

Minutes

**PLANNING COMMISSION REGULAR DOCKET**  
**April 9, 2019 – 5:30 P.M.**  
**CITY COUNCIL CHAMBERS**  
**NDS Conference Room**

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

**Beginning: 4:30 pm**

**Location:** City Hall, 2<sup>nd</sup> Floor, NDS Conference Room

**Members Present:** Chairman Lisa Green, Commissioners Jody Lahendro, Lyle Solla-Yates, Taneaia Dowell, Gary Heaton, Hosea Mitchell, and Rory Stolzenberg

**Staff Present:** Missy Creasy, Lisa Robertson, Kari Spitler, Lauren Hildebrand, Roy Nester, Matt Alfele, and Joey Winter

Chairman Green called the meeting to order at 5pm. Ms. Creasy noted that the June 11 regular meeting will be on a Primary Election day and the Commission has the ability to move that meeting to the next available day per the bylaws. The Commission determined that they would like to keep the meeting on that day and would address it in the meeting this evening.

Chairman Green noted there would be one hearing this evening. Commissioner Mitchell asked a question concerning easements for the pump station. Mr. Alfele provided some background. Commissioner Dowell asked what happens if the applicant does not receive the SUP and what would happen if there was a concern with the system. Ms. Robertson reminded the Commission about the standards of review. Commissioner Mitchell noted that since the Commission is tasked with looking at things from a longer term basis, the long term status of how this would work was important. Commissioner Lahendro noted that there are different risks between Public Works and an HOA maintaining a system. Ms. Robertson noted that the code does provide for allowances and that Public Utilities does have some recommendations. She encouraged the Commissioners to review conditions which could assist in the decision making. Additional concerns about the project were noted which will be repeated during the public hearing.

**II. COMMISSION REGULAR MEETING**

**Beginning: 5:30 pm**

**Location:** City Hall, 2<sup>nd</sup> Floor, NDS Conference

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

**A. COMMISSIONER'S REPORTS**

**Commissioner Lahendro:** Attended a BAR meeting on March 13, which was a makeup day for being snowed out in February. There were 9 projects presented, 7 of which were approved with conditions for COAs. There was 1 preliminary discussion and 1 deferred application. On March 19 there was another BAR meeting, for which he was not in attendance due to a conflict. During this meeting, 5 projects were approved on the consent agenda, 5 were approved with conditions for COAs, and 1 preliminary review. The Tree Commission met on April 2 where there was a discussion with NDS staff to provide an explanation of the process for site plans relative to trees in their

review and comment, as well as their protection and preservation during construction. Staff members from the Site Plan Review, Utilities, Traffic, Standards and Designs Manual, and Inspections were all in attendance. Arbor Day will be on April 26 and will be celebrated at Market Street Park at 10am. The ceremony will be held by a large basswood tree. It is a City ceremony in combination with the Charlottesville Area Tree Stewards and the Tree Commission. There is an open house for the Fontaine Avenue Streetscape project on April 18 at the Charlottesville Fire Station on Fontaine Ave from 5:30-7:00pm where preliminary plans and concepts will be presented.

**Commissioner Solla-Yates:** Attended a HAC meeting where the Charlottesville Affordable Housing Fund and budget was discussed, along with funding. There were discussions about how to use the funding that is already available to subsidize affordable housing but hasn't been spent, managed by the CRHA. Possibly an institutional support like a nonprofit would be needed to make the money flow. There was a discussion about the IMPACT annual assembly on April 11. We received an update from UVA for a new 400 bed housing project for upper class students going out for bid in the fall. Another first year building is in planning after that. Overall 900 beds would be coming. Councilor Hill indicated that there would be no additional SUPs approved for student housing on West Main.

**Commissioner Dowell:** No report.

**Commissioner Heaton:** Attended both the HAC meeting and the Transportation Advisory Committee meeting on April 12. At the Transportation Advisory Committee meeting there was a lot of discussion about rotaries (roundabouts). The Unity Days Committee is also still meeting every other week.

**Commissioner Stolzenberg:** Attended an MPO Tech meeting where the fate of the \$18 million that was left over from some of the 29 Solutions funds was discussed. There have been discussions about this with the Hydraulic Small Area Plan Committee and they would like to see it used for the Zan Road overpass, which will be a pedestrian, bike, and vehicle lane across Rt. 29 at Zan Road. It would cost about \$25 million, so there would be about \$7 million left that would have to be split by the City and County. The City would prefer that we instead spend the funds on a left turn lane off of 250 onto Hydraulic.

**Commissioner Mitchell:** No report.

## **B. UNIVERSITY REPORT**

**Bill Palmer:** No report.

## **C. CHAIR'S REPORT**

**Chairman Green:** Attended two TJPDC meetings and several discussions took place on the upcoming budget for the year, as well as personnel evaluations and performance reviews for the Executive Director. They are restructuring planning and transportation planners and they have some vacancies. We looked at the FY20 Rural Transportation Plan, which deals with the rural areas like Fluvanna, Green, Nelson, etc., so sometimes they have different priorities than that of the City. The Regional Housing Study has been released and it will be part of the discussion at the May meeting. She notes that she was on one of the interview committees for the new City Manager and a City Manager has been hired that will start on May 13. We are still awaiting more information regarding the RFP for the Housing Needs Assessment and the remainder of the Land Use Plan, as well as the Long Range Planner position.

## **D. DEPARTMENT OF NDS**

**Missy Creasy:** The April work session was planned to be on the Standards and Designs Manual, however a community discussion needs to be had before they meet with Council and the Commission jointly, so that will not be ready for April's meeting. As of right now, there is not an item on April's work session. There is a bylaw allowance that allows the Commission to move the regularly scheduled meeting if it falls on an election day, which is the case for the June 11 meeting that falls on a Primary. The Commission will need to provide guidance on that so any logistics for the meeting can take place. NDS is still in the hiring process for some positions and will hopefully be filling them soon.

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

None.

**F. CONSENT AGENDA**

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

1. Minutes – March 12, 2019 – Pre- meeting and Regular meeting
2. Minutes – March 5, 2019 – Work Session

**Commissioner Solla-Yates moves to approve the consent agenda as presented. Seconded by Commissioner Stolzenberg. Motion is approved 7-0.**

**Chairman Green:** Our bylaws state that if the Planning Commission's meeting falls on an election day, we can vote to move that meeting to the next available date. There were conversations in the pre-meeting about this and the consensus was that we keep it as is since it is a primary rather than a major election.

**Commissioner Heaton moves to keep the date for the June 11 Planning Commission meeting as assigned. Seconded by Commissioner Dowell. Motion is approved 7-0.**

**Commissioner Stolzenberg:** Notes that he used to live in the Fry's Spring area off of Moseley Drive. In 2013 in Fry's Spring there were about 5 vacant parcels of land, however they are starting to fill in. The assessment of the value of the houses here are between \$150,000 and \$450,000. Between 2013 and now, 3 of them have started to fill in and will be almost completely filled in by the end of the year. Every single one of the houses that are coming in are significantly larger and more expensive than the existing houses. Many parcels that were built a long time ago were downzoned in the 1991 downzoning. The legal requirements we have put into place on these vacant lots and nonconforming buildings are causing this growth in new housing to be extremely high end, which changes the character the neighborhood in built form and in income level. Because there are 2 or 3 big vacant parcels left, all of which have been transacted in the last 2 years, the Planning Commission should do what we can to see that those new developments fit the existing value and built form of the neighborhood.

**Commissioner Stolzenberg moves to initiate a zoning map amendment to re-designate 34 non-conforming parcels and 33 vacant parcels in Fry's Spring from R1 to R2. Seconded by Commissioner Heaton.**

**Chairman Green:** There is a procedure that we need to follow for this and the best thing to do in these types of situations is to bring it forward in a work session to have the conversation and talk to legal about how to initiate a resolution of intent.

**Ms. Creasy:** How is this request different from the rezoning request put forth for Fry's Spring about 2 years ago?

**Commissioner Stolzenberg:** That was to rezone things from R2 to R1 and it involves different parcels entirely. Those were affecting Crestmont, and Cleveland and this would be for different nonconforming duplexes on Cleveland and Moseley, as well as vacant parcels on Flint, Belleview, etc.

