY USES. The following is a list of activities and uses which are expressly prohibited or expressly allowed within the Conservation Easement.

    a. Indigenous vegetation. Within the Conservation Easement, no indigenous vegetation shall be disturbed or removed, except for: (i) activities pertaining to management of the easement area, as authorized herein below; (ii) development activities authorized in the easement area, as authorized herein below; and (iii) tilling, planting or harvesting of agricultural or horticultural crops in home gardens.
    b. Notations on Approved Plans. With respect to any development of the Property outside the Conservation Easement, where a site plan or boundary adjustment plat, or other approved plat or plan is required, the location of the Conservation Easement shall be noted on such plat or plan.
    c. Maintenance of the Conservation Easement Area. The Conservation Easement shall be managed as follows:
        i. The target vegetative cover within the Conservation Easement shall be indigenous ground cover, shrub and tree canopy layers.
        ii. Within twenty-five (25) feet of the top of the stream bank:

1. Indigenous vegetation shall be preserved, or, where it does not exist, it shall be restored or allowed to evolve by natural succession. Grantor shall not introduce invasive species to the Conservation Easement area except as approved in advance, in writing, by the Grantee, to address a specific, defined land management concern, such as short-term erosion mitigation using annual grasses.
2. Dead, diseased and dying trees may be removed.
3. Fallen trees that are blocking the channel of the creek, or trees with undermined root systems in imminent danger of falling, may be removed where creek bank erosion is a current or potential problem that outweighs any positive effects the fallen tree or trees may have on the creek ecosystem.
4. Removal or pruning of invasive shrub and vine species is allowed, provided that such removal or pruning is done in a manger that prevents erosion.
5. Unpaved pathways and trails may be constructed and maintained in a manner that will effectively control erosion and to minimize adverse impacts to the Conservation Easement.
6. Stormwater channels may be constructed and maintained in a manner that will prevent erosion and minimize adverse impacts to the Conservation Easement.

iii. Beyond twenty-five (25) feet from the top of the bank of Rock Creek, to the limits of the Conservation Easement area:
1. Dead, diseased and dying trees may be removed.
2. Trees six (6) inches in diameter or greater, measured forty-eight inches from the ground, shall be preserved.
3. Removal or pruning of invasive shrub and vine species shall be allowed, provided that such removal or pruning is done in a manner that prevents erosion.
4. Unpaved pathways and trails may be constructed and maintained in a manner that will effectively control erosion and minimize adverse impacts to the Conservation Easement.
5. Stormwater channels may be constructed and maintained in a manner that will prevent erosion and minimize adverse impacts to the Conservation Easement.

iv. There shall be no use of biocides, including, but not limited to pesticides, fungicides, rodenticides, and herbicides, except as approved in advance, in writing, by the Grantee for the control of invasive plants or household vermin and other small animals that cannot be practically controlled by selective methods. There shall be no use of fertilizers, except as selectively applied to aid in the establishment of native vegetation.

v. There shall be no dumping of trash, garbage or other unsightly or offensive material, hazardous substances or toxic waste within the Conservation Easement.

d. Development Activities. If otherwise lawful, the following development activities shall be allowed within the Conservation Easement:
   i. Construction, installation, operation and maintenance of electric, gas, telephone and cable utility lines, and activities of the Virginia Department of Transportation, and appurtenant structures, when accomplished in compliance with the Erosion and Sediment Control Law (Virginia Code §10.1-560 et seq) or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board.
   ii. Construction, installation and maintenance by government agencies or public authorities of water, sewer, electric and gas utility lines, including lines constructed by private entities for dedication to public agencies, provided that no more land within the Conservation Easement shall be disturbed than is necessary to construct, install and maintain such lines, and construction, installation and maintenance of such lines shall comply with applicable federal, state and local requirements and permits and shall be conducted in a manner that protects water quality.
   iii. Stormwater management facilities located on the Property, or regional stormwater management facilities, and temporary erosion and sediment control measures, provided that no more land within the Conservation Easement shall be disturbed than is necessary to provide for construction and maintenance of the facility; the facility must be designed and constructed so as to minimize impacts to the functional value of Rock Creek and the Conservation Easement, and to protect water quality.
   iv. Water-dependent facilities, passive recreation access (such as unpaved pathways and trails), historic preservation and archaeological activities, provided that all applicable federal, state and local permits are obtained.
   v. Other development authorized pursuant to a mitigation plan approved by the City of Charlottesville, in accordance with the City's Water Protection Ordinance, City Code §10-74(4) and §10-75, as such sections are currently enacted and may from time to time hereafter be amended.

e. Additional Rights of Grantor. The Grantor retains the following additional rights:
   i. The right to undertake or continue any existing activity or use of the Property not prohibited by this Conservation Easement. Prior to making any change in use of the Property, Grantor shall notify Grantee in writing to allow Grantee a reasonable opportunity to determine whether such change would violate the terms of this Conservation Easement.

ii. The right to sell, give, mortgage, lease or otherwise convey the Property subject to the terms of this Conservation Easement.

f.

4. GRANTEE'S RIGHTS. To accomplish the purposes of this Conservation Easement, the following rights are granted to Grantee by this easement:
   a. Right to Enforce. The Grantee shall have the right to take any and all actions necessary to preserve and protect the conservation values of the Conservation Easement and to enforce the terms hereof. If Grantor becomes aware of a violation of the terms of this Conservation Easement, the Grantee shall give notice to the Grantor of such violation and request corrective action sufficient to abate such violation and restore the Conservation Easement to its previous condition. Failure by the Grantor to abate the violation and take such other corrective action as may be requested by the Grantee within thirty (30) days after receipt of such notice shall entitle the Grantee to bring an action at law or in equity to enforce the terms of this Conservation Easement and to recover any damages arising from Grantor's noncompliance. If the court determines that the Grantor has failed to comply with this Conservation Easement, then the Grantor shall reimburse the Grantee for its reasonable costs of enforcement and restoration, including court costs, reasonable fees for the time spent by Grantee's employees or agents, including attorneys, whether public or private, in addition to any other payments ordered by such court.
      i. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Conservation Easement, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor and without offering a period for cure.
      ii. The Grantee does not and shall not be deemed to waive or forfeit its right to take action as may be necessary to ensure compliance with this Conservation Easement, by virtue of any prior failure to act, and the Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act or delay by the Grantee, its successors and assigns.
      iii. Nothing herein shall be construed to entitle the Grantee to institute any enforcement proceedings against the Grantor for any changes to the Conservation Easement resulting from causes beyond the Grantor's control, such as changes caused by fire, flood, storm, earthquake or the unauthorized wrongful acts of third persons.
   b. Right of Entry. Grantee, its officers, officials, employees and agents, shall have a right to enter the Conservation Easement, after prior written notice to Grantor, for the purposes of (i) performing activities associated with a stream restoration project; (ii) inspecting the Conservation Easement to determine if Grantor is complying with the covenants and purposes of this Conservation Easement; (iii) monitoring and research purposes; (iv) management of invasive plants; and (v) enforcing the terms of this

Conservation Easement. Prior written notice is not required if Grantee is entering upon the Conservation Easement because of an ongoing or imminent violation that could, in the sole discretion of Grantee, substantially diminish or impair the conservation values of this easement. The Grantee's right of entry to the Conservation Easement shall include the permanent right to cross the Property for purposes of accessing and inspecting the Conservation Easement area.

c. Monitoring and Research. Grantee, its officers, officials, employees and agents, shall have the right, but not the obligation, to monitor water quality of Rock Creek, as well as plant and natural habitats within the Conservation Easement. Upon request, Grantor shall cooperate with Grantee in establishing, at no expense to the Grantor, a written monitoring and research plan for such activities.

d. Management of Invasive Plants. Grantee shall have the right, but not the obligation, to control, manage or destroy invasive plants that threaten the conservation values of the Conservation Easement. Grantee will consult with Grantor prior to implementing management activities.

5. OTHER RIGHTS AND RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED. Except as specified herein, this Conservation Easement is not intended to impose any legal or other responsibilities on the Grantor or Grantee, or to in any way affect any existing obligations or responsibilities of the Grantor, including, without limitation:

   a. Taxes. The Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property. Grantee makes no express or implied warranties regarding whether any tax benefits will be available to Grantor from donation of this Conservation Easement, nor whether any such tax benefits might be transferable, nor whether there will be any market for any tax benefits which might be transferable.

   b. Upkeep and Maintenance. The Grantor shall be solely responsible for the upkeep and maintenance of the Property, to the extent required by law. The Grantee shall have no obligation for the upkeep or maintenance of the Property.

   c. Subsequent Liens. No provisions of this Conservation Easement shall be construed as impairing the ability of the Grantor to use the Property, including the Conservation Easement area, as collateral for subsequent borrowing, provided that any mortgage or lien arising from such borrowing is subordinate to this Conservation Easement.

6. ACCESS. No right of access by the general public to any portion of the Property is conveyed or intended to be conveyed by this Conservation Easement.

7. TRANSFER OF CONSERVATION EASEMENT. The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable. The Grantee shall have the right to transfer or assign this Conservation Easement to an organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, and the organization expressly agrees to assume the rights and responsibilities of the Grantee under this Conservation Easement.

8. AMENDMENT OF CONSERVATION EASEMENT. This Conservation Easement may be amended only with the written consent of Grantor and Grantee, their successors and assigns. Any such amendment shall be consistent with the purposes for which this easement has been established.
9. TRANSFER OF PROPERTY. Any time the Property, or any interest therein, is transferred by the Grantor to any third party, the document of conveyance shall expressly refer to this Conservation Easement.
10. INTERPRETATION. This Conservation Easement shall be interpreted under the laws of the Commonwealth of Virginia, including Title 10.1, Chapter 10.1 (Virginia Conservation Easement Act), §10.1-1009 *et seq.* of the Code of Virginia (1950), as currently in effect and as the Act may from time to time hereafter be amended.
11. TITLE. The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances, other than existing utility easements of record, including, but not limited to any deeds of trust or mortgages not subordinated to this Conservation Easement, and that the Grantee shall hereafter have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.
12. ENVIRONMENTAL CONDITION. Nothing in this Conservation Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability of Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or of any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA") and any corresponding state statute.
13. SEVERABILITY. If any provision of this Conservation Easement is found to be invalid, the remaining provisions shall survive and shall not be altered by such invalidity.
14. PARTIES. Every provision of this Conservation Easement that applies to the Grantor or Grantee shall also apply to their respective heirs, executors, administrators, assigns and all other successors as their interest may appear.
15. ACCEPTANCE AND EFFECTIVE DATE. As attested by the signature of the Grantee affixed hereto below, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement. This Conservation Easement shall be effective on the date recorded in the Clerk's Office of the Circuit Court for the City of Charlottesville.

Grantor: **CYNDRA F. KERLEY**

_____(SEAL)

Accepted by: **CITY OF CHARLOTTESVILLE, VIRGINIA**

By: _____(SEAL)
S. Craig Brown, City Attorney

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to-wit:

The foregoing Deed of Gift of Conservation Easement was acknowledged before me on the _____ day of _____, 200____, by Cyndra F. Kerley.

_____
Notary Public

My commission expires: _____

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to wit:

The foregoing was acknowledged before me on this _____ day of _____, 20___, by S. Craig Brown, City Attorney, on behalf of the City of Charlottesville, Virginia.

My commission expires: _____

_____
Notary Public

EXHIBITS (placed on separate page)

Exhibit A—Legal Description of Property

AN ORDINANCE
TO ESTABLISH THE ANNUAL TAX LEVY
ON VARIOUS CLASSES OF PROPERTY FOR THE
PAYMENT OF INTEREST AND RETIREMENT OF THE CITY DEBT,
FOR THE SUPPORT OF THE CITY GOVERNMENT AND
CITY SCHOOLS, AND FOR OTHER PUBLIC PURPOSES.

BE IT ORDAINED by the Council of the City of Charlottesville that for the year beginning on the first day of January, 2009 and ending the thirty-first day of December, 2009, and each year thereafter which this ordinance is in force, the taxes on property in the City of Charlottesville shall be as follow:

Section 1. Real Property and Mobile Homes

On tracts of land, lots or improvements thereon and on mobile homes the tax shall be $.95 on every $100 of the assessed value thereof, to pay the general operating expenses of the City and to pay the interest and retirement on the City debt.

Section 2. Personal Property

On all automobiles, trucks, motorcycles and other motor vehicles; boats and aircraft; and on all tangible personal property used or held in connection with any mining, manufacturing or other business, trade, occupation or profession, excluding furnishings, furniture and appliances in rental units, the tax shall be $4.20 on every $100 of the assessed value thereof, to pay the general operating expenses of the City and to pay the interest and retirement on the City debt.

Section 3. Public Service Corporation Property

(a) On that portion of the real estate and tangible personal property of public service corporations which has been equalized as provided in section 58.1-2604 of the Code of Virginia, as amended, the tax shall be $.95 on every $100 of the assessed value thereof determined by the State Corporation Commission.

(b) The foregoing subsections to the contrary notwithstanding, on automobiles and trucks belonging to such public service corporations the tax shall be $4.20 on every $100 of assessed value thereof.

