

Agenda

PLANNING COMMISSION REGULAR DOCKET TUESDAY, July 12, 2016 – 5:30 P.M. CITY COUNCIL CHAMBERS

- I. **PLANNING COMMISSION GATHERING** -- 4:30 P.M. (Held in the NDS Conference Room) Commissioners gather to communicate with staff. (4:30-5:30 P.M.)
- II. **REGULAR MEETING** -- 5:30 P.M.
- A. COMMISSIONERS' REPORTS
 - B. UNIVERSITY REPORT
 - C. CHAIR'S REPORT
 - D. DEPARTMENT OF NDS
 - E. MATTERS TO BE PRESENTED BY THE PUBLIC NOT ON THE FORMAL AGENDA FOR PUBLIC HEARING
 - F. CONSENT AGENDA
(Items removed from the consent agenda will be considered at the end of the regular agenda)
 - 1. Minutes - June 14, 2016 – Pre meeting and Regular meeting
 - 2. Minutes - June 28, 2016 – Work Session
 - 3. Minutes – May 24, 2016 – Work Session
 - 4. Minutes – May 26, 2016 – Joint Work Session
 - 5. Zoning Text Initiation – Woolen Mills Conservation District

III. **JOINT PUBLIC HEARINGS (Beginning at 6:00 P.M.)**

H. JOINT PUBLIC HEARINGS

1. **ZT16-00002 – Telecommunications:** Proposed amendments of the text of the City's zoning ordinance – Article X (Generally Applicable Regulations), Division 5 (Telecommunications Facilities) Sections 34-1070 through 34-1084, and 34-1200. The proposed text amendments will affect parcels of land throughout the City. The text amendments are proposed to bring the procedures for review of proposed communications facilities into compliance with requirements of federal law (Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”) and the Federal Telecommunications Act of 1996). Additionally, a proposed change to Sec. 34-1074(a) would delete the current requirement that attached communications facilities must be mounted on structures that are at least 40 feet tall. Revisions to Sec. 34-1200 would modify existing definitions of “antenna”, “collocation”, “communications facility”, and “tower” and would add new definitions of terms, including, without limitation: “base station”, “carrier on wheels”, “concealment element”, “eligible facility”, “eligible support structure”, “substantial change”, “transmission equipment” and “utility pole”.

REGULAR MEETING (Continued)

- I. Zoning Text Initiation Request
Appurtenance revision **WITHDRAWN!**

J. FUTURE MEETING SCHEDULE

Tuesday, July 26, 2016 – 5:00 PM	Work Session	Water Street Corridor ZTA and Small Area Tour - Emmet Street
Tuesday, August 9, 2016 – 4:30 PM	Pre- Meeting	
Tuesday, August 9, 2016 – 5:30 PM	Regular Meeting	<u>Critical Slope Waiver</u> – Seminole Square Shopping Center and Pepsi Bottling Special Permit – 1011 E. Jefferson Street, 1248 Emmet Street Entrance Corridor SUP recommendation – 1248 Emmet Street

Anticipated Items on Future Agendas

- ZTA – Height and Grade, Woolen Mills Conservation District consideration
- Rezoning – Sunrise PUD Amendment,
- Special Use Permit –1228 Cedar Court
- Entrance Corridor – 1170 Emmet Street (CVS), 1200 Emmet Street (commercial site) & 1300 Emmet Street (car wash)
- Subdivision – Harmony Ridge, Belmont Station

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PLEASE NOTE: THIS AGENDA IS SUBJECT TO CHANGE PRIOR TO THE MEETING.

PLEASE NOTE: We are including suggested time frames on Agenda items. These times are subject to change at any time during the meeting.

MINUTES
PLANNING COMMISSION REGULAR MEETING
Tuesday, June 14, 2016

I. PLANNING COMMISSION PRE-MEETING (Beginning at 4:30 p.m.)

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

Members Present: Chairman John Santoski; Commissioners Lisa Green, Genevieve Keller, Jody Lahendro, and Corey Clayborne;

Call to Order: the meeting was called to order by Chair Santoski at 5:00 p.m.

Commissioners asked if they needed to disclose that they were members of the UVA Alumni Association in association with the Alumni Hall application. It was noted that they could do so. Commissioners noted minor changes to the minutes which needed to be updated.

Ms. Keller asked if the Lewis Mountain neighborhood had spoken about the Alumni Hall application and Mr. Alfele noted they had not.

Ms. Creasy confirmed that there would not be a Council quorum.

Ms. Green asked if in reference to the appeal on the agenda, if Mr. Payne and Ms. Robertson had been able to come to a consensus. It was noted that did not happen.

Ms. Keller noted that in reference to the appeal, it was noted on-line that a meeting was held in the hall at the May Planning Commission meeting on this issue and Commissioners were a part of it. She wanted to point out that she was not part of that discussion. It was clarified that the attorneys were the ones having that discussion.

There was a brief review of the draft findings of fact for 624 Booker.

II. REGULAR AGENDA (Beginning at 5:30 p.m.)

Location: City Council Chambers, Charlottesville City Hall, 2nd Floor

Members Present: Chair Santoski; Commissioners Taneaia Dowell, Kurt Keesecker, Lisa Green, Genevieve Keller, Jody Lahendro, and Corey Clayborne;

City Council Members: Council Member Bob Fenwick, Kristin Szakos

City Council did not have a quorum at the meeting, which means it will need to hold its own public hearing for each item before taking action.

Call to Order: the meeting was called to order by Chair Santoski at 5:30 p.m.

A. Commissioner's Reports:

Commissioner Lahendro reported he attended three committee meetings: On May 18th the Housing Advisory Committee and the CDBG Task Force held a joint meeting where they reviewed proposed policy and procedure

updates. Also on May 18th he attended the Parks & Recreation Advisory Board meeting where they talked about the Tonsler Park Master Plan implementation. The Splash Pad design has been selected with the community's input, contract documents are in progress now and they hope to have it open by next summer. Ragged mountain trails planning: there have been four public meetings to gather input on the trails and Parks and Recreation has developed four options based on feedback. Public hearings will be held at the Advisory Board's July 20th meeting at 5:30 at Carver Recreation Center. There is a 30 day public comment period that follows with recommendations at the August 21st Parks and Recreation meeting which then will go to Council. He attended the Tree Commission meeting on June 7th. The Commission selected 10th and Page as the target area for tree planting. The metric committee is working with Parks & Recreation staff to develop a prototype system for tagging new trees to include the date planted, species and the growth of the tree. The hope is to start this in January in 2017. There was discussion of the impact on street trees caused by the rezoning of 100 Ridge Street, from the proposed West Main East to the Water Street corridor district and the commission made a recommendation to the Planning Commission and City Council we will discuss later in the agenda.

Commissioner Keller stated she did not attend the PLACE Meeting, but there was an informative presentation on the Green Infrastructure program that will be coming to the Planning Commission for a presentation. She attended TJPDC where they re-elected their officers for another year, Chip Boyles made a presentation on the Route 29 improvements and on Go Virginia which is a State wide economic development initiative intended to promote regional collaboration. She said many other Commissioners have probably been receiving email and other communication from residents of the Cherry Avenue area that have been working on starting their own small area plan. She thinks that it is a community initiative to be applauded and commended and we should find some way to work with them and incorporate that resident led initiative into our process. There are some very committed and knowledgeable people who care a lot about their community and maybe we could plan a town meeting with them.

Commissioner Dowell reported on May 18th she also attended the joint HAC/CDBG joint meeting where they reviewed policy, received an updated on the citizen participation plan, and look forward to proposed revisions moving forward for City Councils approval.

Commissioner Keesecker no report

Commissioner Green no report

Commissioner Clayborne no report

Chair's Report – Mr. Santoski reported that the Planning Commission had a chance to walk though Woolen Mills and talk with some folks about the small area plan to get a sense to what is happening in that area. He said we are going to start to see some movemen, and Mr. Lahendro was a big proponent for us walking through the different areas where small area plans are being considered so we can get a visualization of how the space looks. He also enjoyed seeing the emails from the Cherry Avenue neighborhood and if other neighborhoods did a little homework, and wanted to pass it along to the Planning Commission, we would be appreciative of that. He said today is Flag Day. He said there was an event at the free speech memorial, and asked for a moment of silence for the tragedy in Orlando, Florida.

NDS Department Report: given by Missy Creasy: June 28th will be our next work session and our next small area tour.

Matters by the Public

Nancy Carpenter stated she is an appointed member of a commission, just as you all are here in the city. On Sunday 50 of my Black and Brown brothers and sisters, were murdered in an act of terror by homophobic America. Yesterday she was part of the vigil where it was said silence cannot save you and that is true and she

is here to be un-silent. This coming Monday City Council will be considering a resolution to demand our legislature have some stiffer gun control laws. If that does prevail, I am asking this commission to please support that action as an appointed body to that commission. I am a member of the Human Rights Commission and I will be asking the same of my colleagues. I will be here asking publicly that all Boards and Commissions that are appointed by the city do the same, and that we do honor them by asking where is the Bill?

Melvin Grady 238 Hartman Mill's Road, life-long residence of Charlottesville, VA, appreciates all of the work you all are doing because as a Planning Commission, an advisory to the City Council, you all are doing a very good job for Charlottesville. I don't check all of the votes or anything like that but please continue to do the good work you are doing for Charlottesville, VA.

F. CONSENT AGENDA

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

1. Minutes - April 12, 2016 – Pre meeting and Regular meeting
2. Minutes - April 26, 2016 – Work Session
3. Minutes – May 10, 2016 – Pre meeting and Regular meeting

Motioned by Commission Green with corrections seconded by Commissioner. Lahendro, motion passes 7-0.

Commissioner Green said she was a part of the event supporting the Orlando victims and she knows that what we are appointed to do is to uphold the zoning ordinance but wonders if it would be appropriate for us to say in solidarity to show our support for City Council for the resolution that they are bringing forth on Monday.

Chairman Santoski said it seems a bit premature since we don't have the actual resolution in front of us. He said it sounds like something the commission would want to do but not having a chance to see what Council is actually going to put forth is concerning.

Commissioner Green said if we could get the resolution and we all could take a look at it and take it under advisement; hopefully we would support this effort. She is very grateful to the City Council for stepping up at this time to take this particular action.

Commissioner Keller motioned that the Planning Commission could send to Council a broad resolution that says as the body that initiates zoning text amendments and other actions that are related to promoted the health, safety and general welfare of our community that this is very much in that spirit and we support the efforts that they would make to that end, seconded by Mr. Keesecker, motion passes 7-0.

JOINT PUBLIC HEARINGS

ZM16-00001 - 209 12th Street NE - Nappa Properties, LLC has submitted a rezoning petition for 209 12th Street NE, also identified on City Real Property Tax Map 54 as Parcel 178 ("Subject Property"), as the owner of the Subject Property. The petition proposes a change in zoning from R1-S Low-Density Residential (current zoning) to M-I Industrial (proposed zoning) with proffered development conditions. The proffered conditions include restrictions on the permitted use(s), allowing only single-family residential with special use permit and a limited number of commercial uses and communication facilities; restrictions limiting the height of new buildings to the height of the existing T&N Printing building; restrictions on the location for loading; prohibition on use of the alley behind the parcel; and a ten (10) foot landscaped buffer between the Subject Property and adjacent residential districts and property (the proffered buffer is in excess of any buffer that would be required by the M-I district regulations). The Subject Property has frontage on 12th Street NE, and contains approximately 0.19 acres or 8,300 square feet. The general usage of the proposed M-I zoning

classification is Light Industrial, with residential uses allowed only by special use permit. The general usage specified in the Comprehensive Plan for the Subject Property is Low-Density Residential. No density range is specified by the Comprehensive Plan. The maximum height is 85 feet front on Market and 12th Street.

Commissioners deferred action after a public hearing in May to request additional information.

It was noted that T&N Printing currently has no plans to proceed with expansion on the lot in question and several people argued that they should have plans before the city continues with a rezoning request.

Commissioner Clayborne said there is not a need or a justification for the zoning at this time.

Commissioner Lahendro said we should not let more residential areas erode by allowing more industrial.

The public hearing was opened

Melissa Spurzem, 1109 Little High Street, is a new resident in the neighborhood but has been in the area for a long time and used to work at the city in economic development. She thinks T&N Printing is a great business and has been a good neighbor. That neighborhood has changed over the years and she has concerns and would kindly request that you deny this rezoning because they should have a plan for this house first.

Bill Emory, 1604 East Market Street, 1. Does the proposed amendment conform to the general guidelines and policies contained the Comprehensive Plan; No. 2. Does the amendment further the chapter and the general welfare of the community; No. 3. Is there a need and justification for the change; No. The current residential zoning on the parcel at 209 12th Street is reasonable as staff has pointed out. The current zoning is consistent with the Comprehensive Plan and this residential use is consistent with the vision and with the land use plan. In 2009, the planning commission informally considered a global review of the zoning map and the land use plan in advance of tackling the state mandated once every five year comprehensive plan update. The staff produced this map which he emailed you guys last month to show you manufacturing and residential zoning adjacencies in the city founded in Fifeville, Woolen Mills, Rose Hill, Locust Grove Starr Hill, the 10th and Page neighborhoods and the subject parcel here tonight. Former NDS director, Jim Tolbert said July 13th 2006, that the very hard line between industrial and residential is not something typical in land use or in the zoning ordinance. As a city we have the zoning code audit pending and a part of our ongoing pursuit of good zoning practice. Why are these manufacturing residential adjacencies found in neighborhoods of particular racial and socioeconomic profile? At the very least we need to answer that question before expanding residential further into this or other modest residential neighborhoods. I hope you will recommend denial for the proposed rezoning of this property on the basic that rezoning is not required by the public necessity of convenience and general welfare or good zoning practice.

Julia Wiseman, 1208 E. Jefferson Street, has a creek in her backyard that stops right at 12th Street, and it is underground and that house sits on top. In other places in the city we are day-lighting creeks and she would hate to lose that opportunity with a new building. We have a very sweet modest neighborhood and thank you for bringing us closer together in this task. We love our neighborhood which is filled with colorful people, who care about each other, and with one less in great shape house, we lose that encroaching on us like a cancer, from that direction and another direction. We can't afford to lose any more houses to a business that really doesn't help us locally. There are no immediate plans or needs and it would not benefit us at this time to change the zoning on that house, they already have plans for the other one and that is fine, the zoning across the street that jumped the creek for light industrial actually thank you for bring that to her attention. We have a much protected green space right there that is unique in the city and adding more industry that doesn't attend to the environmental interest of our community; she thinks would be a detriment. She asked people to stand who are in favor of keeping the zoning residential to stand up.

Shawnee West 1204 E. Jefferson Street, thanked the Planning Commission and the City Council for hearing us and for doing a good job. She said a delivery truck for T&N has woken us up early and has caused congestion on E. Jefferson Street. The neighborhood has been able to hold the balance between being an affordable residential neighborhood and a city neighborhood and is venerable to this expansion. We are becoming more and more alarmed as the traffic increases, and we are confronted with the push to increase density. She is completely opposed to the proposed zoning change to 209 12th NE. She feels that it is important to have a plan and they have stated that they do not have a plan.

Ann Mercer said we do not know what we are zoning for and there is nothing in the Comprehensive Plan that covers having no plans which makes it unfair for you (the planning commission) to be put in such a position, but there are sections in the Comprehensive Plan on the importance of single family homes especially ones that are 50 years old and preciousness of neighborhoods and the preservations of the historical areas. Please do the right thing and leave 209 12th Street zoned residential.