**Commissioner Mitchell:** This requires a work session and public input.

**Commissioner Stolzenberg:** Believes that the process is to move to initiate it and then staff has 100 days to create a report, and then at that point there would be a public hearing about it.

**Ms. Robertson:** Commissioner Stolzenberg can make a motion to initiate a zoning text amendment and request staff to study it, however a time clock would not be on it because that only applies if City Council refers something to the Planning Commission. The study process would also require a review of land use patterns and there is an upcoming RFP that is about to be issued to have a consultant assist the City with updating the Comprehensive Plan. It is fine to look at it and develop information to give to the consultant, but you may also consider having it looked at in a broader context of updating the entire land use plan as part of the Comprehensive Plan update.

**Commissioner Stolzenberg:** Notes that he considered waiting for the full update of the zoning map, but at this point the RFP is out and we will still have the Comprehensive Plan process, which will be another 2-3 years before that happens. All of the vacant parcels have been transacted recently and are likely to be built on before that process ends. If we don't want to lock Fry's Spring into this future forever where it drastically changes, we need to take action now.

**Ms. Robertson:** Sometimes after an amendment of this nature has been initiated, it is discussed in a work session. Before it could be officially considered by the Commission, it would have to be typed up with a staff report and a public hearing.

**Commissioner Mitchell:** Notes that we should take our time and think about it. Recommends Commissioner Stolzenberg withdraw the motion and set up a work session to get the ball rolling.

**Commissioner Stolzenberg:** This is just to initiate the process of studying it, so if we pass this motion now then we have time to consider it.

**Commissioner Stolzenberg moves to amend his motion to initiate a zoning map amendment and study it in order to re-designate parcels so that the future development of Fry's Spring is in conformance with the existing patterns. Seconded by Commissioner Heaton.**

**Ms. Robertson:** Suggests postponing the discussion until after the agenda item.

**Chairman Green moves to move this agenda item to the end of the agenda for the evening.**

### III. JOINT MEETING OF COMMISSION/COUNCIL

*Beginning:* 6:00 pm

*Continuing:* until all public hearings are completed

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

### 1. SP18-00009 - Belleview Subdivision Utility Facility (Sanitary Pump Station)

**Chairman Green:** Landowners Core Azalea LLC and Azalea Cottages LLC, are requesting a Special Use Permit (SUP) pursuant to City Code Sec. 34-420, to allow construction of a Utility Facility (Sanitary Sewer Pumping Station) to serve the following properties: Tax Map and Parcel (TMP) No. 20-121, TMP 20-125, TMP 20-126, TMP 20 129, TMP 20-142, TMP 20-144, TMP 20-145, TMP 20-147, and TMP 20-148 (collectively, "Subject Property"). The Subject Properties are zoned R-1S (Residential Small Lot) and have frontage on Belleview Street, currently an unimproved platted street, as well as an unimproved alley, and are directly accessible by a stub out on Azalea Drive. The Subject Property includes approximately 6.80 acres and Landowners propose to construct up to 49 single-family dwelling units within the Subject Property (density of approximately 7.20 dwelling units per acre). The topography of the site does not allow for standard gravity-fed sewer service. The Comprehensive Land Use Map for this area calls for Low Density Residential (15 DUA or less).

**Staff Report, Matt Alfele:** About a year ago the Planning Commission held a meeting on a proposed subdivision to answer outstanding questions. The Commission had a preliminary discussion on December 11, 2018 regarding the sanitary pump station. The applicant is requesting this, as to tie into a gravity fed system would require going further south to tie into the Azalea system. They are proposing a sanitary pump station with an easement to the west to collect the sanitary sewer from the proposed by-right neighborhood and pump it up into the City's gravity fed system. The Public Utilities department is also here tonight to answer any technical questions.

### COMMISSIONER QUESTIONS

**Commissioner Solla-Yates:** How common is it for an HOA to survive 20 years in the City?

**Mr. Alfele:** Staff does not want to speculate on how long they exist. The City has HOAs that are tied to a lot of different projects. PUDs are probably what the Commission is most familiar with, where an HOA is formed to maintain storm water systems, open spaces, etc. They are a common practice.

**Commissioner Solla-Yates:** For an HOA of about 40 homes, is that more or less likely to succeed, given the City's track record?

**Mr. Alfele:** In a City our size, we are fairly small so the HOAs are smaller. Typically larger HOAs of about 200 homes tend to do better because there is a board that is constantly being turned over and people don't get burned out. HOAs with about 25 or less can become a problem. This one is in the mid-range.

**Commissioner Solla-Yates:** What happens when one of these units fail?

**Mr. Alfele:** Utilities can speak to the details of a system like this, but on the land use side there would be a violation of the SUP and there is a system that goes through zoning. It would follow a pattern in terms of any zoning violation if you are not following what was approved in the SUP.

**Commissioner Lahendro:** Is the pump station on a private property?

**Mr. Alfele:** Yes. The way the code is written, you have to have a lot that has a habitable use on it. You cannot create a lot unless it is going to be created for habitation, meaning you cannot create a lot just for a pump station. That is why this lot has a house on it and the pump station is ancillary.

**Commissioner Lahendro:** So the development can't set aside land for the pump station and storm water retention devices even though it serves the entire development?

**Mr. Alfele:** Only a PUD can do that. You cannot do that in a by-right subdivision the way the code is written. You can have an easement that's dedicated to the HOA.

**Commissioner Mitchell:** The closest HOA that does this is Lake Monticello. Are there any others in Virginia that do something similar to this?

**Mr. Alfele:** Staff could not find anything at this scale. Everything was either very large run by the local utility company or some of the private ones were commercial oriented for strip malls.

**Commissioner Dowell:** If the SUP is not approved, how would you develop on this site?

**Mr. Alfele:** The applicant can speak on what they would like to do if the SUP is not granted.

**Commissioner Mitchell:** Where does the creek empty into that runs through it? It looks like the stream is about 15 ft. away from the pump station.

**Mr. Alfele:** The water goes through Azalea Park and goes into Moore's Creek. Notes that it is unclear how that body of water is defined by the Army Core of Engineers. The proposed development would pipe that water.

**Chairman Green:** What about if it fails?

**Mr. Alfele:** There is a valley where storm water is collecting and that water channel is going to be put underground, but it is not part of the pumping station.

**Commissioner Lahendro:** The write up of the application states that the topography of the site doesn't allow for standard gravity fed sewer system. Wouldn't it be more accurate to say that the topography doesn't allow for standard gravity fed sewer system within the property lines?

**Mr. Alfele:** That is a fair statement because you would need to procure those easements in order to tie into the gravity fed system.

**Commissioner Stolzenberg:** Are these easements always done through private transactions? Sewer lines seem like a normal place to have eminent domain.

**Mr. Alfele:** Not really. Typically, the developer would put in a new line if they are building a subdivision and it would be built to the City's standards where they accept it. The City hasn't come in and said they would take an easement for a new line. There have been cases where easements were never dedicated and they are discovered during the subdivision process and Utilities will ask for an easement over that existing line.

**Commissioner Stolzenberg:** When the sewer system was originally put in, were those lines all running through consenting property owners' parcels?

**Ms. Creasy:** In the subdivision that is currently there, the lots didn't even take that into consideration at that point in time. Anything that is coming forward now for greenfield development is because there was a difficult situation and now we are left with land where things aren't easy. As things get more complicated applications such as this

come forward. There are many lots that have been platted there for a long time but there are legitimate constraints for the actual development.