(c) Such taxes are levied to pay the general operating expenses of the City and to pay the interest and retirement on the City debt.

Section 4. Machinery and Tools

On machinery and tools used in a manufacturing or mining business the tax shall be $4.20 on every $100 assessed value thereof, to pay the general operating expenses of the City and to pay the interest and retirement on the City debt.

Section 5. Energy Efficient Buildings

(a) On energy efficient buildings the tax shall be $.475 on every $100 of the assessed value thereof, to pay the general operating expenses of the City and to pay the interest and retirement on the City debt.

(b) This tax rate is subject to the limitations in Chapter 30, Article V, Division 4 of the Charlottesville City Code, 1990, as amended, and applies only to buildings and not the real estate or land on which they are located.

BE IT FURTHER ORDAINED that the ordinance imposing the tax levy adopted April 15, 2008 be and the same is hereby repealed.

Approved by Council
April 14, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDINING SECTION 34-1 OF ARTICLE I OF CHAPTER 34 (ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED, TO RE-ADOPT THE ZONING DISTRICT MAP.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 34-1 of Article I of Chapter 34 of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

ARTICLE I. ADMINISTRATION

DIVISION 1. GENERAL PROVISIONS

Sec. 34-1. Title; effective date.

The provisions of this chapter are adopted pursuant to Code of Virginia, § 15.2-2280 et seq., as amended. This chapter, and all provisions contained herein, together with the city's zoning district map, shall be known and may be cited as "The Zoning Ordinance of the City of Charlottesville, Virginia."

(1) The boundaries of the city's zoning districts, and the zoning district classifications of property within the city, are shown upon a map made part of this chapter, dated September 15, 2003, and readopted April 6, 2009, which map is designated, and shall be known and referred to within this chapter, as the "zoning district map," or "district map." The district map shall be attested by the clerk of the city council and shall be kept on file within the office of the department of neighborhood development services. The district map and all the notations, references and other information shown thereon are hereby incorporated as part of this zoning ordinance by reference.

(2) This chapter, including the zoning district map of the city, shall become effective on September 15, 2003. Any permits and other significant, affirmative governmental acts or approvals validly granted or issued under the terms of the city's zoning regulations in effect immediately prior to the adoption of this chapter shall remain valid for the normal period of time; however, no such permits, acts or approvals shall be extended or renewed unless the property which is the subject of the permit, acts or approvals shall comply with the provisions of this chapter.

Approved by Council
April 6, 2009

Clerk of City Council

AN ORDINANCE TO AMEND AND REORDAIN ARTICLE VIII OF CHAPTER 34 (ZONING) BY ADDING A NEW NUMBERED SECTION 34-935, SECTION 34-1200 OF CHAPTER 34 (ZONING) TO EXPAND THE DEFINITION OF A BED AND BREAKFAST, AND AMEND AND REORDAIN SECTION 34-420 (USE MATRIX FOR RESIDENTIAL DISTRICTS), SECTION 34-480 (USE MATRIX FOR COMMERCIAL DISTRICTS), AND SECTION 34-796 (USE MATRIX FOR MIXED USE DISTRICTS), ALL OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, RELATING TO BED AND BREAKFAST ESTABLISHMENTS.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Sections 34-420 (Article III), 34-480 (Article IV), 34-796 (Article VI), and 34-1200 (Article X) of Chapter 34 of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained, and a new section numbered Section 34-935 of Article VIII of Chapter 34 is hereby added, all to read as follows:

Section 34-1200. Definitions.

. . .

~~*Bed and breakfast ("B & B")* means a temporary lodging facility in the nature of an inn, which facility serves as the innkeeper's principal residence and wherein breakfast is the only meal provided to guests.~~

Bed and breakfast ("B & B") means a temporary lodging facility operated within a residential dwelling, which is owner occupied and managed or having a resident manager; having no more than (8) guest rooms; and wherein food service shall be limited to breakfast and light fare.

Bed and breakfast (Homestay) means a temporary lodging facility operated within a single family residence which is owner occupied and managed; having no more than three (3) guest rooms; and wherein food service shall be limited to breakfast and light fare for guests only.

Bed and breakfast (Inn) means temporary lodging facility operated within a residential dwelling; which is owner occupied and managed or having a resident manager, having no more than (15) guest rooms; and wherein food service may be provided.

. . .

Sec. 34-935. Bed and breakfast establishments.

A Bed and Breakfast of any type, where allowed within a residential district, shall be subject to the following regulations:

(1) A Bed and Breakfast Homestay shall be permitted only where the character of such use is such that it is clearly subordinate and incidental to the principal residential use of a dwelling.

(2) In addition to the resident of the dwelling, not more than one (1) other person may be engaged in the activities of a Bed and Breakfast Homestay and two (2) other persons in all other Bed and Breakfast categories. There must be one off-street parking space available for each staff person in addition to Bed and Breakfast off-street parking requirements.

(3) Deliveries of supplies associated with the Bed and Breakfast shall occur only between the hours of 8:00 a.m. and 6:00 p.m.

(4) No mechanical or electrical equipment shall be employed within or on the premises, other than machinery or equipment customarily found in a residential dwelling.

(5) No outside display of goods, and no outside storage of any equipment or materials used in the Bed and Breakfast shall be permitted.

(6) There shall be no audible noise, or any detectable vibration or odor from activities or equipment of the Bed and Breakfast beyond the confines of the dwelling, or an accessory building, including transmittal through vertical or horizontal party walls.

(7) There shall be no sales of any goods, other than goods that are accessory to a service delivered on-premises to a customer or client of the business.

(8) All parking in connection with the Bed and Breakfast (including, without limitation, parking of vehicles marked with advertising or signage for the Bed and Breakfast) must be in the driveway, parking lot or garage areas on the premises.

(9) Off-street parking shall be provided in accordance with Sec. 34-984.

(10) One (1) exterior sign, of dimensions no greater than two (2) square feet, may be placed on the exterior of the dwelling or an accessory structure to indicate the presence or conduct of the Bed and Breakfast. This sign may not be lighted. In all other respects the property from which the Bed and Breakfast is to be conducted must be in compliance with the sign regulations set forth within Sections 34-1020, *et seq.* of this Code.

(11) Except for the sign authorized by subparagraph (8) above, there shall be no evidence or indication visible from the exterior of the dwelling that the dwelling is being utilized in whole or in part for any purpose other than as a residential dwelling.

(12) Bed and Breakfast establishments shall obtain a city business license (or a statement from the commissioner of revenue that no city business license is required) and a certificate of occupancy or other written indication from the city's building code official that use of the dwelling or accessory structure for the bed and breakfast is in compliance with all applicable building code regulations.

(13) The guest rooms shall be offered for rent or lease by the day. The maximum length of stay is limited to ninety (90) days in a 365 day period.

(14) The owner or resident manager shall keep a current guest register including names, addresses, and the dates of occupancy of all guests.

(15) Where Bed and Breakfast establishments are allowed by special use permit, the Planning Commission may, for reasonable cause shown, grant an exception to, expand or modify the requirements above upon finding that strict application of these standards would not forward the purposes of this chapter or otherwise serve the public health, safety, welfare, or that alternatives proposed by the owners would satisfy the purposes of these regulations to at least an equivalent degree.

. . .

Sec. 34-420. Use matrix-- Residential districts

Use Types	ZONING DISTRICTS											
	R-1	R-1U	R-1S	R-1SUR/ 1US	R-2	R-2U	R-3	R-UMD	R-UHD	MR	MHP	Require-ments 34-xxxx
RESIDENTIAL AND RELATED USES												
~~Bed-and-breakfast~~							~~B~~	~~B~~	~~B~~	~~B~~		
Bed-and-breakfast:												
Homestay	B	B	B	B	B	B	B	B	B	B		935
B & B							B	B	B	B		935
Inn							S	S	S	S		935

Sec. 34-480. Use matrix--Commercial districts

Use Types	ZONING DISTRICTS						
	B-1	B-2	B-3	M-I	ES	IC	Requirements 34 - xxxx
~~Bed-and-breakfast~~	~~B~~	~~B~~	~~B~~				
Bed-and-breakfast:							
Home stay	B	B	B				
B & B	B	B	B				
Inn	B	B	B				

Sec. 34-796. Use matrix--Mixed use corridor districts.

Use Types	ZONING DISTRICTS													
	D	DE	DN	WMN	WMS	CH	HS	NCC	HW	WSD	URB	SS	CD	CC
RESIDENTIAL AND RELATED USES														
~~Bed-and-breakfast~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~	~~B~~
Bed-and-breakfasts:														
Homestay	B	B	B	B	B	B	B	B	B	B	B	B	B	B
B & B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Inn	B	B	B	B	B	B	B	B	B	B	B	B	B	B

Approved by Council
March 16, 2009

Clerk of City Council

AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF
CITY-OWNED PROPERTY (104 ELLIOTT AVENUE)
TO HABITAT FOR HUMANITY

WHEREAS, the City of Charlottesville is the owner of property designated as Parcel 265 on City Real Property Tax Map 29, to be identified as 104 Elliott Avenue, as shown on the attached subdivision plat dated April 23, 2008, revised September 10, 2008 (hereinafter the "Property"); and

WHEREAS, Habitat for Humanity of Greater Charlottesville, Inc. ("Habitat") wishes to acquire the Property in order to construct an "Eco-House" which will be offered for sale as affordable housing;

WHEREAS, the sale of the Property will fulfill certain elements of City Council's Strategic Plan (Quality Housing Opportunities and A Green City); and

WHEREAS, in accordance with Virginia Code Section 15.2-1800 (B), a public hearing was held to give the public an opportunity to comment on the proposed conveyance of the City property as requested by Habitat; and,

WHEREAS, the City Engineer, the Department of Neighborhood Development Services and the Public Utilities Manager have reviewed the proposed conveyance and have no objection thereto;

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that the Mayor is authorized to execute a deed of gift, in form approved by the City Attorney, to transfer said Property, designated as Parcel 265 on 2009 City Tax Map 29, being approximately 8,705.82 square feet in area and designated as 104 Elliott Avenue, to Habitat for Humanity of Greater Charlottesville, Inc. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said property conveyance.

Approved by Council
March 16, 2009

Clerk of City Council

Prepared by Charlottesville City Attorney's Office
February 20, 2009
City Tax Map Parcel 290265000 (104 Elliott Avenue)

This deed is exempt from recordation taxes pursuant to Virginia Code Sections 58.1-811(C)(4) and 58.1-811(D).

THIS DEED OF GIFT, made and entered into this _____ day of March, 2009, by and between the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation and political subdivision of the Commonwealth of Virginia (the "City"), Grantor, and **GREATER CHARLOTTESVILLE HABITAT FOR HUMANITY, INC.**, Grantee ("Habitat"), whose address is P.O. Box 7305, Charlottesville, Virginia 22906.

WITNESSETH:

That for and in consideration of the sum of One Dollar ($1.00), cash in hand paid, the receipt of which is hereby acknowledged, and for the purpose of providing Grantee with land for development of housing, the City does hereby **GIVE** and **QUITCLAIM** unto the Grantee, its successors in title and assigns, the following described real estate, hereinafter referred to as the "Property":

> All that certain lot or parcel of land, with the improvements thereon, situated in the City of Charlottesville, Virginia, on Elliott Avenue, designated by present street numbering as 104 Elliott Avenue, and more particularly described as "New TMP 29-265" on a subdivision plat made by Thomas B. Lincoln Land Surveyor, Inc., dated April 23, 2008, revised September 10, 2008, of record in the Charlottesville Circuit Court Clerk's Office as Instrument #2009000386; being portions of property conveyed to the City of Charlottesville, Virginia, by: (1) deed dated February 12, 2008 from Nobuko M. Asai, Trustee, of record in the aforesaid Clerk's Office in Deed Book 1176, page 745; and (2) deed dated November 5, 1959 from Catherine and Roosevelt Brown, Sr., of record in the aforesaid Clerk's Office in Deed Book 216, page 275.

The Grantee acknowledges that the City makes no representations or warranties, whether express or implied, concerning the absence of any "hazardous substances" (as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 *et seq.*, as amended) or "hazardous wastes" (as defined by the Resource Conservation Act, 15 U.S.C. Section 2601 *et seq.*, as amended).

This Property is subject to the easements, conditions, restrictions and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property hereby conveyed which have not expired by a limitation of time contained therein or have not otherwise become ineffective.

IN WITNESS WHEREOF, the City of Charlottesville has caused this deed to be executed by its Mayor, pursuant to an ordinance approved by City Council on March 2, 2009.

Grantor: **CITY OF CHARLOTTESVILLE, VIRGINIA**

By: _____
Dave Norris, Mayor

STATE OF VIRGINIA
City of Charlottesville, to-wit:

The foregoing instrument was acknowledged before me, a Notary Public in and for the aforesaid City and State, by Dave Norris, Mayor of the City of Charlottesville, Virginia, on this _____ day of _____, 2009.