Vonti Nyguyn 1116 Little High Street, is asking the city to deny the T&N application to rezone residential to industrial. Growth is not a universally desirable process in a mature healthy organism it is called Cancer, our neighborhood is a healthy almost ideal community including working people and disabled, poor people. Many of the houses are small one bathroom houses. For decades we have enjoyed depending on one another for help and friendship in this neighborhood. Visitors are amazed at the warmth of residents there. We ask that you stand by your own goals for the city to preserve neighborhoods and to provide affordable housing. We already have buildings the size and shape as a prison (Charlottesville Day School Gymnasium building). We are very disturb by this building and do not want any more business to destroy. Stand by your own goals and provide affordable housing. She asked that 209 remain residential and that in the future no more residences are demolished and that commercial building stay as they remain now.

Mandy Patterson 1120 E. High Street, she said if she were to go to a bank and ask for a loan they would want to see a business plan for giving me the money. If this business doesn't have a plan, then we should not give them the zoning they are asking for.

The public hearing was closed

Commissioner Clayborne made a motion to recommend denial of this proposed re-zoning of property recognized as Tax Map # 54 Parcel 178 on the basis that there is not a need or a justification for the re-zoning at this time, Seconded by **Commissioner Dowell**, motion passes 7-0.

ZM15-00004 624 & 626 Booker Street Rezoning - Mark Kestner, acting as agent for property owner Neighborhood Investments-RH, LLC has submitted a petition to rezone land at 624 and 626 Booker Street ("Subject Property"), from low-density (R-1S) Residential to B-3 Commercial with proffers. The Subject Property is identified on City Real Property Tax Map 36 as Parcels 87 and 88, and has frontage on Booker Street. Report prepared by Brian Haluska, Principal Planner.

Brian Haluska said he has been to several public meetings and a lot of concerns expressed with many other applications that we have heard about the affect and changes that are going on in some minority neighborhoods. One of the items he hopes we can talk about is the system we have is the results that we have a really hard decision if we are going to tackled it and maintain the demographics of these neighborhoods. Right now our ordinances are heavily slanted toward preserving the single family residential character in these neighborhoods. We see the impact of that policy right now. Focusing on one piece at a time is really poor zoning practice and that is why the recommendation is for denial.

Commissioner Keesecker asked would this enterprise not qualify for an infill special use permit or was rezoning the only option. Do you know if the applicant is within the zone or is it just not applicable?

Mr. Haluska said he didn't know how much the existing structure ties their hand in terms of trying to get that and meet the Low Impact Development check list if they so choose. He said the applicant could certainly come back with that request if they so choose given the third unit for a different type of housing.

Councilor Szakos said she understands that the person who built this are not the same people coming forth with the application. Can we assume that when this was built, the zoning would not permit a triplex there so it was being built as a single family home?

Mr. Haluska said the previous owners had begun work on a structure that is technically allowed under the city's zoning code, but the proposed use as three apartment units is not. The original building plans for the project were for a 7,000-square-foot, single-family detached residence.

Commissioner Keller asked would this unit which is larger than what previously occupied the site be eligible for city tax abatement or is that only for an expansion of an existing property.

Mr. Haluska said he believe it's only for the expansion of an existing property. He will check with the specialist in building and tax assessor's office before he gives you a final answer.

Mark Kestner said he appreciates you acknowledging that we're not the original architect or the original developer. Mr. Spurzem thought it would be good to finish the project. We've had a lot of commentary from the neighbors, and we understand your concerns, but there was never any intent to damage the neighborhood or do anything else other than finish the project and to move on.

Commissioner Clayborne asked was Mr. Spurzem aware when he purchased of the property the opportunities and strengths that came with the present zoning when he purchased it?

Mr. Kestner said he thinks he fully understood the zoning implications when he looked at the property, the property does have three floors. It does have fire separation between each and it does have a fire sprinkler system between each floor and it does appear that it has living space on each level and Mr. Spurzem thought this would be fairly straight forward. We are not saying what the first guy did is the right thing. It appears to be the wrong thing. He is trying to make the wrong thing better by completing the project.

Councilor Fenwick said he has heard comments around town, and just too clear things up, was it a conditional purchase on the part of Mr. Spurzem, or has it gone to closing and now it's his property.

Mr. Kestner said he thinks Mr. Spurzem owns the property, I don't think it was conditional purchase. He has closed on the property.

The public hearing opened

Evelyn Yancey Jones, who lives behind the property at 629 Rose Hill Drive, submitted a petition with more than 800 signatures against the rezoning. We've been there for 100 years, and much of the property in the area was gifted so minorities could own their own homes. The structure is there and we can't do much about that, but we would like the zoning to remain. Ms. Jones asked commissioners to work with the neighborhood to try to maintain both its character and the relative affordability.

Clarissa Witcher Bell, Janice W. Martin, Ellen W. Shackelford, and Barbara W. Lloyd, We own the properties of 903 Charlton Avenue and 904 Booker Street, we are very much opposed to the rezoning of the property on Booker Street as you see by all of us standing. The Rose Hill Neighborhood is our childhood neighborhood. It has always been a safe haven for children. This neighborhood holds many memories, Burley High School and Washington Park. The Rose Hill neighborhood is one of few which has original homes where some of the original family still owns the property. Some of the new families have renovated old homes and became a real part of our neighborhood. One in which folks still stop and talk on the way to the Rose Hill Market and you see children running and playing. The Rose Hill neighborhood is a perfect example of a village of love and kindness. People helping people wherever they see a need. We believe the rezoning of the 624 and 626 property may very well cause this our present neighborhood atmosphere to die, with rezoning we fear our neighborhood will suffer much unwanted change, more traffic, more disturbances both day and night, noise, crime, pollution especially to our residents as with cost and use to the alley to except the excess to the units on Booker street. Danger to our children running and playing, out of character building such as the unfinished structure, lastly but not least rezoning two lots may set the precedent for others to want to rezone. A city such as Charlottesville should want to embrace neighborhoods. Have housing that is in character with each other in a place where all can live in harmony and an atmosphere that demonstrates that the city cares about all of its residents. The Rose Hill neighborhood is our childhood neighborhood, and it is safe for children today.

Rev. Pastor George Gohanna, President of the Rose Hill Neighborhood Association 930 Rose Hill Drive said he is concerned about our community, we are a family that is a village, and most of us were raised in the Rose Hill Community. They should never put a business in a residential neighborhood. We are concerned about our community, it is inappropriate, understand that Rose Hill has integrity; we have nurses, doctors, teachers, stability from the youngest to the oldest. We can still sit on porches and drink coffee and tea. We are opposed to businesses coming into Booker Street, Rose Hill, and Commerce Street. Most of you all did not support Vinegar Hill. Rev. Gohanna said approving the rezoning would set a precedent with echoes from the past. We have felt and seen what happened to Vinegar Hill, and most of you are all sitting on this commission did not. We have seen what that has done to this community.

Steve Ivory 915 Charlton Avenue, said he appreciated City Council being here and next term when your time runs out he knows who he needs to be listening to, if you thinks it's important to be here, he really appreciates that. He said the first developer knew just what he was doing he saw them knock it down from his house. He knocked down everything but the front, like UVA housing, then they bought in i- beams. Mr. Spurzem who bought it, he knew exactly what he was buying and he knew what he was doing. This man is a millionaire and he spoke about tearing down black buildings, he can tear down my house. I teach school and that is all I can afford, I can fix it up though. We have to fix our houses up, that's what we do. Is he the only one allowed to have a peaceful loving neighborhood. He is the only one allowed to have a neighborhood he knows. The city's master plan, comprehensive plan, we always here about it, what is it? Do we want business in our neighborhood? Right now we have a barbeque, and a distilled spirit place that's a shot house and it is right beside the barbeque place and this is what we are dealing with here. We see the big sign Charlottesville is a great place to live. Well it is not going to be great after a while. It will be packed with crime. One of his neighbors is going to have people staring and peering in her windows from the third floor balcony.

Mary Carey 100 Ridge Street; said she appreciates what Planning Commission has done not agreeing with everything. She said you've done good and a lot of people don't give you the praise you should get. You are making people feel you are dealing with the people and not the developers, because the developers are taking over our city. It's all about money. She said her kids grew up on Rose Hill Drive, the little house beside Ms. Jones was torn down right where this man put this big ugly building up there. Across from there her in laws live on Booker Street, her children's father grew up on Booker Street, the whole family grew up on Booker Street. She used to walk through there to go to Burley High School, and when Ms. Bell was talking about family and tradition and history, it is there, that's history. Rose Hill Drive, Rugby Avenue, Preston Avenue were all owned by black people at one time. From Charlottesville history, they stopped their roads at Rugby Road and it was all black. Look at it now, ain't nobody putting no apartment building up there. Ain't

nobody putting no apartment building up at Brandywine Drive, You just can't go and pick and choose and all of a sudden there's that feeling, about Vinegar Hill, that touches me, I loved Vinegar Hill. I was a teenager when they started knocking things down and the City Council started taking money, it is happening again and it makes her feel like black people being raped all over again. Coming in here stripping us. Taking our land, do what they want to do and saying the hell with that. Even if you say no, the developers do what they want to do. Look what they did up on Main Street, he did 10 feet more than he is suppose do and then he said oops! Black History and History is dwindling in this city and is something we need to stop it.

Melissa Spurzem 1109 Little High Street said she is not in support of re-zoning Booker Street. She volunteers a lot at Meals on Wheels which is on Rose Hill Drive and she spends a lot of time delivering meals on Booker Street and Charlton Avenue and she has grown attached to some of the people that live there especially Ms. Pearl Porter. She adores her and loves to talk to her. There is more going on if you approve something like this because the applicant has been buying a lot of properties in this neighborhood and he purchase the property across from Meals on Wheels and called it blighted and tore it down. She is very worried about this neighborhood. It is very charming and she likes the people there and it needs to be protected. Who is the applicant to decide that something is not worthy of saving.

Lena Seville, 808 Altavista Avenue, is here to support the Rose Hill neighborhood Association and all of the people who signed the petition asking that this rezoning request recommend denial. She said this was never intended to be a single family home, 3 floors, a full kitchen built into it and it was never intended to meet the current zoning. It was sold to someone who knew it had problems and it strikes her that this is someone asking forgiveness instead of asking permission and we don't want to encourage that behavior because it affects all of our neighborhoods.

Colette Blunt spoke to Council to put a halt on the attacks on the surviving African American communities. She spoke about neighborhoods that have greater access to disposal income. She said why don't we apply our helping hand tactics of redevelopment and revitalization to such neighborhoods like JPA and Rugby Road. Don't these neighborhoods deserve the benefits of mixed income residents too? She also spoke about the developers tearing down the African American properties that serve those with only deep pockets. She asked to deny the request to rezone.

Bill Emory 1604 E. Market Street, submitted signatures from Woolen Mills in support of it. He said he doesn't see any reason to rezone this. He was looking at the 2007 Comprehensive Plan and the Rose Hill section and there is a lot of economic speculation going on over there, where houses are being torn down and lots are sitting empty over there. He read from the 2007 Comprehensive plan making comments about the new issue for addressing rezoning is the small area plan. He is not sure that there is a budget for neighborhood development to pursue the small area plan.

Dr. Kent Peterson said for 25 years he has been a part of the Wellness Center abutting the Rose Hill community. We took over a project that was to build a liquor store and laundry mat, gas station, and the Rose Hill community opposed that and when we suggested that we build a health and healing center the community embraced us and we have been a part of the community for many years. There is a clinic in the building that allows people with little to no income to come and we have hired many people from the community. Charlottesville is getting into the habit of building tall unfinished building around town. Look out the window and see an unfinished building. It doesn't seem to be increasing the density but rather decreasing the density. It sounds like it is intended for a permanent residential use for the future development so it looks like he is the only one so far that is in favor of this proposal.

Tom Bowe, 1211 Augusta Street, neighborhood representative for Kellytown which is the adjacent neighborhood to the Rose Hill neighborhood, noted we share a lot of the same issues especially commercial development. He has done a lot of talking throughout the neighborhoods and he has of yet found anyone who is in support of this and in no uncertain terms he asked the Planning Commission to tell the developer there are appropriate places for him to build his business model but Booker Street is not it.

Kristy Resoling, 812 Rose Hill Drive stated the Planning Commission needs to deny this. She said she was welcome into the friendliest neighborhood she has ever known and she knows her neighbors names and has been in their living rooms many times.

Dr. Marty Albert, is a physician at the Wellness Center. He hopes Richard Spurzem cares about the community and can maybe turn lemons into lemonade. It is intended to be a 3 family house.

Joy Johnson, 802A Hardy Drive, is here to support the Rose Hill neighborhood; she said she grew up in the Rose Hill neighborhood. The Lugos, the Shackelfords, and all of the other gems that still live there; they are like matriarchs in that neighborhood. Preservation needs to be your No. 1 thing. To City Council she throws that to you and to Mayor Signor who is not here. To the Planning Commission, when Professor William Harris was on this Commission that was one of the things he fought for. Preserve the neighborhood, listen to what the neighborhood says and see if you can come together in a compromise. That is what economic development should be doing and in other states the Neighborhood Development Department is an advocate for the neighborhood. She said she doesn't see that here in Charlottesville. This Neighborhood Development office works totally different. I know you will tell me what the code says. But the people in the neighborhood should be getting some respect. Ms. Shackelford should not be looking at that building. You should have some kind of respect for the people who live in that neighborhood. She hopes you do the right thing by the neighborhood and City Council the same thing for you.

Melvin Grady said earlier you said there are no bad guys. He is from Charlton Avenue born and raised. He said his Mom passed away in 2009 and her house was knocked down. Mr. Mitchum and City Council allowed him to put two parking lots there. No one can touch it, it's his property, but you just keep on plucking these places down and there is no place there now, it is less residential. We are not experts on zoning, but we do our research and I will guarantee you many here know more about the zoning at least in their area and he appreciated the lesson in zoning but I do my research. He said what you are voting on today is inappropriate. Council do the right thing, do not over step your constituents.

Ella Holmes said she wants them to vote no on this zoning issue. She comes from a historic family who has lived in the neighborhood since the early fifties and most of the people in the neighborhood knew her grandmother, mother and father and aunts. She would like for you to keep the neighborhood the way it is and whatever policies are in place that we would follow them from the beginning. If we know what the genuine intentions are we wouldn't have to go through this.

Ms. Brenda Morton Jouett, Ridge Street, said as a black poor person we are being driven out of our own neighborhoods and it feels like there is nobody concerned about that poor person, that person who has worked hard to get what they have and it is being taken away from them. All around them, people of their own color that they were raised and know. She said it feels like a world where she knows nobody, and people walk pass you in the neighborhood because of the difference they don't speak, no kindness, they look through you, or past you. We used to help each other. We had a neighborhood that we played in and were concerned about and it is not there anymore. Rich people come and build what they want and tear down what we have and push us out of our spots and bring the people they want, and it is not fair. If they can't meet the code, she doesn't think they should be able to build there. She said it is unfair to us who have worked hard to establish what we have with blood, sweat, and tears for it to be taken away from us like that.

Luis Gazabo, said he would like to make a plug for Joy and the public housing association to keep West Haven, South First Street and to keep all of the public and subsidized housing developments with the families that are there. He hopes

the same level of consideration that is given to Rose Hill be given to the public and subsidized housing residents as they are facing a residential redevelopment plan that as it stands dehumanizes the residents.