**Applicant – Justin Shimp, Shimp Engineering.:** This is an unremarkable thing and it's weird that Charlottesville doesn't have more of them because of the hilly terrain. For example, in Wintergreen on the mountainside there are 26 pump stations similarly sized to this one. It may be unusual to the City, but it is not a complicated engineering feat. As part of the study, we looked at capacity of the sewer to make sure it has available capacity for the lots and pump station. The sewer lines would be privately maintained within the neighborhood and drain by gravity down to the pump station and are then pumped up the hill about 300 ft. to the existing sewer line. The pump station will be in lot 1. The storm water management system has to have a fund to maintain it as well, which is a \$300,000-\$400,000 system that would need to be replaced if there was ever a problem with it. The HOA would have to put aside money for that, which is why we have HOAs in the City now. This pump station is about a \$50,000 item, which is quite small in the scale of the obligations of the HOA. The pump that sits down in a wet well/manhole is the sewer that gets pumped up to the gravity flow and there are floats in the wet well that kick on to pump it up the hill. It cycles on and off depending on the load throughout the day. It is about 31" tall and 14" wide and there are two of them to serve as a backup in case one has an issue. Questions that came up during the neighborhood meeting was smell, which can be a problem on older systems that aren't equipped with the correct technology. An air pump and a diffuser would avoid that and it's cycling frequently enough that you wouldn't smell it. There are also options for filters and other things that can be installed to take care of odors from the vent pipe, although it is not something that is expected to be an issue. As for the noise, the pump sits down in water. If you were standing on top of it you might hear the pumps running, but that's it. If you were in the yard around it you wouldn't know it existed. There will be a backup natural gas generator that would be part of the system if the power goes down. Again, it is a very small system and once it is built no one will know that it is there. There are a variety of safeguards built in with the redundancy of pumps, backup power, etc. The HOA will have a property manager and one requirement in staff's conditions is a yearly inspection report, which would be for the Utilities Department to verify maintenance. This is very common but it just happens to require a SUP in the City.

## COMMISSIONER QUESTIONS

**Commissioner Dowell:** If this SUP is not approved, how else would you develop the site?

**Mr. Shimp:** We would have to require easements to go to the sewer downstream, which is a possibility. Alternatively, a wastewater plant could be built on the property, which would require a different type of permit.

**Commissioner Dowell:** Have you discussed with the neighbors about the possibility of getting the easement to tie into the City's system?

**Mr. Shimp:** The owner sent out letters to the 11 or 12 downstream properties. Only 1 or 2 responses were received and no one took him up on that offer. We didn't expect people to be keen on it because it would require going in a path behind their houses to build a sewer line.

**Commissioner Stolzenberg:** Have you considered raising the price and offering more?

**Mr. Shimp:** Notes that he does not make those decisions, however there is a cost to build the sewer down there. It's important to note that gravity sewers can also have failures. The City has improved this greatly, but the pump station also has a lot of safeguards so it isn't necessarily a worse system.

**Commissioner Dowell:** It's not that it's a worse system, but the City will maintain the other system. What is your take on having to report to the City annually for the maintenance of the pump?

**Mr. Shimp:** That would be fine. Our HOA will hire a professional operator who will turn in reports at least once a year and a copy of that would be turned into the City.

**Commissioner Stolzenberg:** How often do those HOAs have to lay out money to repair the storm water facilities compared to the pump stations?

**Mr. Shimp:** The cost cycling is 20 years and if the HOA put enough money into a fund every month, in 20 years they can pay for the whole cost of replacement. The lifespan of this is much longer. For instance, the pumps on the mountain at Wintergreen are almost all original and are 40 years old. At the time when something needs to be done, they should have twice as much money as they need. We haven't had these storm water facilities in the ground a long time and we will likely have more problems with those in 20 years than we will with pump stations.

**Commissioner Solla-Yates:** How did you arrive at the \$2,500 figure? Is that a standard amount?

**Mr. Shimp:** The number varies and it is pretty typical. We would usually offer a few thousand dollars for an easement. The cost of the easements alone will be about the cost of the pump station, let alone the cost of putting in the sewer line itself. The actual construction of the sewer line would be way more expensive.

**Chairman Green:** How many times do the pump station cycle throughout the day?

**Mr. Shimp:** It is probably about every 20-30 minutes, but it is multiple times per day.

**Chairman Green:** All of the vents that control the potential for smell are electric, which is a potential for failure. Will the generator be inside the shed as well?

**Mr. Shimp:** If the power goes out, the generator would kick on, but a fan could break. The generator could be inside the building.

**Chairman Green:** How many of these have you designed and built? How many have you put in for some of your developments?

**Mr. Shimp:** Notes that he has only designed one personally. This is being designed by Hurt Proffitt in Lynchburg. About a half dozen have been put in, which were in Louisa, Fluvanna, etc. They are typically more commercial, but the one in Louisa was an apartment complex with 150 units that was put in about 3-4 years ago.

**Commissioner Stolzenberg:** What does the failure mode look like? If both pumps die, does the whole system need to be replaced?

**Mr. Shimp:** The pumps can be replaced one at a time and it has an auto dialer that calls the technician automatically if something goes wrong. There would typically not be a situation where both of them fail because they are inspected frequently, but in the scenario that it did there are a few options. You could simply cut the water off in the neighborhood, but more likely you could bring a pump truck in and pump the wet well out every day until it is fixed. The downtime would be however long it takes to get a pump truck over to the site.



**Commissioner Stolzenberg:** What would be the turnaround on replacing the pumps?

**Mr. Shimp:** It depends. The water authorities in Nelson County keep them in stock and whoever operates this would probably be the same way. A licensed utility operator would likely have this and they would probably be maintaining multiple pumps around the area in Albemarle County.

**Commissioner Heaton:** Are there any in the City?

**Mr. Shimp:** There used to be one in the Woolen Mills neighborhood but it was taken offline because a gravity sewer was put in. It was taken offline because the lots across the street were being developed.

**Chairman Green:** You stated that Lake Monticello had something similar to this. Is that correct?

**Mr. Shimp:** They have a bunch of pumps and Aqua Virginia prefers the pumps because they don't have as much of a problem with inflow from runoff.

**Commissioner Mitchell:** Is there an audible alarm on these pumps?

**Mr. Shimp:** There is an audible alarm that will go off if it is not working and it is much more industrial grade. In order to stop the alarm, they will have to call the utility technician, who has a key to turn it off. They are on call 24/7. It's also possible they could turn off the siren remotely.

**Chairman Green:** Didn't Lake Monticello have failures with theirs where thousands of gallons of sewage went into the lake?

**Mr. Shimp:** Notes that he is unsure but they had trouble structurally because their setup wasn't good and it wasn't properly maintained, which created some problems. They haven't had any problems since Aqua Virginia took that over, but if that issue goes back beyond 5-10 years he is unfamiliar with it.

**Commissioner Lahendro:** You mentioned that a professional firm would be maintaining the lift station. How do we know that?

**Mr. Shimp:** It should be clarified in the conditions by staff and it is a legal requirement that has to be done.

**Commissioner Lahendro:** Would that be the HOAs responsibility? Who would be checking the HOA to see that they do have a professional service?

**Mr. Shimp:** The City's Utilities folks would handle that. When the report is turned in every year, it would be turned in by someone who is authorized to write it, which would be a professional engineer or a licensed utility operator.

**Commissioner Lahendro:** What is the annual maintenance for this and what are the other maintenance cycles involved? In other words, are there other things that need to be maintained over a period of time?

**Mr. Shimp:** The pumps are frequently maintained with typical mechanical maintenance and the pumps themselves have a grinder of sorts so a piece can be replaced periodically as part of the inspection. It is inspected all the time and need to be replaced every few years. On a monthly basis the generator can be cut on for 10-15 minutes to make sure everything is running properly. However, they are industrial grade so they are meant for

sitting for long periods of time and they sit inside a building. The people that go by to inspect it will look at the status of everything else to make sure it's working and the electrical palette wouldn't have any maintenance to it since it is in a building out of the weather. The pump itself would require the most maintenance.

**Commissioner Lahendro:** Is a lift station in this type of topography in a low area more prone to odor issues than at the top of hill?

**Mr. Shimp:** If it had an odor, the smell might be experienced differently based on the topography, but if it is functioning like it is supposed to then no odor is expected.

**Commissioner Lahendro:** What if you find out there is an odor after it is installed?

**Mr. Shimp:** If the aerator wasn't performing for some reason, it would have to be replaced but there would be a fix for it. It isn't new or advanced technology.

**Commissioner Stolzenberg:** Why not go with triple redundancy for the pumps to make it even less likely that none of them fail?

**Mr. Shimp:** That is not the standard.

**Commissioner Stolzenberg:** Is there redundancy on the air pumps that diffuse air into it so it doesn't go anaerobic?

**Mr. Shimp:** Notes that he isn't sure, but it probably could be done. It wouldn't be difficult to do.

**Chairman Green:** With the recent rainfall, how would that affect overflow with the ground being as saturated as it has been over the past year? Will it have any effect on this?