My commission expires: _____ Registration #: _____

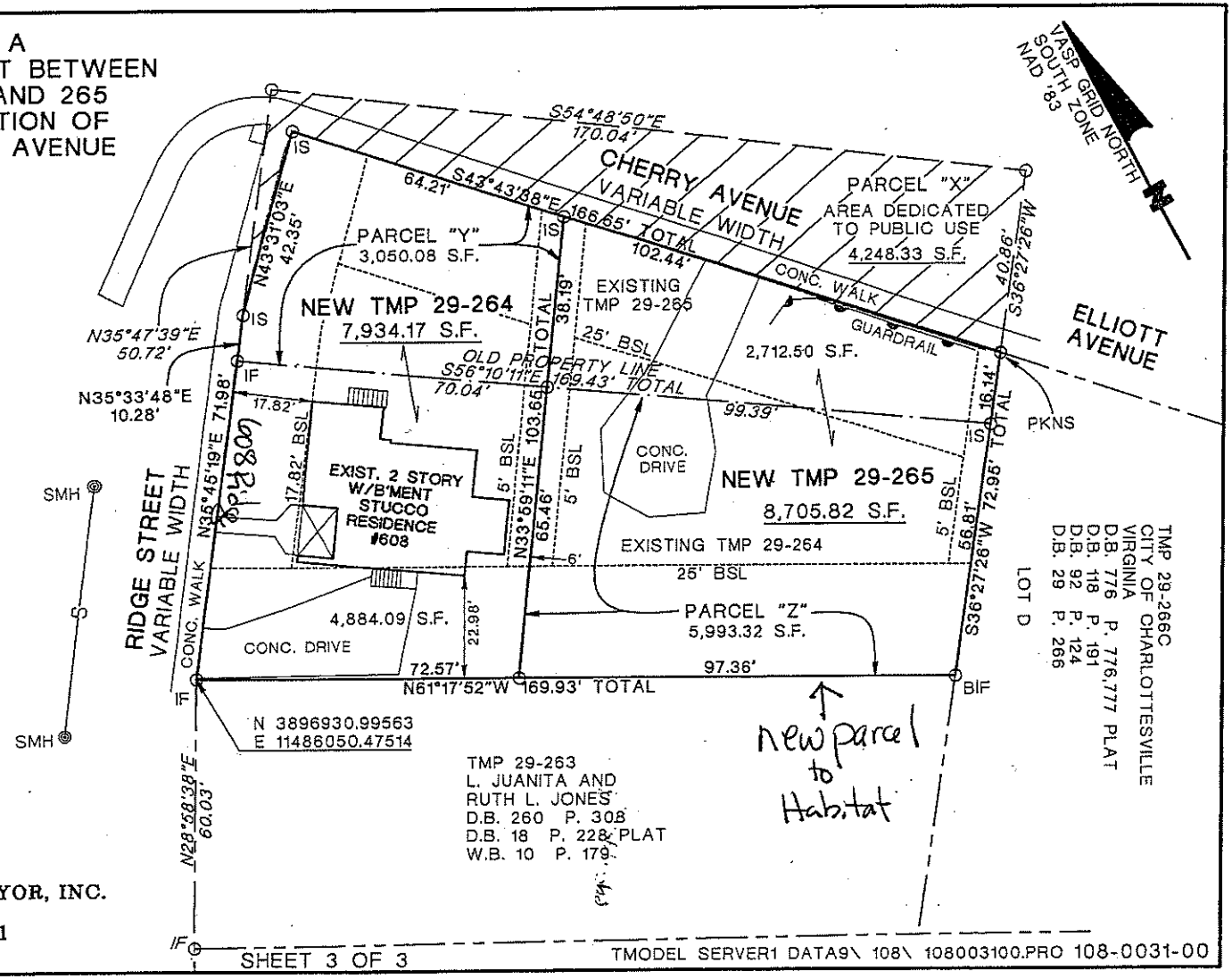
_____
Notary Public

SUBDIVISION PLAT SHOWING A BOUNDARY LINE ADJUSTMENT BETWEEN TAX MAP 29 PARCELS 264 AND 265 LOCATED AT THE INTERSECTION OF RIDGE STREET AND CHERRY AVENUE CHARLOTTESVILLE, VIRGINIA

SCALE: 1" = 30' APRIL 23, 2008
REVISED: SEPTEMBER 10, 2008

LEGEND:

BIF = BENT IRON FOUND
IF = IRON FOUND
IS = IRON SET
PKNS = P-K NAIL SET
SMH = SANITARY SEWER MANHOLE



COMMONWEALTH OF VIRGINIA
THOMAS B. LINCOLN
LIC. NO. 1326
9/12/08
LAND SURVEYOR

THOMAS B. LINCOLN LAND SURVEYOR, INC.
632 BERKMAR CIRCLE
CHARLOTTESVILLE, VIRGINIA 22901
434-974-1417

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AN ORDINANCE
AMENDING ARTICLE II (OVERLAY DISTRICTS)
OF CHAPTER 34 (ZONING) BY ADDING A NEW DIVISION,
TO BE NUMBERED DIVISION 5,
ENTITLED "HISTORIC CONSERVATION OVERLAY DISTRICTS",
AND AMENDING ARTICLE X (DEFINITIONS), OF THE
CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED,
RELATING TO HISTORIC CONSERVATION DISTRICTS.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Article II of Chapter 34, of the Code of the City of Charlottesville, 1990, as amended, is hereby amended and reordained to add a new Division 5 (Historic Conservation Overlay Districts), and Article X of Chapter 34 of the Code of the City of Charlottesville, 1990, as amended, is hereby amended and reordained, all to read as follows:

ARTICLE II. OVERLAY DISTRICTS
Division 4. Public Park Protection Overlay District
Secs. 34-329 – 34-334 34-349. Reserved.
Division 5. Historic Conservation Overlay Districts

Sec. 34-335. Purposes.
The City of Charlottesville seeks, through establishment of its historic conservation overlay ("CV" or "conservation") districts, to protect community health and safety, and to promote the education, prosperity and general welfare of the public through the identification and conservation of buildings, structures, and areas with special historical, cultural, architectural and archaeological significance. To achieve these general purposes, the City of Charlottesville seeks to pursue the following specific purposes:
(1) To identify and preserve buildings, structures and areas with special historical, cultural, architectural and archaeological significance, or with a collective character and quality, which serve as important visible reminders of the heritage of this city, the Commonwealth of Virginia, or this nation;
(2) To assure that new structures, additions, and related elements will be in harmony with the scale and character of the existing buildings, structures and areas;
(3) To document and promote an understanding of the social history of city neighborhoods, and to protect their cultural institutions.

Sec. 34-336. Establishment of, and additions to or deletions from, conservation districts.
(a) City council may, by ordinance, from time to time, designate properties and areas for inclusion or removal within a conservation district. Any such action shall be undertaken following the rules and procedures applicable to the adoption of amendments to the city's zoning ordinance and zoning map.
(b) Prior to the adoption of any such ordinance, the board of architectural review ("BAR") shall define, taking into consideration information that may be provided by neighborhood residents, the architectural character-defining features of the proposed conservation district. Those features would be referenced and reinforced when applying the conservation district design guidelines.
(c) Prior to the adoption of any such ordinance, the city council shall consider the recommendations of the planning commission and the BAR as to the proposed addition, removal or designation. The commission and BAR shall address the following criteria in making their recommendations:

(1) The age of buildings and structures;
(2) Whether the buildings, structures and areas are listed on the Virginia Landmarks Register or the National Register of Historic places, or are eligible to be listed on such registers;
(3) Whether the buildings, structures or areas are of locally important historic, cultural, architectural or archaeological interest;
(4) Whether the buildings, structures or areas are associated with an historic person or event or with a renowned architect or master craftsman, or have special public value because of notable features relating to the cultural or artistic heritage of the Charlottesville community;
(5) Whether the buildings, structures or areas are part of a geographically definable area within which there exists a significant concentration or continuity of buildings or structures that are linked by past events or, aesthetically, by plan or physical development, or within which there exists a number of buildings or structures separated geographically but linked by association or history; and
(6) Whether the buildings, structures or areas, when viewed together, possess a distinctive character and quality or historic significance.

Sec. 34-337. Conservation districts.
The following areas have been determined by city council to meet the criteria for designation as a conservation district, the limits of which are shown on the city's zoning map:
(1) The *(to be determined)* Historic Conservation District: City Council has designated only certain buildings within this overlay district as "contributing structures." Those contributing structures are identified on a map included within the conservation district design guidelines, a copy of which is available within the department of neighborhood development services.

Sec. 34-338. Relationship to individually protected properties.
(a) Within a conservation district all individually protected properties listed in Section 34-273 shall retain that designation, and shall be reviewed under the Code provisions applicable to those properties.
(b) Before an area is designated as a conservation district, each of the structures that may qualify for designation as an individually protected property under Sec. 34-273 within that area shall be identified.

Sec. 34-339. Contributing structures.
Before an area is designated as a conservation district, each structure shall be determined to be either "contributing" or "non-contributing." Thereafter, at least once every 15 years, this determination shall be reconfirmed.

Sec. 34-340. Actions requiring certificate of appropriateness; exemptions; penalties.
(a) Within a conservation district no building, structure or addition shall be constructed, and no contributing structure should be demolished, razed, or moved, in whole or in part, unless and until an application for a certificate of appropriateness (COA) has been approved by the Board of Architectural Review (BAR), or by city council on appeal.
(b) All proposed new construction requires approval of a COA by the BAR.
(c) The following proposed additions to existing buildings or structures require approval of a COA:
(1)Additions located on a corner lot.
(2)Additions located wholly or partially to the side or front of an existing building.

(3)Additions that are equal to or greater than 50% of the total gross floor area of the existing building.

(4)Additions located to the rear that exceed the height or width of the existing building or structure.

(d) The proposed demolition, razing or moving of any building or structure requires approval of a COA only when:

(1) the building is a contributing structure; and,

(2) the proposed demolition is located in whole or in part to the front or side of the contributing structure, or

(3) the proposed demolition is equal to or greater than 33% of the total gross floor area of the existing building.

However, the removal or replacement of windows or doors shall not constitute a demolition under this conservation district ordinance.

(e) The following shall be exempt from the requirement of a certificate of appropriateness:

(1) Interior features, details, alterations and improvements;

(2) Ordinary maintenance or repair of exterior elements or features;

(3) Construction, reconstruction or other improvements to a building or structure made pursuant to an order of correction issued by the city's building code official, upon a determination by the city's building code official that a building or structure is an "unsafe structure," as that term is defined by the state's building code and regulations. In the event any such order or determination is issued with respect to a building or structure subject to BAR review pursuant to this division, the director of neighborhood development services shall notify the BAR of any alterations or repairs ordered by the building code official; and

(4) The demolition, razing or removing, in whole or in part, of any contributing structure allowed pursuant to an order of the city's building code official, upon a determination by the city's building code official that a building or structure is in such dangerous, hazardous or unsafe condition that it could reasonably be expected to cause death or serious injury before review under the provisions of this division. Upon such a determination, the building code official shal deliver a copy of the order to the director of neighborhood development services and to the chairperson of the BAR.

(f) Failure to obtain a COA as required by this section for the demolition, razing or moving of any contributing structure shall be subject to the civil penalty described within Sec. 34-86(c) (*i.e.*, twice the fair market value of the building or structure).

Sec. 34-341. Criteria for approval.

(a) In considering a particular application the BAR shall approve the application unless it finds:

(1) That the proposal does not meet specific standards set forth within this division or applicable provisions of the conservation district design guidelines; and

(2) The proposal is incompatible with the historic, cultural or architectural character of the conservation district in which the property is located.

(b) Review of the proposed new construction or addition to a building or structure shall be limited to factors specified in Sec. 34-342. The BAR, or council on appeal, may require conditions of approval as are necessary or desirable to ensure that any new construction or addition would be compatible with the scale and character of the conservation district. Prior to attaching conditions to an approval, due consideration shall be given to the cost of compliance with the proposed conditions.

(c) Review of the proposed demolition, razing or moving of any contributing structure shall be limited to the factors specified in Sec. 34-343.

Sec. 34-342. Standards for review of new construction and additions.
The following features and factors shall be considered in determining the appropriateness of proposed new construction and additions to buildings or structures:
(1) Whether the form, height, scale, mass and placement of the proposed construction are visually and architecturally compatible with the site and the applicable conservation district;
(2) The harmony of the proposed changes in terms of overall proportion and the size and placement of entrances and windows;
(3) The impact of the proposed change on the essential architectural form and integrity of the existing building;
(4) The effect, with respect to architectural considerations, of the proposed change on the conservation district neighborhood;
(5) Any applicable provisions of the city's conservation district design guidelines.

Sec. 34-343. Standards for review of demolition, razing or moving of a contributing structure.
The following factors shall be considered in determining whether or not to permit the demolition, razing or moving, in whole or in part, of a contributing structure:
(1) The historic, architectural or cultural significance, if any, of the specific building or structure, including, without limitation:
(i) The age of the building or structure;
(ii) Whether it has been listed on the National Register of Historic Places, or listed on the Virginia Landmarks Register;
(iii) Whether, and to what extent, the building or structure is associated with an historic person, architect or master craftsman, or with an historic event;
(iv) Whether the building or structure, or any of its features, represent an infrequent or the first or last remaining example within the city of a particular architectural style or feature;
(v) The degree to which distinguishing characteristics, qualities, features or materials remain;
(2) Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within the conservation district, and whether the proposed demolition would affect adversely or positively the historic or aesthetic character of the district;
(3) The overall condition and structural integrity of the building or structure, as indicated by studies prepared by a qualified professional engineer and provided by the applicant (studies may be waived by the director if the building is the applicant's primary residence), or other information provided to the BAR;
(4) Whether, and to what extent, the applicant proposes to preserve portions, features or materials that are significant to the property's historic, architectural or cultural value; and
(5) Any applicable provisions of the city's conservation district design guidelines.