Anna Gazabo, 10th and Page neighborhood, said the Blue Moon Diner redevelopment has been a concern of hers, and we are good friends with our neighbors like Ms. Joy Johnson, and we have concerns with all of the redevelopment that we see. She was in Alexandria and she saw all of the manifestations of all of the plans she has seen at the Planning Commission here in Charlottesville and City Council meetings talking about the future of Charlottesville. She said that Alexandria is a model for Charlottesville because she attended a meeting where City Council invited developers from there and she said Alexandria is a monstrosity.

Raymond Mason, 717 Cynthiana Avenue, said he has lived here since 1969 and when he first noticed the building on Booker Street, he asked who in the city authorized to build such a building in a community like it is and he couldn't imagine they allowed that. He has been to Johnson Village and Greenbrier and he doesn't see buildings like that, just to set a building like that in heart of the Black community, he thinks it is shameful. The guy ran out of money and someone else bought it but it should be a single family dwelling and not three families, one family and one family only, but you should not allow anyone else because obviously the developers want to build other buildings just like it. We won't have it and we won't stand for it. The people have spoken and if you don't listen then you are saying our opinions don't mean anything to you.

Linda Goldstein, lives in the Birdwood neighborhood and worships in the Rose Hill neighborhood noted concern about property taxes and the rent for a building of that size and at the meeting at Zion Baptist Church, the question was asked if these were rented as apartments what would the price range be. She remembers that it was over \$1500 a month and that is not affordable housing.

Closed the Public Hearing

Commissioner Dowell said the entire neighborhood is here, and the community has spoken and how much more discussion do we need?

Commissioner Keller said when she first saw this, she asked the former director what is going on on Booker Street and he said "someone thinks they can build a three family house in an R1-S zone and you can only have a single family house with an auxiliary dwelling unit and they are not going to get away with a three family house there" and that is still probably the case.

Commissioner Green said she is concerned that the previous developer was able to take advantage of the city's zoning code to build something out of scale with the neighborhood. She said if we don't do tighter enforcement citywide, then it doesn't matter what zoning we have.

Chairman Santoski said what makes Charlottesville Charlottesville is not the high rises; it's the people who live here.

Commissioner Keller moved to recommend denial of this proposed conditional rezoning of the parcel identified as Tax Map 36, Parcels 87 and 88, on the basis that the rezoning is not required by public necessity, convenience, general welfare or good zoning practice, Seconded by **Commissioner Green**, motion passes 7-0

City Council did not have a quorum at the meeting, which means it will need to hold its own public hearing of the item before taking action. That is scheduled for July 5, according to Planning Manager Missy Creasy.

SP16-00006 – 211 Emmet Street Alumni Hall Addition (Amendment) – Mr. Thomas Faulders, III, as agent for the Alumni Association of the University of Virginia, has submitted an application to amend an existing Special Use Permit for 211 Emmet Street (the Subject Property). The Subject Property is further identified on City Real Property Tax Map 8 as Parcel 45, and it has frontage on Emmet Street, Lewis Mountain Road, and Sprigg Lane. The Subject Property is zoned R-1U (Low Density) and the total area of the Subject Property is about 137,257 square feet or approximately 3.151 acres.. The proposed amended SUP would allow use of the Subject Property for a non-profit recreational facility for group use. The applicant seeks authorization to allow for a 1,364 square foot addition to Alumni Hall to be used for “Club, private,” which is permitted with an SUP in the R1-U zoning district. The Comprehensive Plan designates the land use of the property as Public or Semi-Public. Persons interested in this SUP application may contact NDS Planner Matt Alfele by email (alfelem@charlottesville.org) or by telephone (434-970-3636).

Commissioners Lahendro and Keller spoke on behalf of their affiliation with the University of Virginia but it does not affect their ability to evaluate this application impartially.

The Public Hearing was opened.

There were no speakers so the public hearing was closed. City Council did not have a quorum at the meeting, which means it will need to hold its own public hearing of the item before taking action. That is scheduled for July 5, according to Planning Manager Missy Creasy.

Commissioner Green recommended approval of application SP16-00006 -211 Emmet Street Alumni Hall Addition subject to the conditions recommended by staff Seconded **Commissioner Clayborne**, motion passes 6-0.

4. ZT16-00001 – West Main Street Density and Water Street Corridor - Proposed amendments to the text of the City’s Zoning Ordinance (Chapter 34 of the Charlottesville City Code).

West Main Street Corridor Districts – Proposed amendments to Sections 34-621 and 34-641 would increase the residential density of development allowed by right in the West Main East (WME) Corridor and West Main West Corridor (WMW). Currently WME and WMW allow residential density of up to 43 DUA by right, and permit up to 200 DUA with a special use permit. The proposed amendments would allow up to 200 DUA by right in both WME and WMW. The general usage specified by the Comprehensive Plan for WME and WMW is Mixed Use. The West Main Street Corridor is within the City’s Urban Development Area (UDA), and the City’s Comprehensive Plan contemplates a minimum density of four (4) DUA within the UDA.

Staff provided the report and the Public Hearing was opened.

Jean Hyatt 1534 Rugby Avenue, President of Preservation Piedmont, a local historic preservation group, said she urges you to restrict the density in the West Main Street East corridor to 43 by-right and not allow up to 200 DUA by Special Use Permit. The West Main East section of West Main Street still can retain a significant amount of its historic fabric. A lower density would encourage a climate of preservation in this length of street and would more likely mean that the smaller historic building could be conserved. She read in the staff report that the city goal is to protect against destruction of historic areas by preserving the lower density of 43 by-right. With no Special Use Permit for higher density in the West Main Street East corridor there’s more likelihood that our historic buildings will be preserved.

Melanie Miller 528 Locust Avenue, is speaking in favor of preserving lower density on the eastern side. She said it is appropriate for the western end of West Main Street to have higher density to allow for bigger buildings because we do have intact historic fabric that cannot be replaced. She thinks it makes it harder to keep

it that way and you have BAR overlay but when developers come in with a Special Use Permit request, they have that higher density in mind as by-right even though it is not so it helps us to clearly lay out the goals of the city in the zoning to begin with.

The public hearing was closed.

Commissioner Keller move to recommend to City Council that it should not amend Sections 34-621, 34-641, of the zoning ordinance, to revise the residential density requirements in the West Main East and West Main West Corridors, because I find that the amendment is not required by the public necessity, convenience, general welfare or good zoning practice seconded by **Commissioner Lahendro**, motion passes 6-0

City Council did not have a quorum at the meeting, which means it will need to hold its own public hearing of the item before taking action.

Water Street District Corridor – Proposed amendments to Sections 34-743 and 34-746 of the City Code would extend a 25 foot stepback requirement after 45 feet of height to all properties fronting on South Street. The 25-foot stepback currently applies only to properties fronting on the north side of South Street. The amendments would also establish a requirement for a 10-foot stepback after 45 feet in height, for each building constructed on any property having frontage on Ridge Street. The amendments would also establish a minimum setback of 10 feet from any parcel zoned “South Street Mixed Use Corridor”, and would require an S-2 buffer to be provided within that setback. The amendments would also prohibit ground floor residential uses within any building located on property having frontage along Ridge Street.

Staff provided the report and the Public Hearing was opened.

Mark Rinaldi, Midway Manor said that 100 Ridge Street would require a small number of technical amendments to be added to the WSD district to bring this property in line with other WSD properties and with West Main East. The provision would apply along and across Ridge Street. 1) This section regulates the setbacks and setbacks within the Water Street Corridor. The proposed changes would require a 10 foot stepback along Ridge Street after 45 feet in height and a 10 foot setback adjacent to the South Street Corridor. 2) One Commissioner expressed a desire to see the front yard of the property at the corner of South Street and Ridge Street maintained as it is, and was concerned that the current regulations in the code would not guarantee this. Staff has measured the setback on the City’s GIS system and finds the minimum setback on Ridge Street currently to be 25 feet. Per the existing Water Street Corridor rules, 75 percent of a building’s façade must be on the property line. 3) The Commission also mentioned that the setback adjacent to the South Street district would play a role in the future design of any potential building on the site, since the distance to the property line dictates the amount of openings a wall may have under the building code. The City Building Official has indicated that a wall that is 30 feet from the property line requires no exterior fire resistance, and allows for maximum openings.

Jean Hyatt, 1534 Rugby Avenue, President of Preservation Piedmont, a local historic preservation group, said having granted permission to the Midway Manor property owners to move out of the West Main Street corridor zoning and into the Water’s Street corridor zoning district, we would like to commend the planning commission and the city staff for moving along promptly with providing additional regulation to any new construction on Water Street. We are pleased to see that you are adding guidelines, setbacks, and stepbacks similar to those required in the West Main Street East zoning district and are already agreed upon by the owner of the Midway Manor property. We would also like to note that the address of this property is 100 Ridge Street. In our organization, Preservation Piedmont helped to initiate the designation of Ridge Street as a local architectural design district in 1995. Because a new larger building on this property would act as a gateway into the Ridge Street historic district and keeping in mind that this is an elevated site which a very large building would be

even more imposing, we ask that a new building have a setback of 25 feet on the side adjacent to Ridge Street as a 25 foot setback is required in the rest of the Ridge Street historic district.

Valerie Long 321 E Main Street, said thanks to all of you for your time on this matter, it's been 6-8 months that we have been working on it. In response to Ms. Hyatt comments, as Mr. Rinaldi said not only do we agree with these proposed technical revisions, we actually crafted them and wrote them and submitted them ourselves. We agree with you that appropriate conditions are needed and adding a S2 buffer is more intensive and requires more landscaping than the S1 buffer that is required adjacent to low density in the residential districts in the West Main East. When we have the opportunity to incorporate the suggestions and comments that were brought to our attention we happily did so and worked hard to identify areas where we could improve upon them. Although no one raised this issue with us, we obviously followed your conversations and discussions about ground floor residential along West Main Street and realized that it is almost a technical issue that while the Water Street regulations did prohibit ground floor residential on other streets it wouldn't prohibit it on Ridge Street, and we realized that that is another area that is appropriate for us to propose some additional protections to ensure that that street area is engaging. We appreciate your time and recommend these additional restrictions. We know that Council requested them and supports them as well.

The public hearing was closed.

Commissioner Lahendro noted the recommendation from the Tree Commission to require additional setback on Ridge Street to provide adequate space for street trees.

Commissioner Keller is in support of recommendations but because it has not been noticed, we need to consider whether there is zoning text that we could initiate.

Commissioner Keller moved to recommend to City Council that it should amend Sections 34-743 and 34- 746 of the zoning ordinance, to revise the setback and stepback regulations in the Water Street Corridor and to revise the additional regulations in the Water Street Corridor, because I find that the amendment is not required by the public necessity, convenience, general welfare or good zoning practice Seconded by **Commissioner Green. Moved forward 6-0-1 (Lahendro abstain)**

City Council did not have a quorum at the meeting, which means it will need to hold its own public hearing of the item before taking action.

Commissioner Keller moved to initiate a zoning text review in accordance with the Tree Commission request to review a 25 foot setback on Ridge Street in the Water Street District for adequate space for pedestrians and large canopy street streets fitting a major City gateway. Seconded by **Commissioner Lahendro.**

Commissioner Keesecker provided a friendly amendment to consider changes to setbacks or stepbacks on the boundary between South Street and Water Street District.

That revision was accepted.

The Commission voted 7-0 to initiate the zoning text initiation.

CP16-00001: Comprehensive Plan Amendment – Streets that Work Plan - The Planning Commission and City Council will jointly conduct a public hearing on a proposed amendment to the 2013 Comprehensive Plan, to include the contents of the Streets that Work Design Plan. The purpose of the Streets That Work Design Plan is to serve as a general guide for the character and extent of transportation improvements, including, but not limited to, roadways, bicycle accommodations, pedestrian accommodations, and other public transportation

facilities. The Plan recognizes and differentiates among a hierarchy of such transportation facilities and improvements. The Plan is intended to serve as a plan for the physical development of the City's transportation network(s), providing guidelines for implementation by one or more of the following methods of implementation: capital improvements program; subdivision ordinance; zoning ordinance; and the city's engineering and safety requirements (set forth within the "Standards and Design Manual"). The Plan, as developed, seeks to improve the transportation network for all modes and create vibrant and sustainable public spaces along streets. The Guidelines, including attached maps, may be viewed at <http://www.charlottesville.org/departments-and-services/departments-h-z/neighborhood-development-services/streets-that-work>.

Commissioner Clayborne said thank you for the hard work you have done.

Commissioner Green enjoyed the April 16th Streets That Work day.

Commissioner Keller echoed the same, great fun!

Commissioner Green asked about shared streets decreasing speeds, can that be done or is it a legislative thing that we have to do through legislation.

Ms. Robertson said it can be done because other localities are doing it. The key is to get your safety standards just right when you are updating your Standards and Design Manual and to use all of the appropriate markings according with engineering standards.

Commissioner Green said she thought we had asked that in the past and it was a minimum of 25 mph.

Ms. Robertson said shared streets and speed limits are two different things. The city does have the ability to change the speed limit and it has to be supported by an engineering recommendation. For example, in a residential district the default speed limit is 25 mph but if you have an engineering study they recommend a higher or lower speed in a particular location you can change that speed limit.

Commissioner Green asked if this document supports our new engineer to allow for achieving of city goals.

Ms. Robertson said the report will be looking at it in certain areas but the engineering study has to be for a specific length of street.

Commissioner Keller said she was a little puzzled and doesn't recall that Cherry Ave was a top priority street but there were a couple of intersections that fell into that category.

Ms. Poncy said yes there were a couple of intersections along Cherry and Elliott Avenue portion. 5th Street as a whole was not one of the top ten.

Commissioner Keller said doesn't Cherry warrant being a priority?

Ms. Poncy said Cherry was not one of the top ten streets, but she cannot speak to why.

Commissioner Keller said she was particularly interested because we have been getting letters from residents interested in Cherry Avenue.

Commissioner Keesecker said once these priority corridors and intersections are looked at one would assume that there would be some sort of clustering. You wouldn't go in isolation and do just one intersection along Cherry without thinking about the other ones. Some of the corridors crossed each other but contain a priority intersection so that needs to be studied. If one was to undertake a small area plan, are the Streets That Work

efforts to implement the driving force or an informative tool to a small area plan because it seems like the small area plan takes into account the physical elements and the zoning and all other connections. Do you imagine that the Streets That Work plan informs both the code audit and updates to the Standards and Design Manual.

Ms. Creasy said she thinks the later, is not going to dictate where we go from a Small Area Plan because you all would be able to take into account different criteria but it's something that would be able to inform that process.

Commissioner Keesecker said he would like to see the design and standard manual get updated as a result of what we see here.

Ms. Creasy said the engineering and the more technical side of staff already have a number of things that they are keeping in mind and they have been a big part of the team that has worked on these.

Commissioner Keller asked how this will be updated as part of the Comprehensive Plan.

Commissioner Lahendro asked how utilities are addressed in this. Partner with Krystal Riddervold in City Green to see what element could be put into place and street trees need to be taken into consideration. In a small area plan someone is going to take the lead on the priority project are going to be done. Finding funding to get those things done will be important. Let's not just pick this one because these people scream the most. Let the evaluation criteria be the main part of the discussion. It is a stepping stone and a building tool.

Commissioner Keller asked will these identify projects we expect to see in the CIP.