**Mr. Shimp:** No. The system is sealed tight so ground water does not have an effect on the pump itself. During the study there was over 30 days of testing where we looked at the capacity of the interceptor sewer line down by Moore's Creek where it eventually would tie into and some of that does peak when rainfall occurs. Because of this, it does affect the main sewer lines but it doesn't affect the pump station.

**Councilor Galvin:** Is the pump station in a flood plain and if you were to deed this to the City, would the City accept it? Why or why not?

**Mr. Shimp:** No, it is not in a flood plan. It would be the City's decision to deed it. In the HOA structure there is no intention to dedicate the sewer pump or the storm water systems to the local government, they would be permanently operated by the neighborhood. If it were deeded it would be City Council's call on accepting it, but as far as looking at City standards, the preliminary design does meet the standards. The comment that was received by Public Utilities was that even though it is private, it can't be built there unless it meets the standards. If it were ever taken over, it would be a City decision.

## **PUBLIC HEARING**

**Jessica Wegner:** Many residents of Fry's Spring have significant concerns about the proposed SUP for the Belleview sanitary sewer pump station that would be located in the neighborhood. Notes that she spoke before the Commission during the preliminary discussion in December and spoke on behalf of an organized group of

more than 30 concerned households and tonight the organized group consists of more than 86 households. Some of the concerns include the odor and the environment. The proposed pump station is sited near an active stream channel, which is shown on the City's GIS map as well as the City's waterways map. There is year-round flowing water there, which means that the underground pump station could be installed in saturated soils that could lead to problems with groundwater infiltration and subsequent sanitary sewer overflows if the wet well is not sealed or installed properly. These sanitary sewer overflows would flow through neighboring backyards, through the Azalea Park wetlands and eventually into Moore's Creek, which is already impaired for bacteria. In addition, the proposed siting of the pump station is in a stream valley, so odors will linger. Odors can linger due to the topography because the proposed site is approximately 34 ft. below in elevation of Monte Vista Avenue to the west and 24 ft. lower than Azalea Drive to the east. Given the topography, the odors will be particularly pronounced during atmospheric inversions. Many municipalities require a study of prominent wind direction before a sanitary pump station can be installed. In this case with a pump station being surrounded by houses on all sides, there is no question that residents will be impacted by odors. There are many engineering solutions for the odors that the engineer touched on and on the surface these sound like a great option. These range from carbon filters, which have been proven to be ineffective in many installations, to chemical treatments, which attempt to mask the odors. Each of these engineering solutions to the odor problem does not actually solve the odor problem. These filters or chemical treatments are either attempting to absorb the smell or cover up one smell with another smell. They do not eliminate the actual odor because they don't remove the cause of the odor. Raw sewage smells and it smells even worse when the conditions become anaerobic, which produces the rotten egg odor of hydrogen sulfide. OSHA also lists both short and long term health effects from exposure to hydrogen sulfide. If you look online or speak to utility operators who maintain these in other municipalities, you'll learn odor is a common complaint. While it's easy for someone who doesn't live in the neighborhood to say it's no big deal, it doesn't take away the fact that there is an odor. The Woolen Mills pump station mentioned earlier was even removed due to odor complaints. Odor is a big deal considering that the proposed pump station will be completely surrounded by current and future Fry's Spring residents whose homes, property values, and potentially their health could suffer if this pump station is installed.

**Casey Gioeli:** On behalf of this group we express concerns that the sewer pumping station is proposed to be privately owned and operated. Per the draft provided by the developer, the Home Owner's Association will be responsible for common maintenance facilities. This includes the proposed sewer pumping station and sewer lines, retaining walls, and storm drainage facilities. According to Robert Nordlund from the consulting firm Association Reserves, as many as 70% of these HOAs are undercapitalized. We believe that the relatively small size of the proposed HOA, the scope of its responsibilities, and the unknown timeline for project completion places this HOA in the more than likely position of being undercapitalized. Any failure of this pump station may result in a human health hazard. Expecting the HOA to own, operate, maintain, and have sufficient funding to completely replace one of these systems is unreasonable. It is in the best interest of the community that the developer be required by this Commission and Council to provide an assessment of the envisioned capital adequacy of the HOA, not only in an expected case but in a case that contemplates unforeseen circumstances. At a minimum, this should include a reserve study and sample capital budget. These submissions should then be made available for public review and comment. This review is a prudent requirement to understand and manage the risk, not only for those who live or will live in the immediate area, but for all City residents, as they may be asked to fund remediation in the case of failure. Lastly, there have been preliminary discussions where it has been suggested that in the case of HOA failure, the City will assume responsibility for the sewer pumping station and make its own assessment to homeowners for the cost of maintenance. There is no guarantee for this and we don't see how this could easily be reassured given the number of unknown factors. Thank you for your serious consideration of this matter that could greatly affect the livability for the residents of the Fry's Spring neighborhood.

**Jesse Harper:** When we received the letter from the City about this application, it stated that a gravity fed sewer was not possible for this development given the topography. That statement is not factual. It is possible, as confirmed in a conversation by Matt Alfele. A gravity fed sewer was recommended by Roy Nester in his original response to the development. He said that the City prefers a gravity fed sewer for this development and it is still the best long term solution. The reason for this application is because Core Azalea, LLC did not procure easements from the adjacent property owners on Monte Vista because they didn't offer an amount that was commensurate with the value of what they were seeking to purchase. The reason that they aren't doing it is for cost savings and Mr. Shimp confirmed that. Ultimately it is not a cost saving measure for the City, it is a measure to maximize the profit margin of this development. The City Code section 34-157 sets the general standards for when to approve or deny an SUP and asks whether the proposed use or development will have any potential adverse impacts on the surrounding neighborhood, such as dust, odor, fumes and other factors that adversely affect the natural environment. There is more in that section and it is worthy of review because this application contradicts many of the guidelines in that section, noise and smell in particular. In the application, the applicant says that you wouldn't smell it unless you were standing on top of it. The validity of this claim was questioned and the sewage plant manager in Chesterfield County who is employed with the wastewater utility for 37 years was contacted. He said he was responsible for 32 of these pumping stations and laughed when the statement was read. He said the most common complains that they get for them concern the smell and the noise. Every solution offered only masks the smell. When asked about smell mitigation, he said it amounts to putting perfume on the sewage, the smell is still there because it is sewage. It stinks and there is no solution to that. When this application says it doesn't smell, there is an intent to mislead the Commission on the fact of the smell because a profit margin is at stake. If they are forced to do what the City and Utilities actually recommends, they will have to pay the owners a fair market price for the easements.

**Samuel Johnston:** Notes that he is an environmental attorney and a Fry's Spring neighborhood property owner where the proposed project borders on the property. The general purpose here is to provide information to the general public. Unfortunately we were not satisfied with many of those answers and we need more information, particularly with respect to the impacts. In any environmental assessment with a project like this, the public has a right to know what the impacts are going to be and how they will be minimized and then mitigated. The Chair has brought up the issue of rainfall and we need to have a much more detailed analysis of the cumulative impacts of the peak flows that are foreseeable in combination with rainfall from climate change. The impacts of the foreseeable water and sewage runoff from this project need to be analyzed. The peak flows need to be quantified and determine what the impacts will be on watersheds, wildlife, and neighboring values. Moore's Creek is also an impaired waterway and more analysis needs to be done on that. It was troubling to see staff hesitate to call the waterway that is going to be impacted and possibly destroyed a stream. It is a stream and may very well be federal jurisdictional water, which would implicate federal law and needs to be taken into consideration. The City's input for Virginia's phase 2 watershed implementation plan dated February 2012 calls for, among other policies, maintaining the designation of a 100 ft. riparian buffer on the City's three main waterways, one of which is Moore's Creek. If this is maintained, it would make sense to maintain at least a 50 ft. buffer on a tributary to that creek that would be impacted by this project. The Planning Commission is urged to maintain and remember their duties as trustees of the public to maintain the values of the public trust and public health.