Sec. 34-344. Validity of certificates of appropriateness.
The same requirements and procedures specified in Sec. 34-280 shall apply.

Sec. 34-345. Application procedures.
(a) Applications shall be submitted to the director by a property owner, contract purchaser, or lessee of the property, or by the authorized agent of any such person. Each application shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council.
(b) The director shall require the applicant to submit sufficient information for the preliminary review to make a determination whether further review and a certificate of appropriateness is

required. If the director determines that review and approval by the BAR is required, then the applicant shall submit a complete application that includes the following information:
(1) A written description of proposed exterior changes;
(2) A general sketch plan of the property including: the location of existing structures; property and setback lines; and any proposed new construction, additions or deletions, parking areas, and fences;
(3) The total gross floor area of the existing building and of any proposed additions;
(4) Elevation drawings depicting existing conditions and proposed exterior changes;
(5) Photographs of the subject property in context of the buildings on contiguous properties;
(6) In the case of a demolition request where structural integrity is at issue, the applicant shall provide a structural evaluation and cost estimates for rehabilitation, prepared by a professional engineer. The director may waive the requirement for a structural evaluation and cost estimates in the case of an emergency, or if the building is the primary residence of the applicant.

Sec. 34-346. Approval or denial of applications by BAR.
(a) The BAR shall afford each applicant, and any other interested party, an opportunity to be heard, prior to rendering its decision on any application. The director of neighborhood development services shall send written notice of the time, date, place and subject of a meeting to the applicant, or his agent, and to each property owner, or his agent, abutting or immediately across a street or road from the property that is the subject of the application, and to all properties having frontage along the same city street block. Notice sent by first class mail to the last known address of such owner or agent, as shown on the city's current real estate assessment books, postmarked not less than fourteen (14) days before the meeting, shall be deemed adequate. Additionally, a sign shall be posted at the property which is the subject of the application, at least ten (10) days prior to the BAR's meeting, and identifying the time, date, place and nature of the application which has been scheduled for a hearing.
(b) Failure of the BAR to act on an application determined to be subject to BAR review within forty-five (45) days after receipt thereof shall be deemed approval. With the consent of the applicant this time may be extended to eighty-five (85) days.
(c) Upon BAR approval of an application, the director shall issue the approved certificate. Upon denial of an application (approval of an application with conditions over the objections of the applicant shall be deemed a denial), the applicant shall be provided written notice of the decision, including a statement of the reasons for the denial or for the conditions to which the applicant objects.

Sec. 34-347. Appeals.
(a) A decision of the BAR may be appealed to city council by the applicant, or any other aggrieved person, by filing a written notice of appeal within ten (10) days from the date of decision. An appellant shall set forth, in writing, the grounds for an appeal, including the procedure(s) or standard(s) alleged to have been violated or misapplied by the BAR, and/or any additional information, factors or opinions he or she deems relevant to the application. The applicant, or his agent, and any aggrieved person, shall be given an opportunity to be heard on the appeal.
(b) In any appeal the city council shall consult with the BAR and consider the written appeal, the criteria set forth within section 34-276 or 34-278, as applicable, and any other information, factors, or opinions it deems relevant to the application.
(c) A final decision of the city council may be appealed by the owner of the subject property to the Circuit Court for the City of Charlottesville, by filing with the court a petition setting forth the alleged illegality of the action taken. Such petition must be filed with the Circuit Court within thirty (30) days after Council's final decision. The filing of the petition shall stay the council's decision pending the outcome

of the appeal; except that the filing of the petition shall not stay a decision of city council denying permission to demolish a building or structure.
(d) Any appeal which may be taken to the Circuit Court from a decision of the city council to deny a permit for the demolition of a building or structure shall not affect the right of the property owner to make the bona fide offer to sell as described in Sec. 34-286(d) and Sec. 34-286(e).

Sec. 34-348. Responsibilities of BAR.
With respect to conservation districts, the city's BAR shall oversee the administration of this division. In addition to any other responsibilities assigned to the BAR within this division, or in Sec. 34-288, the BAR shall:
(1) Recommend surveys of potential conservation districts, and recommend properties for inclusion in, or deletion from, conservation districts.
(2) Develop and recommend to the city council for council's approval design guidelines for the city's conservation districts ("conservation district design guidelines"), consistent with the purposes and standards set forth within this division. Conservation district design guidelines shall have the status of interpretive regulations. The BAR shall undertake a comprehensive review and shall update the conservation district guidelines at least once every five (5) years.
Sec. 34-349. Reserved.
. . .

ARTICLE X. DEFINITIONS

Sec. 34-1200. Definitions.
.... *Contributing structure*, as used within Article II, Division 2 (Historical Preservation and Architectural Design Control Overlay Districts) and Division 5 (Historic Conservation Overlay Districts), and when referring to a building or structure located within a major design control district identified within section 34-272 thereof, means a building or structure that, by location, design, setting, materials, workmanship, feeling or association adds to the district's sense of time and place and historical development.
******

Approved by Council
March 16, 2009

Clerk of City Council

AN ORDINANCE
AMENDING AND REORDAINING ARTICLE I (ADMINISTRATION)
OF CHAPTER 34 (ZONING)
OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990,
AS AMENDED, RELATED TO REQUIREMENTS TO PROVIDE
AFFORDABLE DWELLING UNITS

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that Sections 34-12, 34-45, and 34-168 are hereby added to Article I (Administration) of Chapter 34 (Zoning) of the Charlottesville City Code, 1990, as amended, to read as follows:

CHAPTER 34. ZONING

ARTICLE I. ADMINISTRATION
DIVISION 1. GENERAL PROVISIONS

Sec. 34-12. Affordable dwelling units.

(a) Upon approval of a rezoning or special use application approving a residential project, or the residential portion of a mixed-use project with a density equal to or greater than 1.0 floor-area ratio (FAR), or an equivalent density based on units per acre, the applicant shall provide on-site affordable dwelling units as part of the project, and the total gross square footage of such units shall be five percent (5%) of the amount of the gross floor area of the project that exceeds 1.0 FAR or an equivalent density based on units per acre.

(b) For purposes of this section, "applicant" shall mean the person or entity submitting a rezoning or special use application for approval of a residential or mixed-use project that contains residential dwelling units in the city and shall include the successors or assigns of the applicant.

(c) For purposes of this section, "affordable dwelling units" mean units committed for a 30-year term as affordable to households with incomes at sixty percent (60%) or less of the area median income.

(d) As an alternative, upon approval of a rezoning or special use application approving a residential project, or the residential portion of a mixed-use project with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre, the applicant may elect to provide any one of the following:

(1) Affordable Dwelling Units at an off-site location in the city, the total gross square footage of such units shall be five percent of the amount of the gross floor area of the project that is over 1.0 FAR, or an equivalent density based on units per acre; or

(2) A cash contribution to the city's affordable housing fund, which contribution shall be calculated as follows for each of the density tiers described below:

a. Two dollars per square foot of gross floor area for residential projects greater than 1.0 FAR or an equivalent density based on units per acre.
b. For mixed-use projects, cash contributions shall be calculated by applying the proportionate amount of residential gross floor area at two dollars per square foot.

(e) The cash contribution shall be indexed to the Consumer Price Index for Housing in the Charlottesville Metropolitan Statistical Area as published by the Bureau of Labor Statistics and shall be adjusted annually based upon the changes made in January to such index.

(f) Except as otherwise provided, upon approval of a rezoning or special use permit that is subject to this section, any site plan submitted for review in conjunction therewith shall be acted upon by the director of Neighborhood Development Services or Planning Commission within twenty-one (21) days after the date such plan was officially submitted.

. . .

DIVISION 3. ZONING AMENDMENTS

Sec. 34-45. Affordable dwelling units (rezoning).

Rezoning applications considered pursuant to this chapter shall be subject to the affordable dwelling unit requirements of Sec. 34-12 of this Code.

. . .

DIVISION 8. SPECIAL USE PERMITS

Sec. 34-168. Affordable dwelling units (special use permit).

Special use permit applications considered pursuant to this chapter shall be subject to the affordable dwelling unit requirements of Sec. 34-12 of this Code.

Approved by Council
March 16, 2009

Clerk of City Council

AN ORDINANCE
APPROVING A LEASE AGREEMENT FOR
THE IVY CREEK NATURAL AREA TENANT HOUSE

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, after a public hearing held in accordance with Virginia Code Sec. 15.2-1800(B), that the City Manager is hereby authorized to execute on behalf of the City the following document, in form approved by the City Attorney:

Lease Agreement between the City of Charlottesville and Albemarle County (Landlord) and Steve and Debbie McVey (Tenant) for the lease of property known as the Ivy Creek Natural Area Tenant House.

Approved by Council
February 2, 2009

Clerk of City Council

RESIDENTIAL LEASE AGREEMENT
IVY CREEK NATURAL AREA

THIS LEASE AGREEMENT is made as of this 8th day of January 2009; by and between County of Albemarle & City of Charlottesville (hereafter collectively, the "Landlord"), whose address is 401 McIntire Road, Charlottesville, Virginia 22902 (hereafter, the "County"); PO Box 911, Charlottesville, Virginia 22902 (hereafter, the "City") and Steve and Debbie McVey (hereafter, the "Tenant" or the "McVeys").

1. REAL PROPERTY AND TERM OF OCCUPANCY. In consideration of the promises and covenants herein, Landlord hereby leases to Tenant that property located in the County of Albemarle, Virginia, and known as Ivy Creek Natural Area Park Tenant House together with the fixtures and personal property listed below, (the Premises) for the term of 1 (one) year(s) commencing at noon on _____. Thereafter, unless otherwise terminated by either party, as provided herein, this Lease shall renew automatically for four (4) additional one-year terms.

2. PERSONAL PROPERTY. The following personal property is included in the Premises subject to this lease: Range oven, woodstove, and refrigerator.

3. USE OF PREMISES. The Premises will be used by Tenant as a private dwelling and for no other purpose. The Premises will be occupied by no persons other than persons who have signed this Lease as Tenant and such person's children under the age of 18.

4. RENT.

   a. Tenant agrees to pay as rent the total sum of $1,800.00 per year, due and payable in advance in monthly installments of $150.00, except as follows: If the lease term begins on a day other than the first day of a calendar month, the first month's rent shall be $ 75.00. If the lease term ends on a day other than the last day of a calendar month, the last month's rent shall be $75.00. The first month's rent payment is due _____. The monthly installment of rent due for each month thereafter shall be due on the first day of each month. Rent shall be paid to County of Albemarle (landlord/agent) at Albemarle County Parks & Recreation, 401 McIntire Road, Charlottesville, Virginia 22902 (address) or at other such place as Landlord or Agent may from time to time designate in writing. If a monthly installment of rent is not received before the 6th day of the month, Tenant agrees to pay as additional rent a charge of late fee of $10.00 for each month that the monthly installment of rent is not received by the 6th day of such month. The purpose of this late fee is to compensate Landlord for the expenses of processing such delinquent account. Rent payments will be applied first to all past due balances of rent and other charges owing under this Lease. The remaining portion if any of such rent payments will be applied to current rent. If there are two or more tenants, Landlord shall have the option of requiring that only one check, cashier's check or money order will be accepted for each monthly installment for rent.

   b. As additional rent, the Tenant shall perform the following duties as long as either of them resides on the Property. The following duties may be modified as duties may be added or deleted by mutual written agreement between the County and City and the Tenant. Failure to perform the following duties on the part of the Tenant shall constitute a material breach by the

Tenant under the Lease Agreement and shall entitle the Landlord to terminate this Lease or exercise any other remedy under this lease or available law. The Tenant shall:

i) Assure the park entrance gate is opened and closed per posted times and at special requests;

ii) Assist the public with information as needed;

iii) Clean and stock restrooms and clean up and remove trash in parking lot and open areas;

iv) In absence of park personnel, perform emergency repair or maintenance of park facilities and grounds, to the extent possible, and contact park personnel

v) Mow and trim grass in park and on grass trails and around tenant house as outlined by Park Superintendent;

c. The County and City reserve the right to agree to certain modifications pertaining to the foregoing tenant responsibilities during the term of the lease agreement. It is the intent of the County and City to delegate this responsibility to the Albemarle County Parks and Recreation Department, and its Director.

d. The County and City further agree that, in the event tenant performs additional duties at the specific request of the County and City in connection with the property, or for any other reason in the sole discretion of the County and City, then an adjustment in the payment of rent under this lease agreement may be made, provided that any such modifications shall be effective only if in writing between the County, City and the tenant. It is the intent of the County and City to delegate this responsibility to the Albemarle County Parks and Recreation Department, and its Director.