Commissioner Keesecker wanted to see public plaza street elements chapter include the idea of an outdoor space. A recreation park came up as one of the elements.

The Public Hearing was opened.

Lena Seville said a lot of good work went into this and we ended up with a lot of good results. She is co-chair of the bicycle pedestrian advisory committee and we did have a representative at the Streets That Work group however we had some communication problems there, so as a group we only had our first conversation about the Streets That Work and Code Audit last month. We are a little behind on discussing what's in these things and we do have multi-modal members but primarily the Bike and Pedestrian Committee has much more of a bicycle focus right now so if anybody listening out there or up here (in Chambers) that tends to do a lot of walking, we definitely could use more pedestrian people to even out the balance because there is a difference between the people who walk somewhere and the people who drive or bike and get out of their vehicle. She would like to see the pedestrian amenities in our pedestrian friendly areas all over the place and that is one of the differences that the people see when they are pedestrian commuters versus going to a pedestrian friendly area and walk around. The sidewalk or the pedestrian area is split into the curb zone and the free sidewalk and there is a frontage zone. It is in the drawings and in the text but then it disappears when you get to the graphs and the charts. She did not see any recommendations for the width for the frontage zone. There was information about setbacks and zero setbacks for the street wall. The combination of no frontage zone and zero setbacks, she is concerned about personally but as someone who is a big supporter of public engagement and the process throughout the Streets That Work process, she asked at the community meetings and there were a number of community meetings about the Streets That Work and she spoke with other neighborhood associations and every time we tried to bring up anything about private property, we were told that this is only about public property, about public streets and the public right of way. We will get to the private property which is setbacks when we get to the Code Audit part of it. The only time she saw private property come up was the end of the meeting at Carver Rec which is the compilation and that meeting was advertised in the same

exact way as the neighborhood association ones. A lot of people who went to the smaller meetings didn't go to the bigger meeting because they didn't understand because they didn't understand that it was a separate meeting. There has not been a public process at this point to say zero setbacks in her opinion. Also it's the change because we had Jim Tolbert and I asked him at the time and he assured me that we would have another set of meetings to talk about the Code Audit similar to what we had with the Streets That Work. She understands that we have had a separation but asked if you would take out the part about the setbacks because it has not been part of the public discussion and is not what we were told Streets That Work would be about.

The public hearing was closed.

Ms. Poncy said the Streets That Work does talk a little bit about how the setbacks relate to your experience on the street but just in minor detail on page 70.

Ms. Creasy said these are guidelines and this would have to be codified for it to be a change.

Ms. Newmyer said the frontage zone is just referencing the space between the sidewalk and the building and it even mentions throughout the plan that it varies based off which is required by current zoning.

Commissioner Green move to approve the amendment to the City's Comprehensive Plan to append the Streets that Work Plan, dated May 2016, along with the applicable goals, objectives, guidelines and maps, Seconded by **Commissioner Lahendro**, Motion passes 7-0.

Appeal – Erosion & Sediment Determination - 624 Booker Street
Appellant's Representative: Frederick Payne, Esq.

Mr. Payne argued that the Stop Work Order was unjustified to his client, Mr. Richard Spurzem because he was not aware of the need for an Erosion & Sediment Control Plan, Stormwater Management Plan and a subsequent Land Disturbing Permit because he purchased the property with the present conditions.

Mr. David Frazier, E&S/VSMP Administrator, for the City of Charlottesville, issued the Stop Work Order because this is the procedure used when it comes to our attention that land disturbance greater than 6,000 square feet has occurred as such is on 624 Booker Street.

Staff's Recommendation

Staff recommends that, by motion, the Planning Commission should make the following findings of fact:

Commissioner Green moved that the Planning Commission make the following findings of fact, and refer the findings to City Council:

- a. Land disturbing activity has taken place at 624 Booker Street yes
- b. The area of land disturbance is 6,000 square feet or more yes
- c. The land disturbing activity has been undertaken for or in connection with the construction of a residential building containing two dwelling units, and related site improvements, which construction has not yet been completed; and

- d. The land disturbing activity commenced and has been undertaken without approved erosion and sediment control plan or any permits required by Chapter 10 of the City Code.

Seconded by **Commissioner Lahendro** motion passes 5-0

Adjourned at **Commissioner Green** second Tuesday, seconded Commissioner Dowell, 10:50 p.m.

NOTES
PLANNING COMMISSION WORK SESSION
Tuesday, June 28, 2016
5:00 – 7:00 p.m.

I.PLANNING COMMISSION WORK SESSION – Walking tour on Cherry Avenue

Members Present: Commissioners Kurt Keesecker, Genevieve Keller, Corey Clayborne, Jody Lahendro, Lisa Green, and Taneaia Dowell;

City Council Present: Bob Fenwick, Kathy Galvin

Staff Present: Missy Creasy, Brian Haluska, Alex Ikefuna

Call to Order: by Vice Chair Keesecker at 5:00 p.m.

The group met at Tonsler Park and walked across Ridge Street to Elliott Avenue. Concerns were raised by residents about the traffic in this area and residents requested a means of crossing Elliott Avenue. Mr. Ikefuna noted that the traffic engineer was looking at this area.

The group moved back to Cherry Avenue. Residents provided highlights of the report submitted on the Cherry Avenue Fifeville area. They noted the following concerns:

- Traffic is at volumes much higher than the area was designed to handle
- A real super market is needed on Cherry Avenue
- There is nothing on the street to draw people on foot
- Significant cut through traffic to reach the University
- Development should be 2 story with commercial on the first story and low income housing above
- There need to be places for kids to go besides the Park
- UVACCU needs an ATM on Cherry Avenue
- Walkable neighborhood, pedestrian safety and right-of-way challenge on Cherry Avenue

The group continued walking down Cherry toward the University. There was discussion about access to food. It was mentioned that there should be a location for food trucks to be setup and a location for businesses such as Relay Foods to provide food for the area.

At the end of the tour, Mr. Keesecker asked to group to provide 3 items which would be important for small area planning in this area. The following was noted:

Zoning changes

Improved streetscape all the way down Cherry

Form Based Code and Neighborhood Conservation overlay on Cherry and Roosevelt Brown to the hospital.

Adjourn at 7:00.

**LIST OF SITE PLANS AND SUBDIVISIONS APPROVED ADMINISTRATIVELY
6/1/2016 TO 6/30/2016**

1. Preliminary Site Plans

2. Final Site Plans

- a. Carlton Road Parking Lot (152 -156 Carlton Road) – May 31, 2016
- b. McIntire Park Sanitary Sewer Upgrades – June 15, 2016
- c. RWSA Wholesale Metering Program – June 16, 2016
- d. William Taylor Plaza Phase I (Cherry Ave Phase) – June 20, 2016
- e. Lochlyn Hill PUD – June 27, 2016
- f. 619 Forest Street – June 29, 2016
- g. 805 Preston Avenue Parking Plan – June 29, 2016

3. Site Plan Amendments

- a. Common House (206 West Market Street) – June 9, 2016
- b. Johnson Village Phase 3 (P16-0096) adjustment of townhomes – June 15, 2016
- c. Burnet Commons Phase III – Lots 47-51 – June 23, 2016
- d. Wertland Commons retaining wall – June 23, 2016

4. Minor Subdivision

- a. Burnet Commons Phase III– Boundary Adjustment – May 19, 2016

MINUTES
PLANNING COMMISSION WORK SESSION
Tuesday, May 24, 2016
5:00 – 7:00 p.m.

I. PLANNING COMMISSION WORK SESSION

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

Members Present: Chair Santoski; Commissioners Kurt Keesecker, Genevieve Keller, Corey Clayborne, Jody Lahendro, Lisa Green and Alice Raucher;

Staff Present: Missy Creasy, Lisa Robertson, Brian Haluska, Alex Ikefuna

Call to Order: by Chairman Santoski at 5:00 p.m.

1. West Main and Water Street Code Proposals

Brian Haluska stated the Planning Commission will be taking a short tour of the Woolen Mills Neighborhood following the first half of this meeting. This is the first tour of the 3 Small Area Plan areas requested by the Commission.

Brian Haluska said Council passed most of the West Main Street regulations zoning changes already but referred one item back to the Commission concerning density regulations in the code. Currently the density by right is 43 units or 200 dwelling units by SUP. Council asked the Planning Commission to look at an increase in density by right and will hold a public hearing on this to look at the impact to potentially making the 200 units by right. We will broaden that topic a bit to talk about density and how that factors into the regulation of buildings.

Staff did some back ground research and the first table in front of you details the maximum number of units. One chart includes the Monticello Hotel which you can't build today as it exceeds the maximum of the code. It is fully sold and it is all condominiums and they were all sold in the seventy's.

Commissioner Lahendro said no matter the small size, there was a market for condos in the Monticello Hotel.

Mr. Haluska said yes, there is another floor on it that you couldn't build today under zoning because it is taller than the maximum height allowable in the city. He noted the commercial use does not factor into this and lot size plays a large role in this particularly when you get to the lower density developments, the provision of open space will lead to lower density calculations but still a tighter feel of the actual development, the develop portion of the lot versus the ones that are spread out. This topic came up last meeting about the theoretical massing and density so he spoke with Tom Elliot, our building official and got the code section of the Virginia Property Maintenance Code which lists unit numbers, sizes and you can see the actual minimum densities. (A disclaimer) He said we have only used this for enforcement when someone tries to take a single family home and break it up into four apartments which uses the lack of common space and is a provision to go after those violating the Property Maintenance Code versus the zoning ordinance. He said if you just remove all density regulations (this is on a one acre lot) you go to 2.0 FAR you would get really huge numbers that were built to this

minimum size. Staff recommends maintaining the density regulations from the original West Main proposed draft.

Mr. Haluska said he likes to put in the number of beds and the density because you see that there's no correlation between those two. This is going to be the downtown apartment against the University area apartment where a 4 bedroom unit versus a studio efficiency both one residential unit has potentially 4 occupancy versus one maybe two at the most. This gives you an idea why dwelling unit per acre is not a perfect measure of the intensity of use.

Commissioner Keller noted that with this chart is it assuming that it would be a single use building. To get to that density would it be all efficiencies or all four bedrooms? Is that what the last column shows?

Mr. Haluska said he used an acre and asked Kurt Keesecker how much space for hallways and stairwells, 43,560 sq. ft. minus 20% for those common spaces and these numbers are probably a little high but that could be sitting on top of two floors of commercial or one floor of commercial. It is merely one point of the FAR.

Commissioner Keller said it is a build out of a one acre floor ratio. She said like the FLATS which we know is a combination of unit sizes, it's everything from efficiencies to 4 bedrooms that's how they get to 97 because if they were all one person efficiencies they would have much greater density.

Mr. Haluska said if you add all of the beds in there, the DUA would be much higher.

Commissioner Keller said we would rarely see that single development. We have had a couple proposed to us, but we rarely see.

Mr. Haluska said the FLATS are a mix from one to four bedroom units what you do see in the University area; 3's and 4's tend to be rare as you get to the east side of the tracks. The Blue Moon development is proposed to be a maximum of two bedrooms now; per the conditions they can't do it anything more. York Place he can speak on there is only one or two beds there are no 3's or 4's in there. He doesn't think it is an attractive unit size. The FLATS rent by the bedroom; he was speaking to them about another matter; you can see that out in the County with the Eagle's Nest and it all worked out for them and that was probably the location and that is a student model not a market rate downtown urban style model.

The matter referred to you by Council is what to do about residential density in the West Main corridor and this brings in the question of City Code Section 34:12; if the building foot print and envelope is no longer subject for a Special Use Permit and residential density is no longer subject to a Special Use Permit then anybody that is coming into this corridor is doing everything by right and is not subject to the regulations of the Section 34-12 which allows for affordable housing contributions. We have received \$800,000 just from the FLATS and the Uncommon. That does not include The Standard which is contributing also; they have to pay into it as well so that number will rise way above a million dollars just for those 3 developments because of the Special Use Permits. That is the only way we have gotten towards affordable housing benefit from this corridor, there are not a lot of large sites left other than the train station parking lot.

Commissioner Keller asked do you see any valuable beyond the affordable housing contributions in the past from the SUP process.

Ms. Creasy said applicants are currently able to ask for variations for setbacks and giving up something that is key that they want to move to this way or that way, it's another tool and so if there is no SUP they won't have that option, so that tool is gone it doesn't allow for that added flexibility.

Commissioner Keller said the economic consultants; at the last meeting said they felt the SUP added to the speculative nature of development in that corridor making it more expensive to develop after acknowledging that it is an already expensive corridor in which to try to do a project.

Mr. Haluska said he has seen that when property has changed hands and people do due diligence in advance of a sale and say okay what is the maximum by SUP and let me factor that in, but none of that is a guarantee and we know the price tag of some of those pieces of property when they were transferred and they are really high.

Mr. Keesecker asked is there any inclination to think that a higher by-right density would tend toward or encourage smaller unit developmental like efficiencies? He would expect that on smaller foot print lot on the east, that we would see people maximizing density by minimizing the size of the units and getting as many in the building as they can.

Mr. Haluska said that is why he tried to call out that bedroom versus density relationship because if your density is capped at 20 units and an applicant does all 4 bedroom units, he can do 80 beds if he has more flexibility on the high end of density then there could be a little more variation. There is still some cap and no one has said let's dismiss all limits so people can cram as much as they can. The current regulations do tend to that and the market does have a controlling factor and we have had people presented with that opportunity

Commissioner Keesecker said parking controls bedrooms.

Mr. Haluska said West Mains Street is a parking modified zone and is one space per unit so it is tied to the number of units in the building not to the number of bedrooms where you get away from that out from the parking modified zone, then it's a three or four bedroom units requires two spaces.

Chairman Santoski said what if you had all one bedroom units and each bedroom would have one parking spot then they would have to account for that under the modified parking zone.

Mr. Haluska said there is a disincentive to maximize unit count. The bedroom density will increase per unit.

Ms. Creasy said you would not be able to ask for a variation on that because there wouldn't be a SUP allowance any more.

Commissioner Keller said with no SUP you have no ability to comment on the configuration of the building. You exclude yourself from the conversation because they are all efficiencies or they are all 4 bedrooms. If we started to see a lot of 4 bedroom units or a lot of single efficiencies and there many

other indirect effects of that and the populist was concern there would be nothing we could do about it without revising the limit. People don't care what is happening inside the building.

Commissioner Clayborne said could you share a bit about the Housing Fund and who advises that.

Director of NDS, Alex Ikefuna said the NDS runs that program; we have a Housing Specialist, Kathy McHugh, she is the coordinator for the program; the rezoning, the SUP and she is responsible for presenting that to the City Council for appropriation into the Affordable Housing Fund.

Lisa Robertson, City Attorney said in the Virginia Law, there are few ways to try to get affordable housing, most of those ways allow for your ability to offer incentives such as density bonuses and reductions in parking requirements. In a parking modified zone, if you are offering an affordable unit, that unit doesn't count in your parking calculation so most of the ways you are allowed to promote affordable housing through zoning regulations involve incentives. Several years ago the city got special legislation from the General Assembly allowing us to use this mechanism in Section 34-12 through the SUP and rezoning procedures. The whole idea was even that in locations where you don't expect that the market is going to give you affordable rates it allows the people building the density in those locations to make a contribution so the city can turn around and hopefully use that to promote affordable units in other places. So just because you don't expect to get affordable units on West Main street doesn't mean that you necessarily want to give up your Special Use Permit if there is still more possibility that there could be some larger development there. Maybe there is not, but if you are looking city wide; if this is a trend look for other ways to control residential development, if you give up the density you are giving up the benefits to this specific legislation that you have that a lot of localities don't have and have in fact been providing a lot of resources over the last few years.