**Jason Bishop:** Notes that he is the lead organizer and the community is engaged with this. We have spoken to a lot of people about this development and no one is in support of a development like this. It is simply not in concert with the surrounding neighborhood, especially if you look at the size of the houses relative to the size of the lots for the proposed development, as well as the already existing lots and their houses. This pump station is another way that it is not in concert with the surrounding neighborhood. There isn't another one in the whole City. We won't have everyone in the room speak for three minutes, but we hope that the Commission will take the considerations that we have stated seriously.

**Susan Quinn:** Notes that she is a resident of the Fry's Spring neighborhood, a member of the board of the Fry's Spring Neighborhood Association, and is here to read a statement from the FSNA. The FSNA welcomes appropriately designed in-fill and the new neighbors that it brings. The FSNA respects the rights of property owners to pursue all legal activity on their private property while recognizing that some activities can result in negative impacts elsewhere in our community. Regarding the application for an SUP for the proposed Belleview development, the FSNA and the community we represent have concerns that a sanitary sewer pump station could have long-term negative impacts on the adjacent properties and the neighborhood. Specifically, the FSNA has 5 concerns: 1) odors are a common issue with sanitary sewer pump stations and siting the pump station in a valley will result in lingering odor, 2) the planned location has a high-water table, evidenced by naturally occurring springs, and any flaws in the construction would allow water in, potentially resulting in failure and overflows, 3) Charlottesville City code does not currently specify best engineering practices for installing a pump station, 4) Charlottesville City code currently does not allow the City Utilities to step in if the pump station fails, a situation which could result in the release of raw sewage into the backyards of Fry's' Spring residents, the adjacent Azalea Park and Moore's Creek, which is already impaired for bacteria, and 5) maintenance and replacement of the sanitary sewer pump station are planned as the responsibility of an HOA. If the HOA does not plan its finances properly or fails, the City may be forced to take action, potentially incurring substantial cost to the taxpayers. At the very minimum, the approval of an SUP to allow the installation of a sanitary sewer pump station should be delayed until the necessary regulations are in place to address how the City will handle cost, operation, maintenance, and replacement of a pump station located on a private property should the HOA fail. In summary, given the site conditions and lack of appropriate code to address contingencies, the FSNA does not support the proposed solution at this time and urges the City to deny the permit.

**Stuart Wilson:** Resides at 318 Monte Vista Avenue and worked with the Rivanna Water and Sewer Authority for 35 years. One of the main complaints that we would get from citizens was pump stations. Aeration doesn't work and carbon filters were pretty ineffective as well. There is a chemical solution that can aerate the water without agitating it that may be called bioxide. Rivanna has started using that with a lot of their pump stations, especially at the Farmington County Club pump station because there have been many complaints. Notes that when he bought his house almost 30 years ago he knew that a subdivision was platted in there, but had no idea it would require a pump station. Unlike the folks in Woolen Mills who bought houses with an existing pump station, these residents did not have that choice when they bought their houses. The noise can also be a problem because the air compressors make the most noise if they are used rather than the sewage pumps.

**Christopher McQuale:** Notes that he is a licensed professional wastewater engineer and his family has property on Monte Vista. The idea of having a package plant to treat the water and discharge it to the creek at the bottom of the hill and odors from that would only exasperate the problem. Regarding the discharge to the sewer line on Monte Vista Avenue, the hydraulic capacity for it to receive water coming from a pump station is questionable because it wasn't designed for that and it is a concern that should be looked into.

**Nomi Dave:** Resides in the Fry's Spring neighborhood. The experiences as residents with the Porter Avenue development, which is the most recent development that is still ongoing, have been that there is a lack of transparency on their behalf and a lack of enforceability. It seems like the development wants to try out an experiment in Fry's Spring and we've been told to accept their assurances that there won't be a smell, it won't have very much noise, etc. The experience with the developer in the case of Porter Avenue was that we were told that there would be a 4 way stop sign put at JPA that never happened. We were told that the tree line would be saved behind our house that never happened. There is a consistent problem with lack of transparency. There is also a lack of enforceability. Today NDS addressed the fact that if there is a failure in the system then zoning regulations kick in. There was also a point brought up about annual maintenance reports that the developer is

obligated to make to the City. However, NDS, both in a private meeting and in a City Commission meeting, admitted publically that they do not have the enforcement capacity to actually enforce some of the regulations that are in the books. In the case behind you we were told that City code regulates that developers must keep 20% of the tree canopy and if they cut down trees then they are obliged to replant so that 20% of the canopy is maintained. We were told that was confirmed, however the developer cut down all the trees and never maintained any of that canopy and have continued to violate that code. When this was brought up in a City Commission meeting in front of NDS and Andrew Baldwin regarding the new development, NDS said they don't have the capacity to enforce these regulations. This is an issue that must be addressed before we are expected to just believe the promises that these developers are making.

**Peter Rightmyer:** Lake Holiday Estates in Frederick County, VA is about 15 miles north of Winchester. It is a plan unit development HOA with a terrible track record. They have their own private utility and all of the equipment, and it was a colossal failure. It was not due to bad planning, it was due to disaffected voluntary board members, of which they had 15 on their utility board and 11 on their HOA. Ultimately that development was taken over by a special commissioner for Frederick County. Chuck Alton was in receivership for about 3.5 years before it was straightened out. If the Commission is inclined to believe that 41 homeowners are going to do their due diligence with collecting funding to provide for future reserves for this, the Commission is encouraged to look again.

## COMMISSIONER QUESTIONS

**Commissioner Lahendro:** Does City Utilities have standards for a lift station?

**Ms. Lauren Hildebrand, Public Utilities:** No, there aren't any standards in the Standards and Designs Manual because we currently do not maintain or have any pump stations. The sewer system is entirely gravity fed and we maintain 170 miles of gravity sewer within the system.

**Commissioner Lahendro:** What standards would you use to evaluate the design?

**Ms. Hildebrand:** Currently, the Department of Environmental Quality has state-wide regulations that we have to follow. The short term is SCAT Regulations that were developed by the state that set standards for how wastewater treatment plants are designed, as well as pump stations and gravity sewers. We do have the ability to review the designs against the state standards.

**Commissioner Lahendro:** Why wouldn't the City take this on themselves since it is for the development of over 40 houses and the larger neighborhood area?

**Ms. Hildebrand:** It takes a little different expertise to maintain a pump station than a gravity fed system. It would take someone who is a little more familiar with control, electrical, and mechanical systems. Within our area, we consulted with Albemarle County Service Authority and they have maintain certain lift stations within their system, but they have people who are trained with those skillsets. They don't maintain all of the pump stations and there are some in the County that are also private, but that is generally because there is no gravity sewer in the area that could serve the system.

**Commissioner Lahendro:** Are you familiar with the systems to speak to issues of odor and noise?

**Ms. Hildebrand:** Notes that she used to work for an authority where there were over 60 pump stations within the system. They do emit odors. The philosophy behind sewer systems is that they need to breathe a little bit and emit the odors into the air.

**Commissioner Solla-Yates:** There is a question about capacity of the sewer line. Have you looked at that?

**Ms. Hildebrand:** We have looked at the capacity of the adjacent gravity system along Azalea and the system they are proposing to pump to and it is an 8" line. Generally 8" lines have the capacity for about a ½ million gallons and this development will on average generate 20 thousand per day. It has enough capacity, but you have to be careful because you don't want to hold too much back and pump too much at one time when designing a pump station because it can be odorous. It should pump on a regular basis so the age of the sewer doesn't get too old.

**Commissioner Solla-Yates:** There was also a question about the shape of the land since this is bowl shape. Does odor linger or spread?

**Ms. Hildebrand:** Notes that she cannot speak to that issue.

**Commissioner Dowell:** To help mitigate the adverse impacts on the neighborhood, in the event that the pump stopped working and they didn't have enough money in their HOA to keep it going, how would the City handle it?