5. BAD CHECKS. Tenant agrees to pay as additional rent a charge of $15.00 for each check returned for insufficient funds. This charge will be in addition to any late fee, which may be due. If any of Tenant's checks are returned to Landlord or Agent for insufficient funds, Landlord will have the option of requiring that further payments must be paid by cash, cashier's check, certified check, or money order.

6. SECURITY DEPOSIT. Tenant agrees to pay the sum of $150.00 as a security deposit. This sum will be due when this Lease is signed by Tenant. Prior to the termination or expiration of this Lease, if Landlord makes any deductions from the security deposit for charges arising under this Lease or by law, Tenant agrees to pay Landlord such sums as may be necessary to offset such deductions to replenish and maintain the security deposit in the amount set forth above. The security deposit will be held by Landlord to secure Tenant's full compliance with the terms of this Lease. Within 30 days after the termination of this Lease, Landlord may apply the security deposit and any interest required by law to the payment of any damages Landlord has suffered due to Tenant's failure to maintain the Premises, to surrender possession of the premises thoroughly cleaned and in good condition (reasonable wear and tear excepted), or to fully comply with the terms of this Lease, and any balance, if any, to unpaid rent. Landlord shall provide Tenant with an itemized accounting, in writing, showing all such deductions. Within this 30-day period, Landlord will give or mail to Tenant the security deposit, with any interest required by law and minus any deductions. To assist Landlord, Tenant shall give Landlord written notice of Tenant's new address before Tenant vacates the Premises. During the term of occupancy under this Lease, if Landlord determines that any deductions are to be made from the security deposit Landlord will give written notice to Tenant of such deduction within 30 days of the time Landlord determines that such deduction should be made. This provision applies only to deductions made 30 days or more before the termination of this Lease. Landlord will maintain itemized records of all security deposit deductions and these records may be inspected by Tenant, his authorized agent or attorney, during

normal business hours. However, when two years has passed from the time a deduction was made, Landlord may destroy the record of that deduction. If Landlord sells or otherwise transfers all or any interest in the Premises during the term of this Lease, Tenant agrees that Landlord may transfer the security deposit, plus any interest required by law, to the purchaser who in such event shall be obligated to comply with the provisions of this section.

7. PARKING. Tenant agrees to comply with such parking rules and regulations as Landlord may issue from time to time, and deliver to Tenant; provided that Tenant shall be given a reasonable opportunity to comply with any parking changes made during Tenant's term of occupancy under this Lease. Vehicles parked on or about the Premises in violation of such rules and regulations may be towed at the owner's expense.

8. PETS AND ADDITIONAL RESIDENTS. The Tenant shall not be allowed to have pets or additional residents without Landlord's prior written consent, which may be withheld in the Landlord's sole discretion. If such permission is granted the tenant agrees to be responsible for all damages to the property and third parties (persons and property) caused by pets or additional residents. It is understood that if this approval is given that it may be rescinded in the event a problem develops related to a pet or an additional resident.

9. UTILITIES. The Tenant is responsible for all utilities.

10. ALTERATIONS AND IMPROVEMENTS. Tenant agrees that no alterations; installations, repairs or decoration (including painting, staining and applying other finishes) shall be done without Landlord's prior written consent. However, Landlord may require Tenant to return the Premises to its original condition when this Lease terminates or expires. In addition, Landlord may require that any change, alteration or improvement to the Premises will become a permanent part of the Premises which may not be removed upon the termination or expiration of this lease. Such changes or improvements will include, but not be limited to, locks, light fixtures, shutters, built-in shelves or bookcases, wall-to-wall carpeting, flowers and shrubs.

11. INSPECTIONS AND ACCESS. Landlord may enter the Premises to make inspections, repairs, decorations, alterations or improvements, and to show the Premises to prospective tenants, purchasers, mortgagees, workers and contractors and shall have the right to erect or place "For Sale" or "For Rent" signs thereon. Except in case of emergency or when it is impractical to give notice, Landlord will give Tenant reasonable notice of Landlord's intent to enter and may enter the Premises only at reasonable times.

12. MOVE IN INSPECTION. Within 5 days after Tenant takes possession of the Premises, Landlord agrees to provide Tenant with a list setting forth all of the defects and damages to the Premises, its equipment and appliances. The list shall be treated as correct unless Tenant objects to the list by written notice given to Landlord within five days after Tenant receives the list.

13. COVENANTS BY LANDLORD. Landlord covenants and agrees to maintain all electrical, plumbing, heating, ventilating, air conditioning and other facilities and appliances, including elevators, in good and safe working condition; and comply with applicable building and housing code requirements materially affecting health and safety. Landlord's failure to comply with the above requirements will not be grounds for Tenant's termination of this Lease unless Tenant has given Landlord written notice of the defective condition and Landlord has failed to remedy the condition within 21 days. However, Tenant may not terminate the Lease if Tenant, a member of

Tenant's family or some other person on the Premises with Tenant's consent intentionally or negligently caused the defective condition. Such defective conditions will be repaired at Tenant's expense. Any termination by Tenant shall be made in accordance with the section of this Lease concerning breach by Landlord.

14. COVENANTS BY TENANT. Tenant covenants and agrees to keep the Premises clean and safe; use all electrical, plumbing, heating, ventilating and air-conditioning facilities and appliances in a reasonable manner; conduct himself or herself, and require guests to conduct themselves, in a manner that will not disturb Tenant's neighbors; and to take care not to intentionally or negligently destroy, damage or remove any part of the Premises, and that he or she will not permit any person to do so. The County and City reserve the right to request the Tenant to remove from the site any personal property that is inconsistent with the scenic natural beauty of the park (inoperable vehicles, appliances, etc.). The County and City reserve the right to request the Tenant to cease any activity that is inconsistent with the park or surrounding neighborhood. Tenant covenants and agrees to care for, maintain and repair the Premises, equipment, appliances and fixtures. Upon the expiration or termination of this Lease, Tenant agrees to deliver the Premises in good and clean condition, ordinary wear and tear excepted. Tenant agrees to pay the cost of all repairs and cleaning required by wear and tear beyond the ordinary. During the duration of this Lease, Tenant agrees to give Landlord prompt written notice of any defects in the Premises, its equipment, appliances and fixtures. If further damage occurs between the time Tenant learns that a defect exists and the time Landlord learns of such defect. Tenant will be liable for the costs of any repairs of such additional damage, which might have been avoided, had Tenant promptly notified Landlord of the defect. Tenant agrees to pay all costs resulting from the intentional or negligent destruction, damage or removal of any part of the Premises by Tenant or by any of Tenant's guests or other persons on the Premises with Tenant's consent. Tenant further agrees to release, indemnify, protect, defend and hold the County and City harmless from all liability, obligations, losses, claims, demands, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, of any kind or nature whatsoever, whether suffered, made, instituted or asserted by any entity, party or person for any personal injury to or death of any person or persons and for any loss, damage or destruction of the Premises, arising out of, connected with, or resulting directly or indirectly from the negligent or intentional acts of Tenant, Tenant's guests or other persons on the Premises with the consent or permission of Tenant. The foregoing agreement to indemnify shall continue in full force and effect notwithstanding the termination of this Agreement. Tenant further agrees to release, indemnify, protect, defend and hold the County and City harmless from all liability, obligations, losses, claims, demands, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, of any kind or nature whatsoever, whether suffered, made, instituted or asserted by any entity, party or person for any personal injury to or death of any person or persons and for any loss, damage or destruction of the Premises, arising out of, connected with, or resulting directly or indirectly from the negligent or intentional acts of Tenant, Tenant's guests or other persons on the Premises with the consent or permission of Tenant. The foregoing agreement to indemnify shall continue in full force and effect notwithstanding the termination of this Agreement.

15. TENANT TO CLEAN PREMISES WHEN LEASE ENDS. Upon the termination or expiration of this Lease, Tenant will remove all of Tenant's property from the Premises and deliver possession of the Premises, thoroughly clean and in good condition, reasonable wear and tear excepted, and in compliance with such reasonable conditions as may be set forth in Landlord's rules and regulations. Tenant's compliance with this section is necessary to insure that the Premises will be in good condition for the next tenants to whom Landlord leases the Premises. Tenant will be liable

for any damages Landlord may suffer due to Tenant's failure to leave the Premises thoroughly clean and in good condition, reasonable wear and tear excepted.

16. MOVE OUT INSPECTION. Upon the termination or expiration of this Lease, Landlord will inspect the Premises to determine whether Tenant has properly maintained the Premises and has left Premises thoroughly cleaned and in good condition, reasonable wear and tear excepted. Grease accumulation and unreasonable marks, holes, nicks or other injury to walls, ceilings, floors or appliances will not be considered ordinary wear and tear. This inspection will be made to determine what portion of the security deposit will be returned to Tenant and whether Tenant may be liable for damages exceeding the amount of the security deposit. This inspection will be made with 72 hours after the termination of Tenant's occupancy of the Premises. For the purposes of this section, the termination of Tenant's occupancy of the Premises will not be deemed to have occurred until all or substantially all of Tenant's property has been removed from the Premises. Tenant will have the right to be present during this inspection, provided Tenant gives Landlord written notice of Tenant's desire to be present during the inspection. Upon receiving such notice, Landlord will notify Tenant of the time and date when the inspection will be made. However, Tenant's delay in notifying Landlord of Tenant's desire to attend the inspection will not require Landlord to delay making the inspection more than 72 hours after the termination of Tenant's occupancy. If Tenant attends the inspection, an itemized list of damages known to exist at the time of the inspection will be provided to Tenant by Landlord immediately upon the completion of the inspection.

17. ABANDONMENT OF PROPERTY. Any personal property Tenant leaves on the Premises after the termination or expiration of this Lease may be treated by Landlord as abandoned property. Landlord will prepare an itemized list of such property and may immediately remove the property from the Premises and place it in storage for safekeeping for a period not less than one month from the date this Lease terminates and possession of the Premises is delivered to Landlord. Tenant may reclaim the property during this one-month period, provided that tenant pays the cost of its removal and storage. Upon expiration of the one-month period, Landlord will be free to dispose of the property as Landlord sees fit, provided written notice of Landlord's intent to dispose of the property is given to Tenant at least 10 days before such disposal occurs. This notice must be sent to Tenant's last known address, address correction requested. In addition, Landlord must keep the itemized list of Tenant's property for two years after Landlord disposes of that property. Any funds received by Landlord from the disposal of Tenant's property may be applied to Tenant's indebtedness to Landlord for unpaid rent or other damages, including charges for removing, storing and selling the property. Any remaining funds will be treated as security deposit.

18. DAMAGE OR DESTRUCTION OF PREMISES. If, through no fault or negligence of Tenant or Tenant's guest, fire or other cause destroys or damages the Premises to the extent that Tenant's enjoyment is substantially impaired, Tenant may immediately vacate the premises and within 14 days thereafter give written notice to Landlord of Tenant's intention to terminate this Lease. In such cases, the Lease will terminate as of the date of termination of Tenant's occupancy and Landlord will return Tenant's security deposit, any interest required by law, and prepaid rent covering the period after Tenant vacated the Premises - subject to any set off for charges or damages Tenant owes to Landlord. If, through no fault or negligence of Tenant or Tenant's guests, fire or other cause damages the Premises to the extent that Tenant's enjoyment is somewhat impaired, though not substantially impaired, Landlord will have a reasonable period of time in which to repair the Premises. Landlord's duty to repair will not arise until Tenant gives Landlord written notice of the damage to the Premises. If Landlord fails to repair the Premises within a

reasonable period of time after having received written notice from Tenant, Tenant will be entitled to a reduction in rent for that period of time beginning 30 days after notice was given to Landlord and ending on the date Landlord successfully repairs the Premises. In any dispute concerning Tenant's right to terminate this Lease or receive a rent reduction, Tenant will be required to prove that the condition of the Premises justifies such relief.

19. BODILY INJURY AND PROPERTY DAMAGE. Landlord is not an insurer of Tenant's person or property. Except to the extent provided by law, Landlord will not be liable to Tenant for any bodily injury or property damage suffered by Tenant or Tenant's guest.

20. RULES AND REGULATIONS. Tenant agrees to comply with Landlord's reasonable and non-discriminatory rules and regulations which concern the use and occupancy of the Premises, which intend to promote the convenience, safety or welfare to tenants or preserve Landlord's property from abusive conduct. Landlord agrees to give Tenant reasonable notice of any new rules or regulations before enforcing such rules and regulations against Tenant.

21. EARLY TERMINATION OF OCCUPANCY. Tenant will not be released from liability for all rent and other charges due under this lease unless Landlord signs a written statement on which Landlord agrees to release tenant from such liability.