Ms. Creasy said there is a smaller development on Cedars Court that Kathy is working on right now, much smaller site but a good number of units and their contribution to the housing fund is somewhat small compared to what's going on there, but have allowed them to think about whether they should have the unit on site and there maybe one case where we get one on site because of the cost benefit and that could happen on some of the small lots here.

Commissioner Keesecker said do you think there will be another version of the West Main ordinance changes and would you characterized the provisions that are put in for heights and setbacks as moving toward a formed based code or functioning like a formed based code or not.

Ms. Creasy said they are elements and one of the reasons to recap just why we moved away from that because we had the ADC district tool which is much more robust in being able to address these types of issues. The other facts are in the materials Ms. Galvin sent out, although a lot of it has changed. If you look on page 11 it does denote that if you have an ADC or historic district, this is not a tool you want to use in that area so the literature has continued to support our inclination that yes the ADC is a much more robust tool than the form based code but does have some elements of creating the box, but noting what could be the box, and giving some perimeters that the community seems to be okay with and we will see what happens.

Chairman Santoski asked what would be the reasons for adopting a higher density and doing away with the SUP's.

Ms. Creasy said the developer would definitely gain and would have more flexibility in the number of residential units that they could have in their development.

Mr. Haluska said one of the main reason we hear of people getting a little discretionary is certainty if someone is approaching the development site they can speak to somebody in City Hall these are my maximum, these are not subject to debate, not subject to public hearings rules or discretionary actions by Council, and the rules are written in stone and I can bank on those. The uncertainty in the process is costly and that is the argument that is being made.

Commissioner Green said there is a certainty in the by-right use we just don't like the by-right?

Lisa Robertson said when was the last time the city turned one down?

Ms. Creasy said not all of them come your way. We have a lot of preapplications that do not result in developments.

Commissioner Green said we all went to a joint meeting with the Planning Commission and City Council with a formed base code on West Main, you deserve the development we have.

Ms. Creasy said we put together a draft and in going through the draft we found concerns and conflicts between the ADC so we had phone calls with the consultant. He did note that there is literature out there and that is why we moved West Main to a hybrid of sorts and reserved the right to use the form base code in another area.

Mr. Haluska said one of the things missing out of our form base code is there is some of that fine grain detail architectural features like overheads and awnings that start to come in and we hint at here and there but didn't really get to the implementation of that and part of the reason for that is because if you have the ADC district you can go further. Form based code notes the rule is the rule and as long as one meets them, it is approved.

Commissioner Keesecker said in terms of things that max out everything there is density, parking, and height. He said we reduced the height on West Main East to help with its context and stay closer to the character of which they built over time. He said the Blue Moon guys said at the 50 ft. height we can't put enough units in to fill it up. He said on West Main West the throttle might be more parking. He said it would seem right if they could pick numbers for the each of the three that worked and the height gives the character or reduce parking, density finds itself in a sweet spot. He said he is generally not in favor of this, if nobody can achieve it because of the height or the parking.

Ms. Creasy said that is going to vary by your lot size as to how much density you could put per site.

Commissioner Keller said there was a lot of sentiment at one time to remove all density requirements and just let it be, but people are starting to think a little more realistically about density. She said does it make sense to have the same density requirements east and west if we have made this transition to a new way of looking at West Main Street. Should we take that attitude with us for density and what will that translate into. Should the West end be a higher density than the East end?

Commissioner Green said and still have reduced parking?

Commissioner Keesecker said the parking concept needs to be by district and it seems kind of cruel to make every applicant who wants to do something on West Main tip the windmill to get through the parking requirements, if there was a district plan for parking which has maybe been discussed.

Mr. Haluska said the parking modified zone does contemplate that because it mentions the ability to pay into a parking or transit fund or transportation improvements to pay into the parking or transit fund.

Commissioner Keller said we used to say if the buildings are occupied by students, we housed the student and the University parks their cars. But now we are finding that not all occupants are students.

Commissioner Keesecker said if you consider that West Main East is generally confined by the tracks and some parallel streets (Commerce) and then ultimately the limit to the depth of the blocks isn't unlimited within a few 10's of feet all the way to the tracks. West Main West is a little bit different. If we considered a 60 foot module would offer a center stair and apartments on either sides and we know the height is 70 feet, you could almost in theory generate what is the practical density. Is there something we could come up with to balance the density and the parking and the height to some reasonable anticipation to the way it was going to get at built out? He does not have a good sense of what the potential is there. He does not think it would be healthy to have all of West Main East built out with 3200 sq. ft. apartments that sell for \$1.5 million each and if we leave the density artificially low because it is lower than what the market will allow the people to pay for land, they will sell the units or rent the units, but if we can adjust our density in a place that allows for the smaller units to come in we would have the potential for more modest living.

Commissioner Keller said one of the motivations for doing this re-zoning was to bring regulations more in line with the fact that we have the ADC district and that there wouldn't be as many threats to the historic low scale buildings that exist particularly in concentration with the eastern end of the street. She is concerned of us going to the density model that would kick us back into almost providing an incentive for demolition because we kind of reached the critical mass and we have had consultants tell us the character of eastern portion of West Main Street is a community asset that is a unique place in our city and we should use that as an asset. She is particularly concerned about having a density that would get us in trouble there.

Commissioner Green said are you suggesting higher density on West Main West and not on West Main East.

Commissioner Keller said she was just proposing that as a question.

Commissioner Keesecker said and leaving the SUP process in play on the East end?

Commissioner Keller said she would not.

Commissioner Santoski said so will this come back to us as a public hearing on June 14th.

Ms. Creasy said yes, we are advertising for 200 DUA by right as requested by Council.

Lisa Robertson said you have the ability not to recommend that particular numbers go to by right. You can recommend to city council if you want to that they shouldn't do what's been advertised but to recommend something different so the SUP remains. You have the flexibility to make the recommendation.

The discussion moved to the Water Street District changes.

Mr. Haluska said these are suggestions made by Valerie Long of Williams-Mullen, acting as representative for the owners of Midway Manor (100 Ridge Street) based on the fact that 100 Ridge Street has been added to the Water Street Corridor. He said this is fairly straight forward and these are good recommendations and they keep the corridor current with its current boundaries.

Commissioner Keller asked what would be the controlling setback on Ridge Street. She said there has never been a building built to the property line there and this site is different from most of any other site that there is and that is one of the characteristics of that site that still reflects its historic use as a city public school. She is concerned with a setback that lets you build to the sidewalk and creates a wall where there never was one. She said otherwise she is good with these and appreciates the owner and the owner's representative for suggesting these during the previous process. She is concern about the character and we have always had that little bit of open green space and the West Main Street plan. She said it would be a very tight intersection with the new hotel and someone could choose to build to the sidewalk on Ridge Street. It has even been a place where people have sat on the wall, we are talking about placemaking, and it is already a place.

Mr. Haluska said Ridge Street really needs a designation, it was assume as a primary, and the regulations for a primary are still in play with the consultant and they are talking about some green space in that areas and re-configuring. At least 75 percent of the street wall of a building must be built to the property line adjacent to a primary street and the remaining portion of the street wall, 25% of the maximum permitted setback is 5 feet. A Special Use Permit granted by City Council allows up to 50% of the street wall at 20 feet. There is a stand-alone section for the setback on Water Street and you could add an item 3 or item 4 that says setback on Ridge Street must be a minimum setback of 15 or 20.

Commissioner Keller said she would like to explore that.

Commissioner Keesecker said especially in light of all of the discussion we have had on West Main related to those setbacks. This is kind of in that arena. This is the only property that has rear exposure on South Street.

Mr. Haluska said in the setback section it speaks to the fact that it abuts the South Street District.

Commissioner Keesecker said the by right minimum height allowed is 40 feet with 70 maximum and up to 101 by special use permit. He said that was the concern that came up with this parcel with the West Main discussions and it basically runs into those old houses and they are the only ones on South Street and they may be 40 feet tall.

Commissioner Keller asked does anyone know what the current setback on each street is.

Mr. Haluska said the stepback rules were written specifically because Water Street was carved out of the old downtown corridor. There is a 45 feet and 25 foot stepback and that was done for the north

side of Water Street abutting South Street where these properties were going to abut the houses on South Street and 45 was the maximum height they wanted cut in so that it would respect the scale of South Street and the buildings in that corridor which is a tiny district.

Commissioner Keesecker said there is no street between this particular property and South Street.

Mr. Haluska said it abuts the district so you can use a similar site and the same language that you use in B3 abutting the South Street.

Commissioner Green said that the building might be closer than we think because it is an L shape and that one part of the L is on Ridge. The setback might be 20 feet right now.

Lisa Robertson said we might want to have the zoning administrator go and take a look before you pick another number for a setback on Ridge. You noted that you have this character of the building that has been there a long time so you want to know what the difference would be.

Commissioner Keller said this is why she opposed doing this because if we had done it as an application we would have had the ability to accept a proffer for this but now we are in this other realm so she thinks it is important because it is a spring point for West Main and what we want that to look like.

Lisa Robertson said it could be depending on the shape of the building that the setback is already 10 feet in a particular location. The zoning administrator would measure it from Ridge Street to provide clarity.

Chair Santoski said it would be helpful to know that.

Mr. Haluska said that stretch of Ridge Street once you've passed this property is governed by the West Main East rules of 10 and 20 feet on the primary street frontage.

Valerie Long asked what the proposal was for the setback or where the building could be.

Mr. Haluska said he doesn't know if we have a number at this point, but we want to look at the Ridge Street rules and the rest of Ridge Street to make sure we're being cohesive with that. He thinks there was concern about not just the step back on Ridge Street. It may need to be called out like we called out Water Street but also using the stepback section to look at any buildings where they abut the South Street district out of concern for the maximum height in that district and the prevailing building form there. It may not necessarily be the height, right now it's 45 and 25 foot stepback on the North side of South Street in the Water Street district. This needs to be studied.

Commissioner Green said there is a parking buffer that will make a huge difference to the 70 feet over powering the little houses here so if this moves in closer and then goes up 70 feet you don't have the appearance that it is a problem because you've got that huge travel-way parking area that is buffering between the height and the houses.

Commissioner Keesecker said there is a limit to how many openings you can have in a wall up to 10 feet from the property line and it is not generous. It scales considerably back after 10 feet as if it was built to the 10 foot line nearly 25% of the wall. The character of the wall even in a by right situation and even in a design control district would be limited in the amount of openings according to the building code which is to be considered. Maybe there is a number that is a little bit more than 10 that would allow the wall to have more openings.

Valerie Long, Williams-Mullens –acting as representative for the owners of Midway Manor (100 Ridge Street) proposed the following changes:

1. Streetwall regulations – extend the current setback requirement of 25 feet after 45 feet in height for properties fronting on the north side of South Street to all properties fronting on South Street. Also, create a minimum setback of 10 feet after 45 feet in height for frontages on Ridge Street.
2. Setbacks – create a minimum setback of 10 feet with an S-2 buffer for property lines that abut properties in the South Street Mixed Use District.
3. Additional regulations – extended the prohibition on ground floor residential uses to frontages along Ridge Street.

She said she would coordinate with Brian on some options for the setbacks. She said one thing she looked at was based on the primary street because the road curves and it was not entirely clear to them whether it fronted on Ridge Street or Water Street. She said it may be a technical question based on the measurements of it.

Regarding the density along West Main Street and to react to Ms. Keller’s comment about whether SUP’s are a hinder to development, do they make it harder or is there a benefit to developers as indicated by Mr. Santoski. She said the staff pointed out that doing away with the SUP you eliminate the opportunity to provide waivers and modifications to parking zone and setbacks which is a very legitimate concern; at the same time unless she is mistaken, she said the solution to that is you could amend the zoning ordinance so that you provide yourselves with options and the discretion to grant those same waivers and modifications even if a special use permit is not involved. She noted that small code changes could allow for this.

The special use permit process is intended to be a process that applies for those types of uses that require a special look and to make sure that they are not going to have an adverse impact on the adjacent parcels, the character of the zoning district, and the core purpose of the special use permit. It concerns her because of one of the main reasons you would keep it is solely to get affordable housing money. If that is the sole reason, she doesn’t think that is the appropriate use. If there are other reasons, she thinks they should be articulated. We have a large number of clients concerned about the process, and certainty is incredibly important.

Bill Emory said from the neighborhood point of view we would appreciate some certainty as well. The Woolen Mills neighborhood has been in touch with the city since 1988 about getting some neighborhood planning done and we are very excited about being good partners and to communicate with you as this process goes forward. He was extremely thrilled with the planning commission walking down to Woolen Mills but on the other hand he is not really clear that the small area plan is still including all of the things we had talked about like cooperative planning with Albemarle County, the long-range transportation plan to the Riverview park at Pantops, the total lack of stormwater infrastructure in Woolen Mills, environmental justice executive order came in in 1994 and there are a lot of other issues beyond this 28 acre area. He said we really need reassurance that this is still a small area planning thing or clarification that it is addressing the M-I and R1S adjacencies we are highly interested in getting addressed but it is looking like it is just a zoning piece of it or is the river corridor still in play here, we are not sure what is going on based on the area we are looking at today.

Adjourn 6:05 to take walking tour of Woolen Mills Neighborhood.

MINUTES
PLANNING COMMISSION JOINT WORK SESSION
Tuesday, May 26, 2016
5:00 – 7:00 p.m.

CHARLOTTESVILLE CITY COUNCIL AND PLANNING COMMISSION WORK SESSION

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

Planning Commission Members Present: Chairman John Santoski, Commissioners: Kurt Keesecker, Taneaia Dowell, Genevieve Keller, Jody Lahendro, Lisa Green and Corey Clayborne;

City Councilors Present: Kathy Galvin, Mike Signer, Wes Bellamy, Bob Fenwick, and Kristin Szakos;

Special Guest: Milton Herd, FAICP, is the founder and owner of the Herd Planning & Design, LTD; He has over 30 years of successful, award-winning experience in local planning and consensus-building, in both urban and rural communities.

Call to Order: by Vice-Chairman Keesecker

Call to Order: by Mayor Mike Signer

Councilor Kathy Galvin opened the meeting introducing Milton Herd to talk about Form Based Code.

Milton Herd, from Leesburg, VA provided a 20 minute PowerPoint presentation about form based codes. He is a co-author regarding the connection between comprehensive planning and zoning, inclusive of form based codes.

He said Form Based Code provides for a relationship of buildings to the street (rather than land use or density). The rules are simple and straightforward

Councilor Galvin said we did the visioning two years ago, but we didn't go in depth about zoning.

The plan developed in 2013 aim was to initiate a transformational process to engage stakeholders, city staff and members of the greater community in the future of the Strategic Investment Area, which includes 330 acres located primarily south and east of the Downtown Mall. Goals laid out in the SIA include encouraging investment in the area, creating a "healthy, vibrant neighborhood" with parks and safe streets and rebuilding and preserving public and assisted housing.

As opposed to conventional zoning which is typically based on a separation of uses, such as residential and industrial zones, form-based code emphasizes the three-dimensional aspects of buildings and the relationship between structures and the streets.

Mr. Herd said form-based code also focuses on by-right usage.