**Ms. Hildebrand:** Notes that she has developed additional language in the event that this moves forward to be more stringent in looking the HOA documents and making sure they had the right wherewithal to finance future capital improvements. One recommendation is a revision of staff's first recommended condition to change the 6<sup>th</sup> line to read three feet, by five feet in dimension, enclosing the SCADA controls to the pump station. Another recommendation is to revise the 8<sup>th</sup> line to read (v) a private sewer force main, as well as the operations and maintenance condition, which was revised to add that regular maintenance will be conducted by a qualified contractor that is approved by the Director of Utilities. Regular maintenance will be conducted to avoid an adverse impact on the City's sewer system. Additional proposed conditions include that 1. The design will incorporate the Department of Environmental Quality's Sewage Collection and Treatments regulations as well as provisions designated by the Director of Utilities as deemed necessary to assure that there is no negative impact on the City's sewer system, 2. During operation of the Pump Station, in the event the City's public sewer system experiences a negative impact, caused by hydrogen sulfide or any other cause, then the HOA will be responsible for the cost of repairs and remediation of the adverse impact to City's system. If these repairs or remedial actions cannot be made in a timely manner determined by the Director of Utilities, then the connection to the City's sewer system will be terminated, 3. The Landowner(s) shall provide the Director of Utilities a copy of the HOA documents, to allow the Director to verify that the provisions within the documents are adequate to ensure that the HOA will be responsible for all costs and has all necessary authority to make assessments to landowners within the development to cover all costs of construction, operation, maintenance and repair of the Pump Station. At no time shall the City of Charlottesville be responsible for any cost(s) associated with construction, operation, maintenance or repair of the Pump Station, 4. If a sanitary sewer overflow occurs, the overflow must be reported by the System Operator to the Virginia Department of Environmental Quality within 24 hours, and then the System Operator must submit to DEQ a 5-day follow-up report. A copy of the initial overflow report to DEQ, and the 5-day follow-up report shall be delivered to the City's Director of Utilities at the same time as the reports are delivered to DEQ.

**Chairman Green:** Clarifies that the proposed conditions for the SUP would be infringed upon the development of the HOA in addition to the conditions in the staff report if it were to pass.

**Commissioner Heaton:** Does City Utilities have a tap fee established or plans for how the City might do that?

**Ms. Hildebrand:** We have a facility fee, which is intended to handle the additional requirements for the capacity of the system that currently developers pay. It is set up by the size of the meter or the equivalent residential unit and it is prorated based on the size of the meter. The facility fee is applicable to the water meter set at the houses and it has a water component and a sewer component. The intent of the facility fee is to recoup monies that the City spends generating capacity within the system to adequately fund it, whether it is in our system or Rivanna's.

**Commissioner Stolzenberg:** You stated that there is nothing in the Standards and Designs Manual now, but it is under revision. Was that part of the discussion into the new Manual?

**Ms. Hildebrand:** As part of Utilities, we are having discussions about what will be included in the Standards and Design Manual and then the details on things like a pump station or gravity sewer would be in construction documents that would be referenced in the Manual.

**Commissioner Stolzenberg:** A few commenters noted that there aren't laws in place in the current City code to adequately manage this, especially in an HOA failure scenario. Are there parts of other cities' codes that are more comprehensive in how they handle pump stations? Should we look at a zoning map amendment for that?

**Chairman Green:** This is an SUP and all SUPs fall under the zoning ordinance, so it would be under zoning regulations.

**Ms. Robertson:** Public Utilities is in a different chapter of the City code and Ms. Hildebrand manages the public system in accordance with a parallel set of regulations and requirements in a different chapter.

**Commissioner Stolzenberg:** More broadly, what do other cities do?

**Ms. Hildebrand:** It varies, but if there is a gravity solution many places would prefer that over a pump station because of its long term maintenance cost from an electrical standpoint.

**Commissioner Stolzenberg:** When they do have pump stations, do they have regulations in the City code that do things similarly?

**Ms. Hildebrand:** There are design standards that would be followed.

**Chairman Green:** These are not typically occurring in cities, especially in urban environments. Is that the case?

**Ms. Hildebrand:** Usually you will find them located where there isn't a gravity solution. We do have a gravity system close by, but they do require easements.

**Chairman Green:** The City doesn't want to take that on because of the long term maintenance costs. Several Commissioners are concerned about affordability, so what do you think this will cost each homeowner in homeowner's association fees just for this particular system?

**Ms. Hildebrand:** It might not be applicable, but in the previous authority there was a contractor that would regularly maintain household pump stations and they were usually for government agencies. Generally the cost was about \$2,000 per month to do regular weekly checks on the pump station to make sure everything is working.



Notes that she did not check to see what people around here would charge. That figure does not include setting aside capital improvement funds.

**Chairman Green:** In the future if this were to fail, could this be converted into a gravity system in the future at the cost of the homeowners?

**Ms. Hildebrand:** Yes, if they could acquire the easements through the properties. The only way Utilities could get involved would be if we were expanding our system and there was a public health issue. We typically do not condemn for easements.

**Chairman Green:** If this were to fail and the HOA did not have enough money, even if they were preparing, and sewage was leaking, the last proposed condition says that the connection with the City sewer system will be terminated. In this case, how many homeowners would have their water cut off to prevent overflows?

**Ms. Hildebrand:** They would all have to be cut off. The only way to stop the health hazard would be to stop the water usage.

**Commissioner Stolzenberg:** Do we shut off people's water when people don't pay their bills?

**Ms. Hildebrand:** There is a long process for that.

**Chairman Green:** Is it true that it took about \$5.2 million for the Rivanna Water and Sewer Department to mitigate the odor control on that?

**Ms. Hildebrand:** That was at the treatment plant and it was close to \$10 million.

**Councilor Hill:** What is staff's general perspective on this project? What is preferred by staff?

**Ms. Hildebrand:** Since the City runs a gravity system that is preferred.

**Councilor Hill:** Do you have any concerns with this coming into one of our City's neighborhoods?

**Ms. Hildebrand:** Typically, the experience with pump stations has been to not site them close to the houses because they can be odorous.

**Councilor Walker:** Notes that she is concerned about homeowners losing access to a system where the only way we can mitigate the issues is to turn their system off. Future homeowners also shouldn't have to deal with this if the system failed.

**Commissioner Solla-Yates:** There was a recommendation from the public that we require financial disclosures from the HOA to see that they could actually take care of it if they had the money to do it. Can we require that?

**Ms. Robertson:** We can't do that under the zoning regulations. Copies of the HOA documents confirm the obligations and there are statutory obligations in the state where the members of the HOAs have fiduciary obligations to impose assessments and obtain enough capital reserves. It doesn't mean they will do it, but it isn't in the Commission's purview as zoning reviewers.

**Commissioner Stolzenberg:** There was mention that an alternative for this is an actual sewage treatment plant on site. Is that by-right?

**Ms. Robertson:** If it was allowed it would be the same type of permit process as this.

**Chairman Green:** In the City, if you have an SUP and someone violates the SUP conditions, how does the City mitigate that?

**Ms. Robertson:** There are a number of different ways. If something is presenting a serious issue you could go to court and seek an injunction to either preclude someone from doing something or to require them to do something. We rarely use that process, but it is available.

**Chairman Green:** In this scenario, what is the timetable to get a zoning case in the court in the City?

**Ms. Robertson:** To get that case through the court it would take quite a while. If there was urgency and you were dealing with a public health situation that could be called a public nuisance you could likely get an emergency injunction fairly quickly. The remedies for that would be quicker under the public utilities and public health codes. If an individual homeowner has a problem with their service lateral and it's causing a backup in a public sewer, it is a smaller scale but a similar process. The landowner is responsible for resolving any problems with the portion of the line they are responsible for and if it creates a public health situation there are remedies within the public utilities code that include shutting off the water or going to court to require them to fix it. It is not an unusual situation and there are health and utility codes that allow it to be dealt with, which would be quicker than the zoning route. There are also obligations under an MS4 permit and many substantial storm water facilities are being installed in common areas to be maintained by HOAs and if they fail it is a substantial burden. There are some legal remedies even within the development. If the HOA isn't producing their fiduciary duties the people within the development can bring private actions within them. Liens are placed against properties for charges that have been assessed and not paid, as well as special assessments that can be done quicker than routine annual assessments to cover unexpected expenditures.

**Chairman Green:** So this is passing all of the cost onto the individual homeowner?

**Ms. Robertson:** Yes, and for other requirements such as storm water as well.

**Commissioner Stolzenberg:** Do you mean the individual homeowner that owns the lot it's on, rather than the other 48?

**Ms. Robertson:** No, it is all 49 lots collectively.

**Commissioner Stolzenberg:** Do the neighbors have standing to bring private action against the HOA if there are odors out of compliance with this?