22. EARLY TERMINATION OF LEASE BY MILITARY PERSONNEL. If Tenant is a member of the United States armed forces and (i) receives orders for a permanent change of station to depart 50 miles or more (radius) from the Premises or (ii) is prematurely and involuntarily discharged or relieved from active duty with the United States aimed forces, Tenant may terminate this Lease by serving on Landlord a written notice of termination. This notice must state the date when termination will be effective and that date shall not be less than 30 days after the date Landlord receives the notice. In addition, the termination date shall not be more than 60 days prior to the date of departure necessary for Tenant to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. Tenant's written notice of termination must be accompanied by a copy of the official orders. If Tenant exercises this right to terminate this Lease, Tenant shall be obligated for rent prorated to the date of termination. Rent for the final month or portion thereof shall be due on the first day of such month. On account of Tenant's early termination of this Lease, Landlord may require Tenant to pay liquidated damages as follows:

    a. If Tenant has completed less than 6 months of the tenancy under this Lease as of the effective date of termination, liquidated damages may be no greater than one-month's rent.
    b. If Tenant has completed at least 6 months but less than 12 months of the tenancy under this Lease as of the effective date of termination, liquidated damages may be no greater than one half of one month's rent. Any amount owed; as liquidated damages by Tenant shall be due on the first day of the month in which the effective termination date occurs. This section shall not relieve Tenant of any other liabilities, which have accrued as of the date of termination.

23. TERMINATION, RENEWAL OR EXTENSION OF LEASE. This Lease will automatically terminate at the end of the lease term on the date on which Tenant's occupancy ends. In addition, Landlord may terminate this lease for any reason by giving at least thirty (30) days written notice to Tenant. The termination of this Lease will terminate Tenant's right to occupancy but it will not terminate any claims Tenant or Landlord may have arising out of events occurring during the Lease term or during any holdover by Tenant. No agreement renewing or extending this Lease will be effective unless that agreement is in writing and signed by Tenant and Landlord. If Tenant

remains in possession of the Premises after the lease term is terminated or expires and Landlord consents to such holdover but does not enter into a written agreement extending this Lease or substituting a new written lease, Tenant shall have a month to month lease subject to termination by either party upon 30 days notice. The monthly rent during such holdover period shall be at the same rate as under this Lease or as otherwise agreed in writing.

24. ASSIGNMENT OR SUBLET. Tenant will not assign this Lease or sublet the Premises without Landlord's prior written consent, which will not be unreasonably withheld or delayed. Tenant agrees to pay Landlord a $ N/A fee if Tenant assigns or sublets the Premises, or any part thereof. No assignment or sublet will release Tenant from continuing liability for the full performance of this Lease unless Landlord signs a written statement clearly releasing Tenant from such liability.

25. BREACH BY TENANT. If (a) Tenant fails to pay rent within five days after the date when due, (b) Tenant commits a material breach of this Lease, (c) Tenant denies Landlord's exercise of any rights under this Lease or arising by law, (d) legal proceedings are begun by or against Tenant to levy upon or dispose of Tenants leasehold interest in the Premises, or (e) the Premises is used by Tenant or others for any illegal purposes, Landlord will have the right to sue for rent and to enter and take possession through legal proceedings or, if the Premises is abandoned, to enter and take possession by any lawful means. In addition, Landlord will have the right to pursue all other remedies available, including a claim for damages. If Landlord pursues any such remedies (and regardless of whether such remedies are prosecuted to judgment), Tenant will be liable as follows:
    a. For all past due rent and other charges
    b. For all additional rent (future rent) that would have accrued until the expiration of the term of occupancy under this Lease or until a new lease term begins, provided (i) that this will not affect Landlord's duty to minimize the damages by making reasonable efforts to enter into a new lease as soon as practical, and (ii) that if Landlord obtains a judgment for future rent, Landlord shall apply as a credit towards that judgment all funds received by Landlord as rent for the Premises for those months for which the judgment for future rent was awarded.
    c. For all expenses Landlord may incur for cleaning, painting and repairing the Premises due to Tenant's failure to leave the Premises thoroughly clean and in good condition, reasonable wear and tear excepted;
    d. For any court costs and reasonable attorneys fees incurred by Landlord (i) in collecting rent, other charges or damages, and (ii) in obtaining possession of the Premises;
    e. For a collection fee equal to 25% of the judgment amount for rent, damages, court costs and attorneys fees. Tenant understands and agrees that this amount represents damages Landlord will be likely to incur in efforts to obtain a judgment against Tenant (including time and effort spent in case investigation, correspondence, filling suit, discussions with lawyers, case preparation and court attendance) and to collect such a judgment. If Tenant has breached the Lease by failing to pay rent when due, Landlord shall give a written notice to Tenant stating that the Lease will terminate within 5 days if the rent is not paid. If Tenant fails to pay the rent within that 5 day period, Landlord may terminate the Lease and proceed to obtain possession of the Premises by filing an unlawful detainer proceeding. In that proceeding, Landlord may pursue a claim for rent and other damages. In connection with breaches other than failure to pay rent, if a material noncompliance with this Lease exists or if there is a violation materially affecting health and safety, Landlord may serve Tenant with a written notice stating that acts or omissions constituting the breach and stating (i) that the Lease will terminate upon a date not less than 30 days after Tenant receives the notice unless the breach is remedied within 21 days, and (ii) that the lease will terminate as set forth in the notice. If the breach is remedial by repairs or the payment of damages and Tenant adequately remedies the breach within 21 days

or such longer period of time as Landlord may allow, the Lease shall not terminate. On the other hand, if the breach is not remedial, Landlord's written notice to Tenant may state the acts and omissions constituting the breach and state that the lease will terminate upon a specific date, which date may not be less than 30 days after Tenant receives the notice.

26. BREACH BY LANDLORD. If Landlord (a) commits a material breach of this Lease, or (b) fails to a substantial extent to comply with any laws with which Landlord must comply and which materially affect Tenant's health and safety, Tenant may give written notice to Landlord identifying the acts and conditions on the Premises concerning Landlord's breach and stating that this lease will terminate upon a specific date (which must be 30 days or more from the date Landlord receives the notice) unless Landlord remedies the breach within 21 days. If Landlord remedies the breach within that 21 day period, this Lease will not be subject to termination by Tenant in that instance. Tenant will not have the right to terminate this Lease because of conditions caused by the intentional or negligent acts of Tenant or persons on the Premises with Tenant's consent.

27. RENT WITHHOLDING. Tenant may not withhold rent because of conditions on the Premises that Landlord is required to repair unless Tenant has given Landlord written notice of the condition and Landlord has failed to successfully repair the condition within a reasonable period of time. If Tenant withholds rent because Landlord has breached the Lease, Tenant must immediately give Landlord a second written notice of the breach and of any conditions of the Premises which Landlord is required to remedy or repair and must state that rent is being withheld for such reasons. If Landlord then sues Tenant for possession of the Premises or for withheld rent, Tenant must promptly pay the rent to the court, which will hold the rent until it decides what portion, if any, should be paid to Landlord. If conditions exist which Landlord is required to remedy and which creates a fire hazard or serious threat to the health or safety of Tenant, Tenant may file an action in a court of competent jurisdiction to terminate the Lease, to require Landlord to repair the Premises, or to obtain other relief. In such an action, Tenant may pay rent to the court to be held until Tenant's action is decided. If Tenant withholds rent or pays rent into court under this section and the court finds (a) that Tenant has acted in bad faith, (b) that Tenant, Tenant's family or guests have caused the conditions or have refused unreasonably to allow Landlord or Landlord's written notice of the condition, Tenant will be liable for Landlord's reasonable costs, including costs for time spent, court costs, any repair costs due to Tenant's violation of the Lease, and attorneys fees.

28. NOTICES. All notices in writing required or permitted by this Lease may be delivered in person, or sent by mail (postage prepaid) to Landlord, Tenant or Agent at such party's address, as set forth above or at such other address as a party may designate from time to time by notice given in accordance with the terms of this section.

29. HEADINGS. The headings of the sections of this Lease are inserted for convenience only and do not alter or amend the provisions that follow such headings.

30. GOVERNING LAW. This Lease is entered into and shall be construed under the laws of the State of Virginia.

31. SEVERABILITY. Any provision of this Lease which is prohibited by, or unlawful or unenforceable under, Virginia law shall be ineffective only to the extent of such prohibition without invalidating the remaining provisions of this Lease.

32. FAILURE TO ENFORCE LEASE NOT A WAIVER. Landlord's waiver of a breach by Tenant shall not be interpreted as a waiver of any subsequent breach or noncompliance, and this lease shall continue in full force and effect.

33. AMENDMENTS. This lease may not be amended or modified except by prior written consent of the Landlord. All amendments or modifications shall be in writing and signed by both parties.

34. ENTIRE AGREEMENT. This lease and Addendum attached hereto shall constitute the full and complete agreement between the parties, and no other writings or statements (other than amendments or modifications pursuant to Section 32) shall be of any consequence or have any legal effect.

WITNESS the following signatures and seals:

CITY OF CHARLOTTESVILLE

BY _____
Gary B. O'Connell, City Manager

COUNTY OF ALBEMARLE

BY _____
Robert W. Tucker, Jr., County Executive

TENANT(S):

_____

_____

AN ORDINANCE
APPROVING AND ADOPTING AN AMENDMENT TO THE SCHEDULE OF FEES (RELATED TO SITE PLAN APPROVAL FEES) APPLICABLE TO VARIOUS SERVICES AND FUNCTIONS ADMINISTERED BY THE CITY'S DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES.

WHEREAS, §15.2-2241 of the Code of Virginia (1950), as amended, provides for the collection of fees and charges for the review of plats and plans, inspection of facilities, and other expenses incident to the administration of zoning and subdivision ordinances and to the filing or processing of any appeal or amendment thereto; and

WHEREAS, the Code of the City of Charlottesville (1990), as amended, provides in various places for City Council's approval from time to time of a schedule of fees associated with such permits ("Fee Schedule"); and

WHEREAS, City staff have proposed that the existing Fee Schedule be amended to increase the fees for site plan approvals to include the cost of mailings ($1.00 per owner notice) and the cost of required publications of notice associated with each type of site plan approval, with the remainder of the existing Fee Schedule to be unchanged; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that the proposed changes to the NDS fee schedule, as shown on the attachment labeled Exhibit A, is hereby approved and adopted, and shall take effect upon the date of enactment.

Approved by Council
January 20, 2009

Clerk of City Council

EXHIBIT A

Type of Fee	Fee	Add'l Costs
ZONING (CHAPTER 34)		
Special Permit – Nonresidential	$480	
Special Permit – Residential	$700	
Site Plan – Preliminary Residential	$690	$20 per dwelling unit and mailing costs ($1.00 per owner notice) and cost of newspaper notice
Site Plan – Preliminary Nonresidential	$1,800	$20 per 100 square feet of building area and mailing costs ($1.00 per owner notice) and cost of newspaper notice
Site Plan – Final (Admin Approval)	$600	Mailing costs ($1.00 per owner notice) and cost of newspaper notice
Site Plan – Final (Commission Review)	$250	$500 if circulation required, and mailing costs ($1.00 per owner notice) and cost of newspaper notice

AN ORDINANCE
AMENDING AND REORDAINING
CHAPTER 34 (ZONING), ARTICLE I (ADMINISTRATION)
AND ARTICLE VII (SITE PLANS) RELATED TO THE
DEVELOPMENT REVIEW PROCESS.

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 34-160 of Article I, and Sections 34-801, 34-820, 34-821, 34-823, 34-827, and 34-828 of Article VII, of Chapter 34 of the Code of the City of Charlottesville, 1990, as amended, are hereby amended and reordained, as follows:

ARTICLE I. ADMINISTRATION

Division 8. Special Use Permits

. . .

Sec. 34-160. Review and action on application.

(a) The department of neighborhood development services shall review every application for a special use permit and shall make a report of its findings and recommendations to the planning commission and city council.

(b) The planning commission shall review and make recommendations to city council in the same manner as for a rezoning application. The planning commission may concurrently approve a preliminary site plan, subject to city council's approval of a special use permit, and subject to any necessary amendments to the site plan as a result of the city council's action. Alternatively, the planning commission may choose to defer consideration of a site plan until after council has rendered a final decision on the application for a special use permit.

. . .

ARTICLE VII. SITE PLANS

DIVISION 1. APPLICABILITY AND ADMINISTRATION

Sec. 34-800. Intent.

The purpose and intent of a site plan is to encourage innovative and creative design and to facilitate use of the most advantageous techniques and highest standards in the development of land, and to ensure that land is used in a manner which is efficient, harmonious with neighboring property, and in accordance with the comprehensive plan and the provisions of this chapter.

Sec. 34-801. Administration.

(a) Except as otherwise expressly provided within this article, the city council hereby designates

the planning commission as the approval body for site plans. Recognizing that not all plans may require review and deliberation by the commission, council also provides for an administrative review under which the director of the city's department of neighborhood development services (hereinafter, "director") is authorized to act on behalf of the commission. The director shall have no authority to act on behalf of the commission to modify, vary, waive or accept substitution for any requirement of this chapter, except where expressly provided.

(b) The director has certain duties and responsibilities, as set forth within this article, for the administration of the requirements of this division, including, without limitation, the determination as to whether a site plan is required, and the receipt and processing of site plan applications.

(1) The director may from time to time establish such reasonable administrative procedures as shall be necessary for the proper administration of this article. On an annual basis, the Planning Commission shall review such administrative procedures and recommend any changes that a majority thereof deems necessary.

(2) The director may delegate in writing to an employee under his supervision any of the functions for which the director is responsible; thereafter, any action taken by such employee shall be deemed an action of the director himself. Wherever the term "director" is used within this division, the term shall mean and include any city employee or official to whom the director has delegated responsibility for a particular action.