Several Councilors and Commissioners discussed the form-based code proposal for the SIA and suggested a "transect" model in which development would become more intense closer to the Downtown Mall.

Councilor Galvin said what is allowed by-right under current zoning regulations is not in keeping with the feedback residents expressed at workshops.

Councilor Galvin said across the board, people in the Belmont neighborhood or in South First Street or Sixth Street public housing said they did not want what's allowed by-right, which was in a Downtown Extended zone. She said the T4 [transects] are transitions to step down to that smaller-scale, residential neighborhood, looking at the proposed form-based code map of the SIA.

Mr. Herd said buildings in the T4 transect would be two to three and a half stories tall and buildings in the T5 transect would be limited to a maximum of five and a half stories. The tallest buildings in the T6 zone would be at least six stories tall.

Councilor Szakos said the form based code, within the list of things that are allowed there, the city would not get to pick the things that are allow there, it would be if you owned property in that area, like the size it would be you could put any of those things there that are on the list. She said one of the things that you could accomplish with SUP's that we wouldn't be able to accomplish in a situation like that if we know in that area there is a bunch of uses because in that list of uses are some that use a lot of traffic and some very little traffic; some have more noise and some have a lot more people coming in and out all day long. She said with an SUP, the Planning Commission and Council can say we already have a bunch of places with a whole lot of traffic so we don't want this one because it has too much traffic even though it is technically allowed by an SUP and we have too much with that there and we would not have that with this tool. So you would have to write the list so low and totally max out so you could sustain it and you can't get a higher use. She asked for examples of how this works in real life.

Mr. Herd said there are a certain amount of risks you take on with this but if you have a whole collection of uses by-right and you've got expected infrastructure network that you had in place or you are going to build it should work out. It is not perfect, that is the nature of the city and urban areas, there is a margin there and the other thing is the uses will change over time. In our Historic cities the street networks are still like they were 200 years ago and the buildings are the same but the uses are totally different. He said you are taking a little risk in the sense that you are acknowledging that it is going to be dynamic and organic. He said you can have as many SUPs as you want but each one you have brings more friction.

Vice Mayor Bellamy asked how people living at public housing properties or otherwise financially assisted sites would be protected during a transition to form-based code or redevelopment of any properties. He said how will we be able to ensure that everyone who lives there now, specifically all of the public housing units, can continue to live there, that their spots won't be taken?

Alex Ikefuna, Director of NDS said people who live in any affected facility would have first right of refusal and any changes would result in a minimum of the same number of assisted housing units that previously existed.

Vice Mayor Bellamy also questioned how to respond to constituents who feel that allowing developers to build by-right might result in residents being pushed out of the neighborhood.

Mr. Herd said that while the code is focused on the physical outcome, managing change is a parallel effort. He said the goal here, and the expected result, would be development that creates a better urban environment in the long term.

Councilor Fenwick said it's important to ensure residents feel a sense of control in the process.

Councilor Szakos said she thinks form-based code might offer some security.

Councilor Szakos said they get more predictability with how it's going to look like, whereas with the current system, no matter how you zone it, people can max it out or not and you are never going to know what's going to come. Some developers may build by-right before a form-based code is adopted.

In the meantime you have current zoning of a 100 foot tall building and the plans can come forward and use the Comprehensive Plan to re-zone. We want to expand it or decrease 5 or 10 years before the regulations.

Chairman Santoski of the Planning Commission said we have to recognize that regardless of what we tell the public, some things are going to happen that we have no control over.

Commissioner Green asked why there is a T6 in the middle because that is where it is the highest and she envisions a bulls eye. Why is the T6 right there?

Councilor Galvin she said in the vision plan that is where the Plaza sits. The question should be whether or not that T6 should be along 2nd Street tying into the downtown which is T6; because that way you are rationing down as you get closer. So instead of a bulls eye maybe it is really that corridor getting closer.

Commissioner Keller said it is a traditional area of increased and intense height but not incredible height but by the standards of the day that was the intensive area.

Mr. Herd said this plan reflects an area based kind of regime and one of the opportunities you get with form based code is to make it more edge based and that gives you the emphasis on the street frontage and the character of the street - to have different things on both sides of the street is not necessarily a conventional way of thinking in terms of areas instead of edges.

Commissioner Keller said if you look at Belmont, East of 6th Street, it's almost that they were built to a form based code. If we were designing that today for blocks of single family houses we wouldn't come up with something too different. We do need to tweak that which is why I passed that to you because you can see the street names on it. We may need to tweak the T3 and T4.

Councilor Galvin said first of all we all just needed to make sure we understood what all of this meant but now we can have a more informed discussion on how to adjust the boundaries.

Commissioner Keller said those streets have had significant re-development through PHA and significant rehabilitation through property owners buying older houses and rehabbing them. We need to be careful before it is taken to the public and to rectified wrongs of the past.

The final decision was directed to NDS to approach a form-based code change in a phased process, with the warehouse district area south of the mall as the first phase, the area north of Belmont Bridge in the second phase and the T3 transect area which includes the Belmont neighborhood as the final phase.

Brian Haluska said one component of the Strategic Investment Area (SIA) plan is a list of recommendations to change City regulations -- specifically land use regulations. These changes would serve to move the overall vision of the plan forward and regulate new development so it fits the vision within the SIA plan. Staff feels it is important to assess the recommendations provided and establish clarity in direction prior to moving forward with a detailed review process.

First, there are fundamental questions which need answers at the beginning of this process to assist in moving forward:

1. Boundary of study area – The study area includes many established residential areas where no specific zoning changes are proposed. Should the study area be limited to areas where regulatory changes are proposed?
2. Building Height – Is there a desire to change the maximum building height in the areas in the Warehouse District (west of 6th Street)? What information would be needed to make a determination on heights for this area?
3. Uses – The SIA plan calls for evaluation of additional uses for the R-3 and DE zones. Should consideration be given to whether the proposed uses are appropriate for the zones throughout the City rather than only within a small area of the City?

Staff requests guidance on these areas to determine the best path to move forward for this review.

Councilor Galvin said the concerns did not deal with form at all and we had the form discussion and are people comfortable with this direction of governing the form of this area. It is really about neighborhood protection.

Councilors Fenwick said the study area includes many established residential areas where no specific zoning changes are proposed. Should the study area be limited to areas where regulatory changes are proposed? Another comment Mr. Fenwick made was to get the community involved as his concern is what he heard and what we are about to do.

Ms. Creasy said Mr. Fenwick is referring to one of the points we listed but there are areas with specific recommendations but not the single and two family residential areas in the SIA. Our concern is if that is included in this discussion we might spend a lot of time defending that we are not making any changes to these established residential areas rather than to be able to focus time on the warehouse areas which were the ones that were highlighted as part of this review.

Mr. Haluska said it was a balance of the study area, it was further reaching than just the corridor along the exit of the hospital but it was definitely expanding to include the housing sites in all sides and part of it was to look at the adjacencies, (Ms. Galvin said) there are implications even if it focused on just the core of this area there are design implications even if you stretch into the Belmont area. From our standpoint, when you look at the total list of recommendations in here, there is a far reaching amount of implementation that needs to be done and so our concern is about guidance, if there is a comparative to get this done quickly pairing down the amount of stuff maybe initial focus on the warehouse district where for instance Monticello we have 3 active plans under review. The development activity is happening now. Some of the implementation going on is actual physical implementation and we want to make sure we get that zoning right so that when opportunities arise we will be able to initially focus on the 2nd Street corridor and work our way out. We are not going to see a ton of redevelopment in Belmont but there may be especially with the working plans we see with Friendship Court. How do those connections get made particularly in Belmont because they are looking at reengaging that neighborhood and making this feel like one piece opposed to a wall?

Councilor Galvin said it's like knitting them back together again and the fact that they were together as part of the SIA gave the queues to the PHA to examine the Street-Net parking and its green street detailing for the Belmont area.

Ms. Creasy said she thinks framing it as a phased approach is going to be helpful and it will allow discussions that are likely to be very different.

Commissioners Keesecker said could we further limit that north. The Belmont Bridge will also be some future phase after the bridge is redeveloped.

Councilor Szakos said she would recommend that if we are going to do three phases, she would want that section to be second, because there is a fair amount of redevelopment coming in that neighborhood and it is vulnerable to things that we may not want.

Commissioner Keller said there is a lot of focus on that area and it's more competitive for grants and it makes sense to leave that part a study area but she doesn't think it is there yet.

Councilor Galvin said so phase one is south of the tracks and it is T4, T5, and T6; and phase two is north of the tracks and phase three is T3.

Ms. Creasy said that now we have a more focused area we will be able to look at it from that perspective.

Councilor Galvin said a lot of the T3 is simply acknowledging the existing form that is there so just don't get rid of it. Basically that is what that is.

Chair Santoski said just as long as they keep that in mind as they are looking at housing in the T4 area...the impact on that. The other part is clear.

Commissioner Clayborne asked if there is a plan to build a 3-D model of the areas that we are looking at. He said doesn't see how the neighborhoods would be able to take in the definition of a T3, T4 or even visualize what is there now.

Councilor Galvin said the PLACE Design Task Force is studying that right now and they are pulling together recommendations on how to get that done.

Ms. Creasy said question #2 has to do with building height which has been a topic of discussion for a while in other places; we would like your thoughts on that and any other information in making that determination as we move forward.

Mr. Haluska went over and pointed out the areas of 201 Monticello Event Center and Friendship Court to the Beck Cowen and basically north of IX and south of Garrett.

Councilor Galvin said this is the table that has the building heights from the SIA Plan and a mixed used building.

Mr. Haluska said these peak areas including T4 through here is downtown extended which goes north and allows for a 101 feet mixed use building (9 stories) and is by right in a mixed use building, no floor area ratio to qualify for a mixed use building except for residential use. T5 is 4-5 ½ stories, which is a pretty big change if you are doing a mixed use building. We have two that are above 6 stories in that T5 zone.

Councilor Galvin said on 2nd Street now there are basically 6 story buildings, a T5 would allow a Gleason type building to happen.

Mayor Signer asked what is the big deal with those 3 floors.

Councilor Szakos said if you allow 9 it will get built at 9.

Mayor Signer asked why we have a different argument for form base code for making buildings two or three stories shorter. Ms. Creasy said it is a discussion we have had for West Main and in other areas of the city to see what is appropriate.

Councilor Szakos said there has been a fair amount of public engagement in this area, what has come out of that.

Mayor Signer said on West Main that the conversation was about the historical nature of the streetscape and that was a specific argument and those would not apply to this area.

Councilor Szakos said she couldn't remember where height had come in and one reason she was thinking about 3-D models is kind of scary because it's all of these huge buildings.

Mayor Signer said understands the difference between a 6 story and a 20 story building is significant but a 6 and 8 is not.

Councilor Galvin said it is big and the Virginia National Bank building versus the rest of them and it's in its shadows and it breeds the canyon. That is where the 2nd Street idea of it being driven by what is already there due to context that is already there.

Councilor Galvin said the thing with Friendship Court is really pretty neat because that allows them to go taller on one end of their property but then rapidly down and to be shorter to be sympathetic to 6th Street without losing their entitlement. They get the density for their property but they can get up to 6 stories.

Mayor Signer said what he is hearing from the community is an interest in more and this seems to be the area strategically that is linked, so it would seem to him that if you are trading off an extreme concern about yes it is a taller building but against those two other things policy wise we would get a longer term future, so he thinks there could be a good debate about the marginal benefits of slightly taller buildings versus what we would get in terms of housing stock and more office space.

Commissioner Keller said the Flats has more parking than is required. She said she favored compact development but has reservations about the density and one reason is because if we do away with the SUP then we have no ability to influence on how that building is configured and in particular because we are an academic community, the 4 bedrooms and the micro units concern her because we are able to have a building with only 4 bedroom units that are primary rented to undergraduates (not so likely in this area) or an entire building of nothing but micro-units with no ability to say that that building needs to have any services for the inhabitants for that building that puts a stress on this area where we have facilities. She said she has seen this in the past and she's a historian and it's a little aggressive to her and the percentage is something she would make a request to take a look at. She said it is building it into the code because she doesn't think they have had a discussion about doing that yet and she wonder if it's a short term response to the market and a short term response to us wanting to be more urban than we necessary are.

The group agreed to focus the discussion of use changes only in the SIA area at this time.

Public Comment

Morgan Butler Southern Environmental Law Center said 1) in terms of public input let's recall that this strategic plan is the significant result of public input over a number of years to different committee and we don't want to go back and start over on that process when we have the embodiment of a tremendous amount of public input 2) the second is about phasing is not clear to him sitting in the public where the boundaries of that significant phase are and he said when you look at the current zoning and you compare that to the transient zone by far the biggest discrepancy between those two, is the area zoning downtown extended and so it may make sense to have the first phase be the downtown extended zoning area and because if you are trying to get this form of development as represented by the transient zone; everywhere outside of the downtown extended you are going to get that with the existing zoning within the downtown extended zoning where you could get development that is not compatible with what your transient area and map is suggesting the community wants there.

Mark Kavit with the Martha Jefferson neighborhood association, said you can use a SUP to empower neighborhood residents, so is this initiative of form based codes trying to get less of the cities time sorting through SUPs by having everything defined in advance and is the goal to simplified everything for the city or that fall up to empower the city to have more control over what happens on a case by case basis. He said the SUP empowers a neighborhood with a specific problem with a specific project. It is how the neighborhoods see their power.

Councilor Galvin said if the form is right, is the SUP still necessary because that is a big question.

Mark Kavit said he is trying to understand if you are planning to streamline or are you trying to empower our neighborhoods.

Susan Kristel said she works for the owners of the IX property and said it is important to engage the development community during the decision-making process. She said you're all in a way looking at us as being one of the major contributors to making the SIA work, so I certainly hope that you will talk to the developers as well about what makes economic sense to a developer.

7:12 Adjourned

CITY OF CHARLOTTESVILLE
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
STAFF REPORT



**REQUEST FOR INITIATION OF ZONING TEXT
AND MAP AMENDMENTS**

PLANNING COMMISSION REGULAR MEETING
DATE OF PLANNING COMMISSION MEETING: July 12, 2016

Author of Staff Report: Mary Joy Scala, Preservation and Design Planner

Date of Staff Report: June 24, 2016

Origin of Request: Woolen Mills Neighborhood Association

Applicable City Code Provisions: 34- 41 Amendments to the Zoning Ordinance

Initiation Process

Whenever the public necessity, convenience, general welfare or good zoning practice require, the City Council may, by ordinance, amend, supplement, or change the city's zoning district regulations, district boundaries, or zoning district classifications of property. Any such amendments may be initiated by: (1) Resolution of the City Council; or (2) Motion of the Planning Commission. (See City Code §34-41(a), which is based on Virginia Code §15.2-2286(a) (7))¹.

If a person or group seeks to effectuate such a change, the amendment can be initiated by Council or Commission, as required by Code. In such an instance, an applicant will be given the opportunity at a regularly scheduled Planning Commission meeting to present their request, seeking a vote in favor of *initiating* the amendment. Initiating, in this context, is the action by which the Commission decides whether to begin a formal study on the proposal, or to decline the request.

Discussion

The Historic Conservation District ordinance was adopted on March 16, 2009 to create a second, less stringent type of local historic district to supplement the existing Architectural Design Control (ADC) District. The ordinance was not applied to a specific area or neighborhood at the time it was adopted, but was intended to be applied to specific areas in the future, if and when requested by neighborhood groups. This initiation request is meant to apply the ordinance to a specific area of the Woolen Mills neighborhood, which requires a zoning text and map amendment with its own public hearing and notification process.