**Ms. Robertson:** Probably not under the HOA arrangement, but there is a right of action called a public nuisance that could be brought up.

**Commissioner Solla-Yates:** Ms. Hildebrand notes that in more rural areas, there should be a certain amount of space between a pumping station like this and other residences. What is a reasonable buffer?

**Ms. Hildebrand:** It is typically in the back of a subdivision in a low lying area because everything had to gravity feed to it.

## COMMISSIONER DISCUSSION

**Commissioner Heaton:** Municipalities that are utilities all over the state are finding ways to develop and we have housing issues in Charlottesville and we are growing. There is a high level of confidence in alternative systems and our Utilities should begin exploring what that looks like. In a growing population, you have to find alternative systems.

**Chairman Green:** Is this an alternative system or a way to pass the extra cost onto the property owners?

**Commissioner Heaton:** Gravity systems are better, but they are becoming less mandatory because there are more people. If we don't have contingency plans for decades out for continued population growth, our Utilities might begin making some of those.

**Chairman Green:** This is not a place where it can't be done, it is where the easements have not been acquired.

**Commissioner Heaton:** This will happen again. It may be the first special exception before the Commission but it won't be the last, so we should have a review so we have guidelines as opposed to a special exception every time.

**Commissioner Dowell:** Charlottesville is only a 10 sq. mile radius and we aren't going to be growing that much more to need the pump. As far as the review goes, we need more information before we can say that this is actually a good alternative.

**Commissioner Heaton:** Utilities need to provide us with where we are going in 20 years because we are going to grow. Municipalities with gravity systems are having to look how to grow.

**Chairman Green:** This is not an alternative system, it is a rural system and you were one of the biggest proponents for density and urbanism.

**Commissioner Heaton:** Exactly. There are systems in place in old municipalities that are also utilities where you have to look at how you can accommodate a higher population. It won't always be gravity.

**Chairman Green:** That's fine, but we are passing along cost unnecessarily to people that are about to own homes. It could also have more lots if we don't put a pump station there to give more housing.

**Commissioner Heaton:** It's illegal, so it's a special exception and it won't be the last one we see, especially as the population stress continues. We need a study to determine where we are going to go so we don't have to have special use permits over and over.

**Chairman Green:** We are not going to need SUPs for this because people are going to tie into the City's Utility system. We are creating an urban environment and this SUP would put a rural system in an urban environment because the developer doesn't want to potentially pay the costs to get the easements.

**Commissioner Heaton:** Agrees, but we shouldn't always be talking to developers. We need the City Utilities to provide some guidance for how to deal with this 20 years in the future.

**Chairman Green:** Notes that it is a great thing, but this is the first one she has seen in 18 years with the City.

**Commissioner Stolzenberg:** Shouldn't the people be mad at the 10 selfish property owners? It is understandable that \$2,500 is a low ball and they could ask for more money, but they didn't even respond and now they are going to force it on all of them.

**Commissioner Mitchell moves to deny the application. The potential adverse impacts of the sanitary pump could create problems in the neighborhood, specifically in the matter of noise, lights, dust, odor, fumes, vibrations, and other factors which adversely affect the natural environment and the surrounding environment. Seconded by Commissioner Dowell.**

**Commissioner Dowell:** Notes that she is very concerned that this can have impacts on the surrounding neighborhood, but there are also concerns about how we will develop the property. If we aren't going to approve the pump but the property owners will not grant the easements, where do they go from here? Will we just not develop the property or are we back at another SUP? Notes that she is against the pump because of the impacts to the neighborhood, but at the same time we are going in circles because if the developer cannot get the easements it can't be developed.

**Chairman Green:** Absolutely, but we are putting Utilities in a Zoning issue. We talk about density and affordability a lot and we are not making these lots affordable by having this system put into the place. They could rezone it and make more lots and more density, but we need to tie into the systems that we do have and know they work and that the City is going to maintain. The costs should not be passed along to these property owners and new homeowners, who are not going to read all of the content and have no idea what they are signing on to until it fails and they have to pay for it. We cannot talk about affordability and density and allow a suburban rural pump station in the middle of one of our most urban areas.

**Commissioner Dowell:** If the developer can't get the easements, what happens next?

**Chairman Green:** We can come up with some solutions for that. There are better alternatives than a rural area system.

**Commissioner Heaton:** What we do with this permit is one thing, but we can learn from this moment and ask Utilities to plan for what is going to come so we have some capacities and alternatives.

**Chairman Green:** Notes that this area is going to develop eventually.

**Commissioner Mitchell moves to deny the application. The potential adverse impacts of the sanitary pump could create problems in the neighborhood, specifically in the matter of noise, lights, dust, odor, fumes, vibrations, and other factors which adversely affect the natural environment and the surrounding environment. Seconded by Commissioner Dowell. Motion for denial is approved 6-1.**

## **2. ZM18-00003 - Flint Hill PUD**

*Deferred by applicant until at least May 2019.*

### 3. New Business – Fry’s Spring Zoning Text Amendment Proposal by Commissioner Stolzenberg

**Commissioner Dowell:** What is the goal in going from R1 to R2? Is it to create more density or to create more affordability?

**Commissioner Stolzenberg:** About 34 of the parcels in mind are already single family attached and they are non-conforming and it would be great to bring those into conforming status because it seems unreasonable that they have been downzoned like that. As for the remaining ones, right now we are seeing many large, expensive houses pop up in Fry’s Spring, which is not what Fry’s Spring looks like even though the northwest side is expensive. It is mostly \$150,000 - \$200,000 houses and if left as is, the giant expensive houses are all you can build and it doesn’t make sense if we want to have homes people can afford.

**Commissioner Dowell:** That is a general thing going on across the City, it isn’t just Fry’s Spring. What makes Fry’s Spring different than any other neighborhood?

**Commissioner Stolzenberg:** It isn’t fundamentally different and broader zoning reform would be beneficial too. It is being brought up now because there is a sense of urgency. Of those 5 vacant greenfield areas, all of them have been transacted or are about to be built on. While it would be great to do this across the whole City in the new Comprehensive Plan and Zoning Code, we already have consensus that we’re going to allow up to fourplexes in every zone and this is probably going to happen faster than that.

**Chairman Green:** Nothing has been passed on that. We are the Planning Commission and that hasn’t gone to the City Council.

**Commissioner Stolzenberg:** That is true, but that is why we need to get it to City Council and into the zoning ordinance.

**Commissioner Heaton:** The process is set in place so there can be quick action from the public. Commissioner Stolzenberg was asking for this to be taken into consideration.

**Chairman Green:** As Planning Commissioners we should take our place on the Commission as a governmental body for the people, not for personal wants and desires. We should not have an agenda and it is unclear what body Commissioner Stolzenberg is representing other than himself.

**Commissioner Stolzenberg:** Notes that he doesn’t live in Fry’s Spring anymore, so it isn’t about him. An observation was made as a Planning Commissioner that the face of Fry’s Spring is changing based on the laws we put in place and are entrusted with the stewardship of. When Fry’s Spring neighborhood association introduced a downzoning in 2014 they didn’t have authority to do that. They didn’t own any of the pieces of property so they couldn’t make a petition to Council to change that, they had to get a sympathetic Councilor to do it for them.

**Commissioner Lahendro:** Notes that he does not feel comfortable voting on something that is brand new and it is not a benign request because it does take staff time. We have to look at the staff workload and understand what the priorities are before we start to commit them to doing something else. We should put this off until a work session to frame what we are going to talk about so research can be done ahead of time.

**Chairman Green:** We also have a housing needs assessment that the HAC has looked at and that is being very much researched so that we have a plan to do this as opposed to picking an area because we used to live there and like it. We have a plan and it does take staff time.

**Commissioner Stolzenberg:** Reiterates that this is just to initiate the discussion and the natural result of initiating it would be having a work session.

**Commissioner Dowell:** We need to be aware of things like this, not only in Fry's Spring but throughout the City so people who have lived here can continue to, but it may not have been delivered in the best approach and that is why it isn't getting the best feedback. If we are going to be a body, everything has to move together.