(c) All city officers and employees responsible for the supervision and enforcement of this article shall have the right to enter upon property which is subject to a site plan at all reasonable times, beginning during review of an application and continuing during the period of construction, for the purpose of making periodic inspections for compliance with this article. It shall be the responsibility of the developer to notify the zoning administrator when each stage of a development is ready for inspection as to compliance with an approved site plan.

. . .

DIVISION 2. PROCEDURES

Sec. 34-820. Preliminary plan submittal and review.

(a) Applications for preliminary site plan approval shall be submitted to the department of neighborhood development services. Each application and each re-submittal of an application previously submitted shall be accompanied by the required fee for a site plan, as set forth within the most recent fee schedule adopted by city council. The director shall establish submission deadlines for such applications. For the purposes of section 34-823, a preliminary site plan shall be deemed "officially submitted" on the date of the next submission deadline following the date on which the application was received by the department.

(1) Plans that lack the information required by section 34-827 shall be deemed incomplete and shall be denied by the director, in writing, within ten (10) days after the applicable submission deadline.

(2) Within ninety (90) days after receiving a notice of denial ("grace period"), a developer may resubmit the preliminary site plan, without application fees, and request reinstatement of review of the plan ("resubmittal").

(3) The date of the next submission deadline following such re-submittal shall be deemed to be the original date on which the application was "officially submitted" for purposes of section 34-823.

(4) In the event the developer fails to resubmit a proposed preliminary site plan within the 90-day grace period, a new application and fee shall be required for a subsequent submission.

(b) Upon receipt of a complete application for preliminary site plan approval:

(1) The director shall circulate the plan for review and comment by the following city officials, employees and departments, together with notice of the date on which the plan has been scheduled for a preliminary site plan conference: the city engineer, the department of public works, the fire department, the building code official, the zoning administrator, and other city or state officials, employees, departments or agencies whose review and comments are deemed necessary by the director. All resulting requirements and recommendations shall be forwarded to the director by city staff prior to the date of the required preliminary site plan conference. For purposes of this article, the term "requirements" shall be deemed to mean regulatory provisions of this chapter, and any duly adopted rules and regulations of a reviewing department, and "recommendations" shall be deemed to include suggestions for design changes deemed to be in the public interest by a reviewing official in the area of his expertise.

(2) The director shall schedule a preliminary site plan conference, in accordance with section 34-821.

(c) Upon conclusion of the preliminary site plan conference:

(1) For plans reviewed administratively by the director, at such time as the director determines that the preliminary site plan complies with the requirements of this article, the director shall issue a letter to the developer communicating that the plan has been approved and stating the conditions which must be satisfied prior to submittal of the final site plan.

(2) For plans reviewed by the planning commission, the director shall transmit the preliminary site plan, together with the recommendations of city staff and the developer's written statement(s) concerning the staff recommendations, to the planning commission for review.

(d) The planning commission shall review the following preliminary site plans:

(1) Those submitted in connection with existing or proposed planned unit developments

(2) Those reflecting proposed development of property that is the subject of any existing or

proposed special permit

(3) Those referred to the planning commission at the request of the director, an applicant, or ~~any member~~ any two members of the planning commission

(4) Those which are the subject of an appeal from a decision of the director, as allowed by section 34-823.

Sec. 34-821. Preliminary site plan conference.

(a) No preliminary site plan conference shall be scheduled by the director to take place sooner than twenty-one (21) days following the date on which the application for preliminary site plan approval was officially submitted. ~~p~~Preliminary site plan conferences shall routinely be held on the first and third Wednesdays of each month; however, additional conference dates may be set by the director with adequate notice to representatives of the relevant city departments, the planning commission and the applicant or his agent.

(b) The preliminary site plan conference shall be open to the public. ~~No published notice is required; however, the director shall~~ The director shall post notice of the date, time and place of such conference on the City website and publish same in some newspaper published or having general circulation in the City of Charlottesville, and cause written notice ~~of the date, time, place and subject of such conference to be sent to:~~ to be sent to the applicant or his agent; the owner, or agent for the owner, of each property located within five hundred (500) feet of ~~abutting or immediately across a street or road from~~ the property subject to site plan review~~;~~, and ~~the~~ all City neighborhood association(s)~~, if any, for the neighborhood adjacent to the property subject to site plan review~~. Notice sent by first class mail to the last known address of such owner or agent as shown on the current real estate tax assessment books, postmarked not less than five (5) days before the conference, shall be deemed adequate. A representative of the department of neighborhood development services shall make affidavit that such mailing has been made and file the affidavit with the papers related to the site plan application.

(c) Upon conclusion of the preliminary site plan conference; if revisions to the plan are required or recommended, the developer shall be notified thereof by the director in writing. The director shall advise the developer of the date by which required revisions shall be submitted ("revision deadline"). Nothing contained herein shall obligate the developer to revise a plan to include recommendations forwarded to him by the director; however, in a case where a developer declines to include such recommendations the developer shall submit in writing to the director, on or before the revision date, a statement as to the reasons and justification for not incorporating the recommendations into the revised plan.

(1) If the revised plan is not re-submitted by the required revision date, or if the revised plan does not include required revisions, the director shall notify the developer in writing within fifteen (15) days after the revision deadline that if such revisions are not made, the plan will be denied approval. Within fifteen (15) days after mailing the notice of denial, the developer may resubmit the preliminary site plan, together with any required reinstatement fee. The date of the next submission deadline following such re-submittal of the preliminary site plan shall be deemed to be the original date on which the application was "officially submitted" for purposes

of section 34-823.

(2) In the event the developer fails to timely resubmit the preliminary site plan, the preliminary site plan shall be deemed to be denied and a new application and fee shall be required.

Sec. 34-822. Final site plan submittal.

. . .

Sec. 34-823. Action required.

(a) Except as otherwise provided herein, the director or the commission, as the case may require, shall approve or disapprove a preliminary or final site plan within sixty (60) days after the date such plan was officially submitted. In cases where a site plan has previously been disapproved, the director or commission shall act on such plan within forty-five (45) days after the plan has been modified, corrected and re-submitted for approval. In the case of a preliminary site plan application which guarantees that at least fifteen percent (15%) of all proposed residential units therein will qualify as affordable housing (defined as units committed for a 30-year term as affordable to households with incomes at eighty percent (80%) or less of the area median income), each of the above timeframes shall be reduced to twenty-one (21) days.

(b) If approval of a feature or features of a preliminary or final site plan by a state agency is necessary, the following procedures shall apply:

(1) Any state agency making such review is required to complete its review within forty-five (45) days after receipt of the plan. Upon receipt of approval from a state agency, the director shall act upon the plan within thirty-five (35) days. If the planning commission conducts a public review, it shall act on the plan within forty-five (45) days after receipt of approval from the state agency. All actions on a plan shall be completed by the agent or the commission, and, if necessary, state agencies, within a total of ninety (90) days after the date the plan was officially submitted.

(2) Neither the agent nor the commission shall be required to approve a preliminary or final site plan in fewer than sixty (60) days after the date it was officially submitted, or 45 days after it has been officially resubmitted after a previous disapproval.

(c) The director or commission shall thoroughly review a proposed site plan and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. In any event, if the director or the commission disapproves a preliminary or final site plan, the agent or commission shall set forth in writing the specific reasons therefor. The reasons for disapproval shall identify deficiencies in the plan which cause the disapproval, by reference to specific ordinances, laws or regulations, and shall generally identify modifications or corrections as will permit approval of the plan.

(d) If the director or the commission disapproves a preliminary or final site plan, such action shall be subject to judicial review as provided within Code of Virginia § 15.2-2260. However, if the developer so chooses, he may first appeal a decision of the director to the planning commission,

provided that such appeal is submitted in writing to the director within ten (10) days after the date of the director's disapproval. The commission may affirm, reverse or modify, in whole or in part, the decision of the director.

(e) At any time during the review process, an applicant may request that further processing or formal action on his application for approval of a preliminary or final site plan be indefinitely deferred. Thereafter, the application shall be deemed to have been voluntarily withdrawn by the applicant if the applicant fails to initiate, in writing, a reinstatement of review so that final action on the plan can be taken within six (6) months after the date the deferral was requested. Upon written request received by the director before the date on which the application will be deemed to be withdrawn, the director may grant one extension of the deferral for a period determined to be reasonable, taking into consideration the size or nature of the proposed development, the complexity of the review, and the laws in effect at the time the request for extension is made.

. . .

Sec. 34-827. Preliminary site plan contents.

(a) ~~Ten (10)~~ Sixteen (16) clearly legible blue or black line copies of a preliminary site plan shall be submitted along with an application for approval. In addition, a three dimensional drawing or model of the proposed site and the surrounding areas showing massing in context shall be submitted along with any preliminary site plan that is to be reviewed by the Planning Commission. If revisions to the submitted preliminary site plan are necessary, then ~~ten (10)~~ sixteen (16) full-sized revised copies, and, if the preliminary site plan is to be reviewed by the Planning Commission, an additional ten (10) ~~reduced~~ revised copies ~~no larger than eleven (11) inches by seventeen (17) inches~~ shall be submitted by the revision deadline.

(b) All waiver, variation and substitution requests shall be submitted with the preliminary site plan, and the applicant shall clearly state the specific items being requested for waiver, variation or substitution.

(c) The preliminary site plan shall be prepared to an engineering scale of 1:20, unless, in the determination of the director a different scale will allow a better representation of the development.

(d) The preliminary site plan shall contain the following information:

(1) The name of the development; names of the owner(s), developer(s) and individual(s) who prepared the plan; tax map and parcel number; zoning district classification(s); descriptions of all variances, zoning proffers and bonus factors applicable to the site; city and state; north point; scale; one (1) datum reference for elevation (where a flood hazard overlay district is involved, U.S. Geological Survey vertical datum shall be shown and/or correlated to plan topography); source of the topography; source of the survey; sheet number and total number of sheets; date of drawing; date and description of latest revision; zoning district, tax map and parcel number, and present use, of each adjacent parcel; departing lot lines; minimum setback lines, yard and building separation requirements; a vicinity sketch showing the property and its relationship with adjoining streets, subdivisions and other landmarks; and boundary

dimensions.

(2) Written schedules or data as necessary to demonstrate that the site can accommodate the proposed use, including: proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type; gross residential density; square footage of recreation area(s); percent and acreage of open space; maximum square footage for non-residential uses; maximum lot coverage; maximum height of all structures; schedule of parking, including maximum amount required and amount provided; maximum amount of impervious cover on the site; and if a landscape plan is required, maximum amount of paved parking and vehicular circulation areas.

(3) If phasing is planned, phase lines and proposed timing of development;

(4) Existing topography for the entire site at maximum five-foot contours; proposed grading (maximum two-foot contours), supplemented where necessary by spot elevations; and sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the director.

(5) Existing landscape features as described in section 34-867 (requirements of landscape plans), including all individual trees of six (6) inch caliper or greater.

(6) The name and location of all watercourses, waterways, wetlands and other bodies of water adjacent to or on the site.

(7) One hundred-year flood plain limits, as shown on the official flood insurance maps for the City of Charlottesville, as well as the limits of all floodway areas and base flood elevation data required by section 34-253.

(8) Existing and proposed streets, access easements, alley easements and rights-of-way, and other vehicular travelways, together with street names, highway route numbers, right-of-way lines and widths, centerline radii, and pavement widths.

(9) Location and size of existing water, sanitary and storm sewer facilities and easements; drainage channels; and drainage easements.

(10) Proposed conceptual layout for water and sanitary sewer facilities and storm drainage facilities, including storm detention ponds or structures, with arrows to indicate the direction of flow in all pipes and watercourses.

(11) Location of other existing and proposed utilities and utility easements.

(12) Location of existing and proposed ingress to and egress from the property, showing the distance to the centerline of the nearest existing street intersection.

(13) Location and dimensions of all existing and proposed improvements, including:

buildings (maximum footprint and height) and other structures (principal as well as accessory); walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; loading and service areas, together with the proposed paving material types for all walks, parking lots and driveways.

(14) All areas intended to be dedicated or reserved for public use.

(15) Landscape plan, in accordance with section 34-867, ~~under the following circumstances: (i) when the impervious coverage of a site exceeds thirty (30) percent of the gross site area, or (ii) when the director determines that, due to unusual circumstances, conditions of the development site, or the character of the proposed use, review at the preliminary site plan stage is warranted, or (iii) in any case where required by the commission~~ if the proposed site plan is subject to entrance corridor review.

(16) Where deemed appropriate by the director due to intensity of development, estimated traffic generation figures for the site based upon current VDOT rates, indicating ~~. Indicate~~ the estimated vehicles per day and the direction of travel for all connections to a public road.

~~(17) The location, character, size, height and orientation of proposed signs, as proposed to be erected in accordance with Article IX, sections 34-1020, et seq. of this chapter; and elevations of buildings showing signs to be placed on exterior walls. Signs which are approved in accordance with this section shall be considered a part of the approved site plan. Thereafter, signs shall not be erected, painted, constructed, structurally altered, hung, rehung or replaced except in conformity with the approved site plan. Any changes in signs from the approved site plan or any additions to the number of signs as shown on the site plan shall be allowed only after amendment of the site plan by the director of neighborhood development services or the planning commission.~~

The director or the commission may require additional information to be shown on the preliminary site plan as deemed necessary in order to provide sufficient information for the director or commission to adequately review the preliminary site plan.