¹ A rezoning of a particular piece of property can be initiated by Council, Planning Commission, the property owner, owner's agent, or contract purchaser.

A Historic Conservation District is intended to protect the character and scale of a historic neighborhood through required review of proposed demolitions and new construction, without imposing excessive requirements on the current residents who may want to remodel their homes.

Standard of Review

If initiated, the Planning Commission shall review and study each proposed amendment to determine:

- (1) Whether the proposed amendment conforms to the general guidelines and policies contained in the comprehensive plan;
- (2) Whether the proposed amendment will further the purposes of this chapter and the general welfare of the entire community;
- (3) Whether there is a need and justification for the change; and
- (4) When pertaining to a change in the zoning district classification of property, the effect of the proposed change, if any, on the property itself, on surrounding property, and on public services and facilities. In addition, the Commission shall consider the appropriateness of the property for inclusion within the proposed zoning district, relating to the purposes set forth at the beginning of the proposed district classification. City Code § 34-42

In addition, Sec. 34-336 *Establishment of, and additions to or deletions from, conservation districts* outlines additional requirements to designate areas for inclusion within a historic conservation district:

- (1) 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.
- (2) Prior to the adoption of any such ordinance, City Council shall consider the recommendations of the Planning Commission and the BAR as to the proposed designation. The Planning Commission and BAR shall address six specific criteria outlined in Sec. 34-336 in making their recommendations.

Appropriate Motions

Staff supports the Woolen Mills Neighborhood Association's request for initiation of this zoning text and map amendment.

The Planning Commission has the following options for moving forward:

- (1) Initiate the process by making a motion such as:

“I move to *initiate* a proposed amendment to the city's zoning ordinance and map, to wit: amending Article II, Division 5, Section 34-337 to add “Woolen Mills” as a Historic Conservation Overlay District; and

amending the city's zoning map to add Woolen Mills Historic Conservation District as an overlay district zoning designation;" or

- (2) Decline to initiate the process, by voting against such a motion.

Attachments

1. Zoning request letter
2. Map of proposed district

Scala, Mary Joy

From: bill emory <billemory@gmail.com>
Sent: Monday, May 30, 2016 11:59 AM
To: Council
Cc: Planning Commission; Scala, Mary Joy; Rainey, Carrie; wmna-board; Margaret Maliszewski; Lydia Brandt
Subject: Woolen Mills Conservation District petition
Attachments: attachment A.pdf; attachment B.pdf; attachment C.pdf

Memorial Day, May 30, 2016

Dear City Councilors,

The purpose of this letter is to seek your support for establishing a Historic Conservation Overlay District (CV) for a 60 acre portion of the Woolen Mills Neighborhood (that same portion which was listed on the National Register of Historic Places April 12, 2010).

For decades, the Woolen Mills Neighborhood has partnered with the City in an effort to retain the character of our community located in a bend of the Rivanna River at the foot of Monticello Mountain (a world heritage site). The Woolen Mills Village (both in Charlottesville and Albemarle County) contributes significantly to the architectural, archaeological, recreational, residential and historical offerings of our central Virginia region.

In 2006 the Virginia Department of Historic Resources (DHR) recommended that the Woolen Mills neighborhood contained a historic district potentially eligible for listing in the Virginia Landmarks Register (VLR) and the National Register of Historic Places (NRHP). Neighborhood residents initiated a project through DHR with the generous support of the city and county, to pursue an architectural and historic building survey to document properties within the neighborhood that resulted in the listing of the Woolen Mills Village Historic District in the National Register of Historic Places and the Virginia Landmarks Register. The map of the Virginia/Federal historic designated area and the National Parks Service Registration Form are included as Attachment A.

While the historic places designations did provide welcomed recognition of the worthy status of our community, as well as limited tax credits for preservation and restoration of contributing properties, they do not provide a reliable, legal basis for the continued protection of the historic structures and character of the neighborhood. The CV offers a starting point in a progression toward a small area plan to address land use issues for the entire 268 acre Woolen Mills Neighborhood. Additionally, the CV would help to avoid the loss of affordable housing, the loss of historic resources and the out of scale residential development we have seen elsewhere in the City.

Community Engagement:

The Woolen Mills Neighborhood Association meets monthly, the 2nd Monday at 7:00 p.m.. Discussion began at these meetings in September 2013 regarding the possibility of the neighborhood applying for a CV overlay. Minutes of the meetings are posted electronically at the [WMNA webpage](#) and physically at a bulletin Board in Meade Park. Subsequently, the WMNA Board approved a mailing to affected property owners to float a trial balloon about a CV. (February 2016, attachment B).

April 11, 2016. The WMNA hosted a community meeting with NDS Preservation and Design Planner Ms. Mary Joy Scala to educate residents on the pros and cons of a CV and to answer questions. [The audio from this](#)

[meeting](#) is posted on the Internet.

May 6, 2016, the WMNA mailed ballots to the 68 owners of the 80 parcels which would be affected by the proposed CV overlay. In the two weeks that followed, 72% (49) of the owners responded. Three voted “no”, forty-six voted “yes”. (Attachment C)

On the basis of the positive affected property owners response to this initiative the Woolen Mills Neighborhood Association petitions to create the Woolen Mills Village Historic Conservation District and seeks official city action and approval. This letter constitutes that formal application and request.

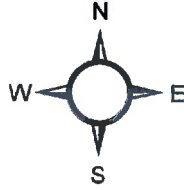
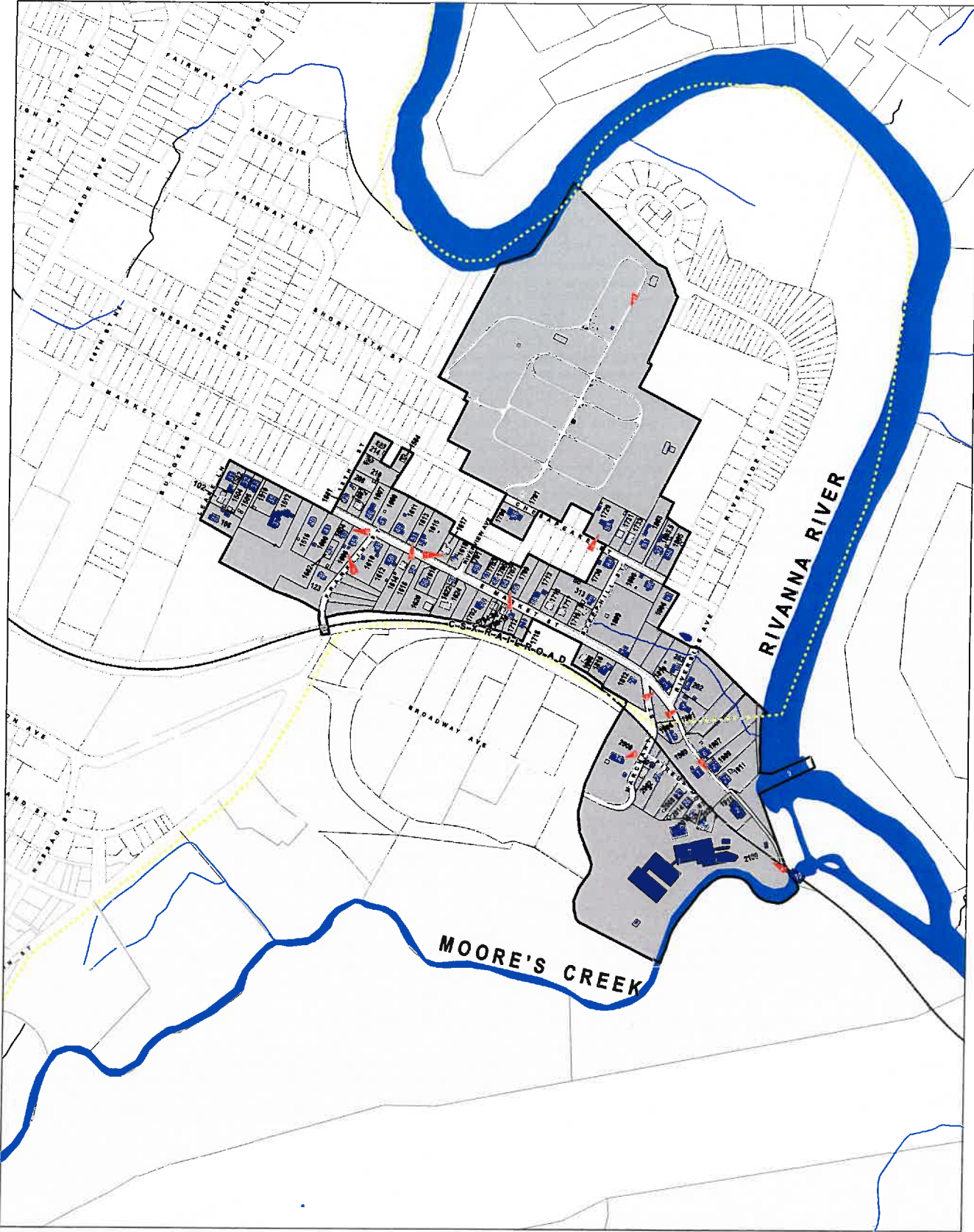
Best Regards,








Bill Emory (WMNA Board Secretary)
1604 E Market ST Charlottesville VA 22902

All cities contain areas, sites, or structures of architectural and/or historical interest or significance. Such structures and areas contribute to the particular uniqueness of each city and form an important part of that city's physical and cultural heritage which, if lost, cannot be replaced. The loss of its heritage deprives the city of its individuality. Unless means can be found to retain important structures and areas in urban areas, our communities face a future of historical and architectural sterility.—Historic Landmark Study, Charlottesville, Virginia, 1976

p.s.- The petition is for the City portion of the NRHP "Woolen Mills Village" district, site #002-1260.

WOOLEN MILLS VILLAGE NATIONAL REGISTER HISTORIC DISTRICT APRIL 2010



-  City Limits
-  Proposed District
-  Contributing Resource
-  Non-Contributing Resource
-  1808 Resource Address
-  DHR Number (002-1260-0__)
-  Photo Key Arrow

0 120 240 480 720 960 Feet

CITY OF CHARLOTTESVILLE, VIRGINIA
PLANNING COMMISSION AGENDA



Agenda Date:	July 12, 2016
Action Required:	Recommendation to City Council after Public Hearing
Presenter:	Lisa Robertson, Chief Deputy City Attorney
Staff Contacts:	Lisa Robertson
Title:	Proposed Zoning Text Amendments: Communications Facilities

Background:

Local attorneys for wireless service providers have requested City Council to make several changes to zoning ordinance provisions that regulate “telecommunications facilities.” Requested changes that have been received over the course of the past couple of years may be summarized as: **(i)** deletion of the provision that prohibits antennas on buildings that are less than 40 feet tall; **(ii)** allowance of microcells throughout the city, and **(iii)** a request to allow a specific type of support structure (an “alternative tower”) in every zoning district. Additionally, our ordinance has not been updated since 2003. Federal law, and communications technologies, have changed significantly during that time.

Discussion:

At a minimum, the city should consider updating terminology/ definitions within its zoning ordinance, and should incorporate references to mandatory federal procedural requirements. We have prepared the attached Discussion Draft Ordinance containing our recommendations:

(i) We do recommend that you should **consider removing the 40-foot limitation** on the height of a support structure, unless you determine that it’s serving a desirable land use objective. Although variations of this type of restriction can be found in other localities’ ordinances, we have been unable to locate any staff with an institutional memory (or current opinion) as to the objectives furthered by the height requirement here in Charlottesville. Some of the more recent technologies (e.g., deployment of broadband services) utilize smaller antennas/ cells, but those facilities need to be mounted closer to ground level, at regular intervals.

(ii) We do not recommend adding special provisions for microcells. However, we do recommend updating the current definition of “antenna” to encompass a broad range of technologies, and then, within use matrices and substantive regulations, focus the regulations on siting issues and historic district impacts of communications facilities, of any nature. **We do recommend that** the provisions of **34-1073 (facilities by district) should be modified** to avoid repeating references to uses allowed by the use matrices in *all* zoning districts (*i.e., attached facilities (i) mounted on utility poles, and (ii) mounted on other support structures, not visible*).

(iii) We do not recommend permitting “alternative towers” within any zoning district, at least not as that term is currently defined. If you’d like to offer providers an option for installing disguised freestanding structures, built solely for the purpose of supporting an antenna (for example: a monopole disguised to look like a tree), then, at your option, the “alternative tower” definition can be revised to clarify that.

(iv) We do recommend substantially editing the sections governing the permitting and approval processes, to reflect requirements of federal law.

Recommendation:

The City Attorney’s Office is of the opinion that the proposed zoning text amendments (other than the removal of the 40-foot height requirement for attachment structures) are required by federal and state laws, and/or are consistent with good zoning practice.

Suggested Motions:

(1) I move to recommend to City Council that the proposed amendments to the text of the City’s zoning ordinance, Article NINE, Division 5 (Telecommunications Facilities) and to Article TEN (Definitions) should be adopted, because the amendments are required by the public necessity, convenience, general welfare or good zoning practice.

(2) I move to recommend to City Council that with the following revisions, the proposed amendments to the text of the City’s zoning ordinance, Article Ten, Division 5 (Telecommunications Facilities) and to Article Ten (Definitions) should be adopted, because the amendments are required by the public necessity, convenience, general welfare or good zoning practice. The recommended revisions are as follows:

- a. _____
- b. _____

(3) I move to recommend to City Council that it should not adopt the proposed zoning text amendments.

Attachments:

- (1) Proposed Text Amendments

RESOLUTION
TO INITIATE CONSIDERATION OF ZONING ORDINANCE TEXT AMENDMENTS
TO AMEND REGULATIONS SET FORTH WITHIN THE CITY CODE, CHAPTER 34
(ZONING), ARTICLE IX (GENERAL REGULATIONS), DIVISION 5
(TELECOMMUNICATIONS FACILITIES)

WHEREAS, upon consideration of the matters set forth within a staff report received from the City Attorney's Office, setting forth several reasons why the City's zoning regulations governing the siting and approval of wireless communications facilities should be reviewed and updated; and

WHEREAS, this Council believes that initiation of zoning text amendments, to commence debate and consideration within the context of a public hearing process, is advisable; and

WHEREAS, this Council finds that consideration of the zoning text amendments set forth within the attached Discussion Draft Zoning Text Amendments ("Discussion Draft") is required by the public necessity, convenience, general welfare or good zoning practice; now, therefore,

BE IT RESOLVED THAT this City Council hereby initiates amendments of the Charlottesville City Code, Chapter 34 (Zoning), as set forth within the attached Discussion Draft; and

BE IT FURTHER RESOLVED THAT this matter is hereby referred to the Planning Commission for its recommendations, and for an advertised joint public hearing with Council. In the interest of expediting the public hearing process by which these zoning text amendments may be considered, the Planning Commission is requested to utilize the attached Discussion Draft as a starting point for their discussions; HOWEVER, the Commission's consideration of zoning text amendments for communications facilities need not be limited to the specific provisions within the Discussion Draft. Based on input received during the public hearing process, and the Planning Commission's own deliberations, the Planning Commission should report back to Council its specific recommendations, within 100 days after the first regular meeting of the Commission following the adoption of this Resolution.