**Commissioner Stolzenberg:** What is the best practices way to propose something like this? Notes that he apologizes for how it was presented and he doesn't have an ulterior motive, but his understanding of how the ordinance was written is that now would be the proper time to make a motion in the meeting and once we initiate discussion the rest of it happens.

**Chairman Green:** Agrees, but staff didn't even have the knowledge of it. Ms. Creasy could have offered advice. Don't we have a work plan from Council?

**Ms. Creasy:** It is on hold. In fact, any zoning idea that is more than a small tweak that wouldn't require significant communication public-wise would refer to that process, which is currently not in our control. The RFP is being constructed and staff hopes that the position will be filled before the RFP hits the streets because it would be much more helpful if there was something to start with and they guide it before it goes out so they have ownership of the process. We are awaiting the next steps on the RFP and we would get pushback on anything that wasn't simple for that process. Right now we have been guided on the path to the RFP and the position to happen in some timeframe and then that process will move forward our processes here. It would also be helpful to structure the conversations in such a way that there are potential outcomes to a concern so that you aren't talking in circles and it is a productive experience.

**Chairman Green:** The housing strategy is a huge part of this, have we heard anything else about that strategy?

**Commissioner Solla-Yates:** The last time the HAC discussed it, we were waiting on details from the Planning Commission, so hopefully that will move forward and we will be able to get that done. As the Chair of the Planning subcommittee, two years ago HAC recommended updating the ADU ordinance and nothing has been done. About a year ago it was recommended to update the frontage and minimum lot size requirements and nothing has been done. There is a whole pipeline of quick fixes.

**Ms. Creasy:** They aren't quick fixes, they are significant discussion items. There are a number of boards and commissions around the community that have been putting together a lot of good information and the Commission went through a number of issues, including those, and noted that frontages need to be done in the context of other things. The most recent quick fix from a zoning perspective was allowing for a drive-thru restaurant in the Highway Corridor and even that was controversial. It wasn't an easy conversation and that would be considered a quick fix. Things like frontage changes will need a lot of discussion from a lot of community partners.

**Ms. Robertson:** Part of the reason we are in this fix is we haven't been following the methodology we are supposed to use. The Comprehensive Plan does not give us adequate guidance and since 2003 we have been coming up with ideas that are not in furtherance of strategic goals and objectives. Until we get that framework in place that is a guiding document, we can't fix the problems that we want to fix. It just can't be done. The Streets That Work document was a great adoption, as it gives very specific guidance and if the rest of the Comprehensive Plan gave as much guidance as that does, we could make great progress.

**Chairman Green:** The zoning ordinance would then have to match the Comprehensive Plan.

**Ms. Robertson:** A great result out of this would be a Comprehensive Plan update with very specific concentration on the Land Use Plan including affordable housing and having simultaneous ordinance provisions to implement those recommendations. As always, we are waiting to take the first step.

**Chairman Green:** A third part of that is the housing strategy. It has been very frustrating that these parts don't talk to each other at all and the biggest mistake we made was not making the changes to the zoning ordinance on the 2013 Comprehensive Plan.

**Ms. Robertson:** Historically we wanted to incorporate a lot of interest and values in the Comprehensive Plan, but we have been short on practical guidance.

**Ms. Creasy:** The Comprehensive Plan can tell you whatever you want it to say to you and we have had a difficult time in the community with taking hard lines on things. It has to be a decision that we take or at least a range of something because it has been so difficult to get folks to grasp as a larger community. Change is hard and we have tried a few bigger zoning things and the time wasn't right. Hopefully tying these things together and bringing in a group that can guide the community with outside expertise will allow for steps to be taken to move forward.

**Commissioner Lahendro:** We started this with seven lay people that were told to redo the Comprehensive Plan that no one had ever done before. If we would have had the professional guidance from the beginning, it would have helped and given us structure.

**Commissioner Dowell:** When we started on the update we were fine being seven lay people. The incidents that have occurred in Charlottesville about 2 years ago have blown up and we are trying to find the solutions of over 300-400 years in one document at one time. Sometimes we need to take a step back and start over. We cannot wrap everything into one thing because it would never work.

**Ms. Creasy:** All of these things take time as well. We have had some changes that have come over time, but they are slow.

**Chairman Green:** It's important to remember that we are an advisory Commission to Council and it doesn't mean that they are going to vote for what we advise.

**Commissioner Heaton:** We have been reminded by the public of our duties and we've done a good job. Commissioner Stolzenberg demonstrated before the public that there are ways to bring things forward, as well as staff's approach to make sure we have a workable workload. Both of those are in the system for a reason. Additionally, having Chair Green tell the public that the site is going to be developed when they didn't want to hear that was great. Maybe our new City Manager can help this body realize that we need to serve what our duty is in front of the public. The public does need to see that we can be responsive.

**Chairman Green:** The wheels just move very slowly, especially when it comes to enforcement. An enforcement action under the zoning ordinance can take up to 4 months to get to a judge to get an action. It is a slow process that isn't fun, but the flip side is that if it moves too fast and the pieces aren't all put together, it can fail.

**Commissioner Stolzenberg:** Going back to the motion on the floor, given that there is a sense of urgency here because in two years it will already have happened and we will be locked in for the next 50 years, the goal was

that this could be a manageable chunk that we could look at with the existing set of tools. The existing Comprehensive Plan calls for up to 15 dwelling units per acre.

**Chairman Green:** Would this be more of the form of a small area plan but it is an entire neighborhood?

**Ms. Robertson:** Let's pick a workshop where information will be provided about the categories of things that the Commission is supposed to look at when making this type of zoning change. Then the Commission can decide if they are ready now or if you want to roll it into the Comprehensive Plan process to undertake the studies and analysis that is needed to move forward with that type of change.

**Chairman Green:** Let's plan on discussing this at the April work session.

**Ms. Robertson:** We need to have a big picture discussion and the work for staff do to a good analysis takes time when looking at a whole area very specifically. It's usually preferable to do this at the same time that the Comprehensive Plan is updated.

**Chairman Green:** Anything we do has to have community outreach and engagement. We can't just initiate a zoning text amendment and in July we make a zoning change.

**Ms. Robertson:** Notes that it hasn't been unusual over the years for someone to initiate a change on an agenda and then to study it. The question is what level of study staff has capacity for and if you want to start right now before the larger Comprehensive Plan update gets finished.

**Commissioner Dowell:** No. That is half of the reason why we are in this situation now. Let's get our Comprehensive Plan done first. That is not to say that this is a bad idea because it's great to get more information and learn about our City, but we don't need to be running in circles. It is important but if we wait and do it at the right time it can be done at once.

**Chairman Green:** If Ms. Robertson brings us what it would take to look at this we would also need to look at the zoning we have in place because we can't redo the zoning for just the Fry's Spring neighborhood because we don't have a form based code right now and the zoning is for the City as a whole.

**Commissioner Stolzenberg:** This would only be for some minor tweaks to the map. We are running in place right now. Notes that what really prompted this discussion was that there was a site visit last month before the Lyman Street application and he spoke to someone who was rooting for the houses to go in there because it would raise his property value so much. He was hoping that the drinking and smoking neighbors that live behind him that have lived there for 50 years would get priced out of their neighborhood.

**Chairman Green:** Agrees, however we don't the tools in place to zone that in right now.

**Commissioner Stolzenberg:** We need a ton of changes to the zoning ordinance and a whole new Comprehensive Plan and there is a lot of work to be done. That's why we should start doing something and take this little chunk to make 30 parcels able to have single family attached houses. It isn't making ground breaking changes here and half of them already have single family attached houses on them that are just non-conforming.

**Ms. Robertson:** The motion was initiated and someone seconded it. The Commission needs to determine if they want to initiate it, and if so what is the first step in the process to study how to develop the amendments that might later be brought forward for a public hearing. Alternatively, Commissioner Stolzenberg can call the Chair



and Ms. Creasy and add an agenda item on the April work session to discuss it and determine if it should be taken any further at this point in time.

**Ms. Creasy:** Commissioner Stolzenberg can also get some bullet points on paper to discuss for a work session.

**Commissioner Stolzenberg withdraws his motion and requests to add the topic to the April work session.**

#### **IV. ADJOURNMENT**

**8:45 pm – Commissioner Lahendro moves to adjourn until the second Tuesday in May 2019.**