Sec. 34-828. Final site plan contents.

(a) A final site plan, together with any amendments thereto, shall be prepared and sealed, signed and dated by an architect, professional engineer, land surveyor or certified landscape architect licensed to practice within the Commonwealth of Virginia.

(b) Ten (10) clearly legible blue or black line copies of the master drawing shall be submitted to the department of neighborhood development services, along with an application for approval of the final site plan. If review is required by the commission, then the applicant shall also provide one (1) reduced copy of the final site plan, no larger than eleven (11) inches by seventeen (17) inches in size.

(c) The final site plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or larger, or to such a scale as may be approved by the agent in a particular case. No sheet shall exceed thirty-six (36) inches by forty-two (42) inches in size. The final site plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the sheets

join. The top of the sheet shall be approximately either north or east.

(d) The final site plan shall reflect conditions of approval of the preliminary site plan. In addition to all the information required on the preliminary site plan, the final site plan shall contain the following information:

(1) The location, character, size, height and orientation of proposed signs, as proposed to be installed or erected in accordance with Article IX, sections 34-1020, et seq. of this chapter; and elevations of buildings showing signs to be placed on exterior walls. Signs which are approved in accordance with this section shall be considered a part of the approved site plan. Thereafter, signs shall not be installed, erected, painted, constructed, structurally altered, hung, rehung or replaced except in conformity with the approved site plan. Any changes in signs from the approved site plan or any additions to the number of signs as shown on the site plan shall be allowed only after amendment of the site plan by the director of neighborhood development services or the planning commission.

~~(1)~~(2) Specific written schedules or notes as necessary to demonstrate that the requirements of this chapter are being satisfied.

~~(2)~~(3) Indicate if residential units are sale or rental units; number of bedrooms per unit; and number of units per building if multifamily; specifications for recreational facilities.

~~(3)~~(4) Proposed grading: maximum two-foot contours.

~~(4)~~(5) Detailed plans for proposed water and sanitary sewer facilities, including: all pipe sizes, types and grades; proposed connections to existing or proposed systems; location and dimensions of proposed easements and whether such easements are to be publicly or privately maintained; profiles and cross sections of all water and sewer lines including clearance where lines cross; all water main locations and sizes; valves and fire hydrant locations; all sanitary sewer appurtenances by type and number; the station on the plan to conform to the station shown on the profile, and indicate the top and invert elevation of each structure.

~~(5)~~(6) Detailed construction drainage and grading plans, showing:

a. Profiles of all ditches and channels, whether proposed or existing, with existing and proposed grades; invert of ditches, cross pipes or utilities; typical channel cross sections for new construction; and actual cross sections for existing channels intended to remain.
b. Profiles of all storm drainage systems showing existing and proposed grades.
c. Plan view of all drainage systems with all structures, pipes and channels numbered or lettered on the plan and profile views. Show sufficient dimensions and bench marks to allow field stake out of all proposed work from the boundary lines.
d. A drainage summary table for culverts, storm drainage facilities and channels.
e. A legend showing all symbols and abbreviations used on the plan.

~~(6)~~(7) Typical street sections together with specific street sections where street cut or fill is five (5) feet or greater; centerline curve data; radius of curb returns or edge of pavement;

location, type and size of proposed ingress to and egress from the site; together with culvert size; symmetrical transition of pavement at intersection with existing street; the edge of street surface or face of curb for full-length of proposed street; when proposed streets intersect with or adjoin existing streets or travel-ways, both edges of existing pavement or travelway together with curb and gutter indicated for a minimum of one hundred (100) feet or the length of connection, whichever is the greater distance.

~~(7)~~(8) For all parking and loading areas, indicate: size, angle of stalls; width of aisles and specific number of spaces required and provided, and method of computation, indicating ~~.~~ ~~Indicate~~ type of surfacing for all paved or gravel areas.

~~(8)~~(9) A final landscape plan.

~~(9)~~(10) Outdoor lighting information, including a photometric plan and location, description and photograph or diagram of each type of outdoor luminaire.

~~(10)~~(11)Signature panels for the director and the city engineer.

Secs. 34-829--34-849. Reserved.

Approved by Council
January 20, 2009

Clerk of City Council

AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF LAND
ON ROUTE 20 SOUTH, KNOWN AS THE VISITOR'S CENTER,
TO THE COMMONWEALTH OF VIRGINIA FOR USE BY
PIEDMONT VIRGINIA COMMUNITY COLLEGE

WHEREAS, in 1984 the City and Albemarle County jointly purchased property on Route 20 South in Albemarle County to use as a regional visitor's center (the "Property"); and

WHEREAS, the Property was purchased from the Commonwealth of Virginia with certain deed restrictions limiting the use of the Property to promotion of education and historic preservation and conservation associated with Monticello, and for the operation of an information center and gift shop for tourists; and

WHEREAS, the Property must revert back to the Commonwealth of Virginia in the event the City and County do not use the Property for any of the purposes referenced above; and

WHEREAS, the City's visitor center operation has been relocated to the Downtown Mall Transit Center, neither the City nor the County has any viable alternative for the future use of the Property; and Piedmont Virginia Community College has expressed an interest in using the Property for expansion; and

WHEREAS, in accordance with the requirements of Virginia Code Section 15.2-1800(B) and Section 15.2-1813, a public hearing was duly advertised and held to give interested members of the public the opportunity to comment on the proposed conveyance of the Property; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Quitclaim in form approved by the City Attorney, for conveyance of the above-described Property to the Commonwealth of Virginia. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said conveyance.

Approved by Council
January 20, 2009

Clerk of City Council

This document was prepared by
Albemarle County Attorney
County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902

Tax Map and Parcel Number 07700-00-00-015B0

This deed is exempt from taxation under *Virginia Code* § 58.1-811(A)(3) and from Clerk's fees under *Virginia Code* §17.1-266.

THIS DEED made this 24th day of December 2008, by and between the **COUNTY OF ALBEMARLE, VIRGINIA** (the "County"), a political subdivision of the Commonwealth of Virginia, Grantor; and the **CITY OF CHARLOTTESVILLE, VIRGINIA** (the "City"), a municipal corporation, Grantee.

WITNESSETH:

WHEREAS, acting pursuant to Chapter 576 of the Acts of Assembly of 1984, the Commonwealth of Virginia, State Board for Community Colleges conveyed to the City of Charlottesville and the County of Albemarle the property formerly used as the Western Virginia Bicentennial Center; and

WHEREAS, the City and County agreed that, in order to facilitate financing of the purchase of that property from the Commonwealth and the leasing thereof to the Thomas Jefferson Memorial Foundation, the City would convey its interest in the property to the County; and

WHEREAS, the City and County further agreed that upon the expiration of the lease to the Foundation or any extension thereof, the County would reconvey to the City an undivided one-half interest in the Property; now, therefore,

For and in consideration of the sum of TEN DOLLARS ($10.00) and other consideration, the receipt of which is hereby acknowledged, the County does hereby GRANT, BARGAIN, SELL AND CONVEY with SPECIAL WARRANTY OF TITLE unto the City of Charlottesville an undivided one-half interest in the following described property:

> All that certain lot or parcel of land consisting of 5.911 acres, more or less, together with the improvements thereon, formerly used as the Western Virginia Bicentennial Center, located in the southwest quadrant of the interchange, of Interstate Route 64 and-State Route 20, in Albemarle County and shown as Parcel A on plat dated January 23, 1984, revised June 8, 1984, prepared by Gloeckner, Lincoln and Osborne, Inc. recorded in the Clerk's Office of the Circuit Court for the County of Albemarle in Deed Book 814, page 553.

Such property is the same property conveyed to the County by deed from the City dated August 6, 1984 and recorded in the Clerk's Office of the Circuit Court for the County of Albemarle in Deed Book 814, page 555.

This conveyance is made subject to all existing easements, covenants, and restrictions affecting the property, including but not limited to those set forth in the aforesaid deed from the Commonwealth.

The County of Albemarle, by duly adopted resolution, has held a public hearing pursuant to *Virginia Code* § 15.2-1800(B), has approved the conveyance of real estate memorialized by this deed of easement and has authorized the County Executive to execute this deed of easement on its behalf.

The City of Charlottesville, acting by and through its City Attorney, the City official designated by the City Manager pursuant to authority granted by resolution of the City Council of the City of

Charlottesville, does hereby accept the conveyance of this property, pursuant to *Virginia Code* § 15.2-1803, as evidenced by the City Attorney's signature hereto and the City's recordation of this deed.

COUNTY OF ALBEMARLE, VIRGINIA

By:_____
Robert W. Tucker, Jr.
County Executive

CITY OF CHARLOTTESVILLE, VIRGINIA

By:_____
S. Craig Brown
City Attorney

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF_____:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this _____ day of _____, ____ by Robert W. Tucker, Jr., County Executive, on behalf of the County of Albemarle, Virginia, Grantor.

_____
Notary Public

My Commission Expires: _____
Notary Registration No. _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF_____:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this _____ day of _____, ____ by S. Craig Brown, City Attorney, on behalf of the City of Charlottesville, Virginia, Grantee.

_____
Notary Public

My Commission Expires: _____
Notary Registration No. _____

Approved as to form:

By:_____
County Attorney

This Deed is exempt (i) from recordation taxes pursuant to Section 58.1-811.A.3. of the Code of Virginia (1950), as amended, and (ii) from the payment of Clerk's fees pursuant to Section 17.1-266 of the Code of Virginia (1950), as amended.

DEED

This DEED is dated the _____ day of _____, 20__, by and between COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia, and CITY OF CHARLOTTESVILLE, VIRGINIA, a municipal corporation (collectively, "Grantor"), and the COMMONWEALTH OF VIRGINIA, STATE BOARD FOR COMMUNITY COLLEGES, c/o Virginia Community College System, 101 North 14th Street, Richmond, Virginia 23219 ("Grantee").

WITNESSETH:

That for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant and convey, with Special Warranty, to the Grantee, the following described property:

All that certain lot, piece or parcel of land consisting of 5.911 acres, more or less, together with the improvements thereon formerly used as the Western Virginia Bicentennial Center, located in the Southwest quadrant of Interstate 64 and State Route 20 Interchange south of Charlottesville in Albemarle County and which is more particularly described as "Parcel A" on the plat of survey recorded in Deed Book 814, page 553 in the Clerk's Office, Circuit Court, Albemarle County, Virginia, said plat entitled "Subdivision Plat Showing Survey of Parcels 'A' and 'B'", dated January 23, 1984, revised June 8, 1984, and prepared by Gloeckner, Lincoln & Osborne, Inc., Charlottesville, Virginia 23901.

Being the same property conveyed to the Grantor herein from the Grantee herein, by deed dated August 6, 1984, recorded in Deed Book 814, page 546 in the Clerk's Office, Circuit Court, Albemarle County, Virginia.

This conveyance is made subject to covenants, easements, conditions, restrictions, and agreements, appearing of record in the chain of title to the property herein conveyed, insofar as they may be lawfully applicable to the property.

(Remainder of page intentionally blank. Signature pages follow.)

Witness the following signatures and seals:

GRANTOR:

COUNTY OF ALBEMARLE, a political subdivision of the Commonwealth of Virginia

Attest:

By: _____
_____, Chairman of the Board

_____
Clerk of the Board

COMMONWEALTH OF VIRGINIA
COUNTY OF ALBEMARLE, to wit:

The foregoing Deed was acknowledged before me this _____day of _____, 200_, by _____ acting in his/her capacity as _____ of COUNTY OF ALBEMARLE, on behalf of the County.

My commission expires: _____
My registration number: _____

_____
Notary Public

CITY OF CHARLOTTESVILLE,
a municipal corporation

Attest:

By: _____
_____, Mayor

_____
Clerk of Council

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to wit:

The foregoing Deed was acknowledged before me this _____day of _____, 200_, by _____ acting in his/her capacity as _____ of CITY OF CHARLOTTESVILLE, on behalf of the City.

My commission expires: _____
My registration number: _____

_____
Notary Public

Grantee's Address:
c/o Thomas S. Cantone
Virginia Community College System
101 N. 14th Street, 16th Floor
Richmond, VA 23219

OFFICE OF ATTORNEY GENERAL
Approved as to Form:

By: _____
Assistant Attorney General

RECOMMEND APPROVAL:
DEPARTMENT OF GENERAL SERVICES
and its Division of Engineering and Buildings

By: _____
Director

APPROVAL BY THE GOVERNOR:

Pursuant to Section 2.2-1149 of the Code of Virginia (1950), as amended, and as the official designee of the Governor of Virginia, as authorized and designated by Executive Order No.88 (01), dated December 21, 2004, I hereby approve the acquisition of the property described in the attached or foregoing Deed, and the execution of this instrument for, on behalf of, and in the stead of the Governor of Virginia.

_____
Secretary of Administration Date