Approved by Council
April 18, 2016



Clerk of Council

Discussion Draft Zoning Text Amendments—Part 1 of 2

ARTICLE X. - DEFINITIONS

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:

Antenna or antenna array as used in Article IX, section 34-1070, et seq. means communications equipment mounted on a support structure for the purpose of transmitting, receiving, or transmitting and receiving electromagnetic radio signals used in the provision of all types of wireless communications services one (1) or more whips (omni-directional antenna), panels (directional antenna), discs (parabolic antenna) or similar devices used for broadcast, transmission and/or reception of radio frequency signals. Reference to an antenna or antenna array does not include the support structure. The following shall be excluded for the purposes of this division, from the definition of antenna and antenna array: amateur radio antennas, satellite earth station antennas one (1) meter in diameter or less; receive-only home television antennas; and satellite earth station antennas two (2) meters or less in diameter located in a commercial or industrial zoning district.

Attached communications facility and *attached facility* as used in Article IX, section 34-1070, et seq. and any zoning use matrix, shall mean a communications facility an antenna or other communications equipment (broadcasting or receiving, including any PWSF or microcell) that uses is attached to an existing building or structure, ("attachment structure") as its support structure. For the purposes of this definition, the term structure shall include, without limitation: utility poles, signs, and water towers; however, the term shall exclude communications towers. Where reference is made to an attached facility, unless otherwise specified the reference will be deemed to include any accompanying pole or device ("attachment device") which attaches the antenna array or communications equipment to the existing building or structure, any concealment element(s), as well as transmission cables and any equipment shelter which may be located either inside or outside the attachment structure.

Attachment structure as used in Article IX, section 34-1070, et seq. refers to the structure to which an attached communications facility is affixed.

Base station means a structure or equipment at a fixed location that enables FCC-licensed or authorized communications between user equipment and a communications network. The term does not encompass a "tower" or any equipment associated with a tower.

Carrier On Wheels ("COW") means a portable, self-contained wireless facility that can be moved to a location and set up to provide wireless communications services on a temporary or emergency basis.

Collocation, Co-location (collocation) for purposes of Article IX, section 34-1070, et seq. shall mean the mounting or installation of antennas on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes use of an attachment structure or support structure by (i) two (2) or more wireless license holders, radio stations or television stations, or combination thereof, (ii) one (1) wireless license holder, radio station or television for more than one (1) type of communications technology, or (iii) two (2) or more communications facilities owned or operated by government or other public and quasi-public users.

Communications facility for purposes of Article IX, section 34-1070, et seq. means any antenna, antenna array or other communications equipment (including any PWSF) used by any commercial, governmental, or other public or quasi-public user(s). Where reference is made to a communications facility, unless otherwise specified or indicated by context, such referenced will be deemed to include any base station, tower or other support structure on which the antenna or other communications equipment is mounted, any concealment element(s), and any attachment device and other equipment referenced within 47 C.F.R. §4.0001(b)(1)(i)-(ii) transmission cables, and any associated equipment shelter.

Discussion Draft Zoning Text Amendments—Part 1 of 2

Concealment element means an architectural feature or treatment (paint, for example), landscaping, screening or other means or method of rendering a communications facility invisible, or minimally visible, from adjacent streets and properties, as may be required by Article IX, sec. 34-1070 et seq.

Communications facility, freestanding for purposes of Article IX, section 34-1070, et seq. means any communications facility other than an attached communications facility or a microcell located on an existing building, pole or other existing support structure.

Dish antennas means a satellite antenna, also known simply as a "dish," used for satellite communication and broadcast reception.

Eligible Facility means an eligible support structure proposed to be modified in a manner that does not result in a Substantial Change, and such modification involves: (i) collocation of transmission equipment, (ii) removal of transmission equipment; or (iii) replacement of transmission equipment. As used in Article IX, sec. 34-1070 et seq. of this chapter, the term "Eligible Facility request" means a request seeking a determination that the proposed modification of an existing tower or base station is an Eligible Facility.

Eligible support structure means any tower or base station that is existing at the time of an Eligible Facility request. For the purposes of this definition, a constructed tower or base station is "existing", if it has been reviewed and approved under the applicable zoning or siting process, or another state or local regulatory review process (provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition).

Freestanding communications facility means any tower.

Microcell for purposes of Article IX, section 34-1070, et seq. means a facility for wireless communications, consisting of an antenna that is either: (i) not more than four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or (ii) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length.

Personal wireless service facility (PWSF) means an unstaffed communications facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, transmission cables, an equipment shelter and a support structure to achieve necessary elevation.

Radio and television broadcasting station means an establishment engaged in transmitting oral and visual programs to the public and that consists of a studio, transmitter, and antennas.

Tower, alternative means for purposes of Article IX, section 34-1070, et seq. means a support structure that camouflages or conceals the presence of the antenna array, equipment shelter and other apparatus for a PWSF or other communications facility, to an extent that the communications facility is either invisible or otherwise made an integrated part of the feature enclosing it. Examples of an alternative tower structure include, but are not limited to: clock towers, bell towers, church steeples, water towers, and light poles.

Substantial Change, for purposes of Article IX, section 34-1070 et seq., means a modification of an existing tower or base station, if (i) for a tower outside a public right-of-way: the modification increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet, whichever is greater; and, for a tower located within a public right-of-way, and for a base station: the increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater; (ii) for a tower outside a public right-of-way: the modification protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; and, for a tower located within a public right-of-way, and for a base station, it protrudes from the edge of the structure more than 6 feet; (iii) the modification involves installation of more than the standard number of new equipment cabinets for the

Discussion Draft Zoning Text Amendments—Part 1 of 2

technology involved, but not to exceed 4 cabinets; (iv) the modification entails any excavation or deployment outside the current site of the tower or base station; (v) the modification would defeat the existing concealment elements of the tower or base station; Or (vi) the modification does not comply with conditions associated with the prior approval of construction or modification of the tower or base station (provided that this limitation does not apply to any modification that is non-compliant only in a manner that does not exceed the thresholds identified in (i)-(iv) preceding above). As used in this definition, the term “site” means: for towers other than towers in a public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and for other eligible support structures: further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Tower, communications refers to a support structure a structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities.

Tower, guyed means a monopole or lattice tower support structure that is secured and stabilized by diagonal cables (guy wires) anchored to the ground or other surface.

Tower, lattice means a support structure that is self-supporting with multiple legs and cross-bracing of structural steel.

~~Tower, monopole means a support structure consisting of a single pole, constructed without any guy wires and ground anchors.~~

Tower, self-supporting means a support structure that is self-supporting with a single shaft of wood, steel or concrete and antennas or other communications facilities at the top. Structures commonly referred to as “monopoles” are included in this definition.

Transmission equipment means equipment that facilitates transmission for any FCC-licensed or authorized wireless communications service, including, but not limited to antennas, radio receivers, co-axial or fiber-optic cable, and regular and backup power supply.

Utility pole, for purposes of Article IX, section 34-1070 et seq. means a structure owned or operated by a public utility, municipality, electric membership corporation, or similar entity, that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, electricity, or to provide street lighting.

~~Wireless communications means any FCC-licensed or authorized communications, including personal wireless services, as defined in the Federal Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and paging, as well as unlicensed wireless services and common carrier wireless exchange access services, and similar services that currently exist or that may in the future be developed. The term does not mean the provision of direct-to-home satellite services, as defined in Section 303(v) of the Act.~~

CHANGES PROPOSED FOR DISCUSSION

USE MATRIX FOR

ARTICLES III (RESIDENTIAL DISTRICTS), IV (COMMERCIAL DISTRICTS), AND VI (MIXED USE DISTRICTS)

Recommend: Update the List of Use Types in each Article (no changes to any columns other than the one titled “Use Types”), as follows:

USE TYPE—PROPOSED CHANGES/ UPDATES	REASONS FOR PROPOSED CHANGES/ UPDATES
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Communications facilities and towers:	<i>See</i> proposed updated definitions of “communications facility” and “antenna”
Antennae or microcells mounted on existing towers established prior to 02/20/01	Federal law (the Spectrum Act) now prescribes a definition of an “existing” tower or “base station”. The city’s current provision is inconsistent with the mandatory federal definition and is suggested for deletion. Also, due to the broad definitions of the Spectrum Act, microcells should not be distinguished from other types of antennas, in relation to existing facilities. <i>Ref.</i> 47 C.F.R. §1.40001.
Attached facilities utilizing utility poles or other electric transmission facilities as the attachment structure	<i>See</i> proposed updated definition of “utility pole”
Attached facilities not visible from any adjacent street or property	No change proposed
Attached facilities visible from an adjacent street or property	No change proposed
<u>COWs</u>	<i>See</i> proposed definition of “COW”
<u>Towers</u> Alternative tower support structures	<i>See</i> proposed updated definition of “tower”, derived from federal law (47 C.F.R. §1.40001) It is suggested that, at this time, reference in the use matrix to “alternative tower” is not necessary, since the facilities referenced in our current definition of “tower, alternative” can already be accommodated by the definition of “attached facility” or simply “tower”. Some localities authorize installation of “alternative towers” as freestanding support structures disguised as trees, silos, etc.
Monopole tower support structures	Proposed deletion, see above.
Guyed tower support structures	Proposed deletion, see above.
Lattice tower support structures	Proposed deletion, see above.
Self-supporting tower support structures	Proposed deletion, see above.

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ARTICLE IX (GENERALLY APPLICABLE REGULATIONS), DIVISION 5. - TELECOMMUNICATIONS FACILITIES

Sec. 34-1070. - Purpose and intent.

The purpose and intent of this division is to provide regulations that will serve the interests of the public necessity, convenience, general welfare and good zoning practice, by ensuring that residents, businesses and public safety operations within the City of Charlottesville have reliable and convenient access to communications networks, while also ensuring a convenient, attractive and harmonious community; protection against destruction of or encroachment upon historic areas; and encouragement of economic development. The provisions of this division are also intended to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including, without limitation, Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, establish guidelines for the siting of communications towers and personal wireless service facilities. The goals of this division are to:

(1) —

- ~~Allow for a range of locations for communications towers and personal wireless service facilities, subject to clear buffering and safety standards.~~
- ~~(2) Encourage the joint use of new and existing support structures, and minimize the total number of communications towers and personal wireless service facilities throughout the community.~~
- ~~(3) Encourage users of communications towers and personal wireless service facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.~~
- ~~(4) Minimize adverse visual impacts of towers and antenna through careful design, siting, landscaping screening and innovative camouflaging techniques.~~
- ~~(5) Encourage users of communications towers and personal wireless service facilities to configure them in a way that minimizes adverse visual impact;~~
- ~~(6) Promote compatibility of communications towers and personal wireless service facilities with surrounding land uses, and protect the attractiveness, health, safety, general welfare and property values of the community.~~
- ~~(7) Avoid potential damage to adjacent properties from tower failure through responsible engineering practices and careful siting of tower structures.~~
- ~~(8) Minimize traffic impacts on surrounding residential areas.~~
- ~~(9) Maximize and encourage use of alternative tower structures as a primary option rather than construction of additional single use towers.~~

Sec. 34-1071. - Definitions.

For definitions of special terms utilized within this division, refer to Article X (Definitions), section 34-1200.

Sec. 34-1072. Nonconforming facilities Applicability.

- (a) Communications facilities that were legally permitted on or before the date this ordinance was enacted, but which do not conform to current zoning regulations, shall be considered lawful.

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~~nonconforming uses. A communications facility or tower that was completely constructed on a site prior to February 20, 2001, in any zoning district, shall be considered a conforming use.~~

- (b) ~~A collocation shall not be construed as an expansion, enlargement or increase in intensity of an existing nonconforming tower or base station, provided that the collocation does not involve any Substantial Change. A communications facility, in any zoning district, which has received city approval in the form of either a building permit, site plan approval or special use permit, but which has not yet been constructed or placed into operation on February 20, 2001, shall be considered an existing, conforming use if the building permit, site plan approval or special use permit remains valid, and has not expired.~~
- (c) ~~City Council may, by special use permit, authorize a Substantial Change of a nonconforming tower or base station. Placement of an attached communications facility on a legally non-conforming structure shall not be considered an expansion of the non-conforming structure.~~
- (d) ~~The requirements of this division shall supersede conflicting requirements contained in other city zoning or site plan ordinances regarding the siting and permitting of communications facilities.~~

Sec. 34-1073. — ~~Design control~~ Facilities by districts.

- (a) Within the city's historic and entrance corridor overlay districts ~~attached communications facilities that are visible from any adjacent street or property are prohibited; provided, however, that by special use permit, City Council may authorize such facilities on a specific lot.:~~
 - (1) ~~The following shall be permitted uses: antennae or microcells mounted on existing communications towers established prior to February 20, 2001; attached communications facilities utilizing utility poles or other electric transmission facilities as the attachment structure; and other attached communications facilities if such other attached communications facilities are not visible from any adjacent street or property.~~
 - (2) ~~The following shall be prohibited uses: attached communications facilities where such facilities are visible from any adjacent street or property, and communications facilities utilizing alternative tower, monopole tower, guyed tower, lattice tower and self-supporting tower support structures.~~
- (b) ~~In the event of a conflict between the provisions of this section and the provisions of the use matrix for any applicable zoning district, the provisions of this section shall govern.~~
- (b) ~~Within other zoning districts of the city, the permitted communications facilities are identified within the use matrix for the applicable districts. Facilities other than those identified within the use matrix for a particular district shall be prohibited.~~

Sec. 34-1074. — Height; measurement of changes.

- (a) Where attached communications facilities are permitted within a zoning district, ~~the attachment structure shall be at least forty (40) feet in height, and~~ the total height of the communications facility (including the attachment structure, antenna and any attachment devices) shall not be more than twenty (20) feet greater than the original height of the attachment structure.
- (b) The following ~~height~~ restrictions shall apply to freestanding communications facilities, wherever located:
 - (1) Where a support structure is used by and for a single ~~antenna~~ communications facility, maximum height shall not exceed seventy (70) feet.

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- (2) Where a support structure is used by and for two (2) co-located ~~antennas~~communications facilities, then maximum height shall not exceed one hundred (100) feet.
- (3) Where a support structure is used by and for three (3) or more co-located ~~antennas~~communications facilities, then maximum height shall not exceed one hundred fifty (150) feet.
- (4) The height of a freestanding communications facility shall be determined by the number of antennas for which binding commitments can be demonstrated at the time of approval. No freestanding communications facility shall be permitted to be constructed when the number of antennas that may be installed on it is speculative at the time of any approval.
- (c) ~~By special use permit, City Council may modify Any communications facility that the requirements of exceeds the height restrictions or dimensions allowed by right under paragraphs (a) or (b)(1)-(3), above, shall require a special use permit.~~
- (d) When an application involves or proposes a change in the height of any communications facility, the change in height will be measured from the original support structure, in cases where deployments are or will be separated horizontally (such as on the rooftop of a building); in other circumstances, changes in height will be measured from the dimensions of the tower or base station—inclusive of originally-approved appurtenances and any modifications that were approved prior to the passage of the federal Spectrum Act (P.L. 112-96, signed February 22, 2012).

Sec. 34-1075. - Setback requirements.

- (a) All communications facilities shall comply with the minimum setback and yard requirements of the zoning district in which they are located.
- (b) ~~Each tower and base station Support structures shall be set back from all property lines a distance equal to its engineered fall zone for freestanding communications facilities shall be located on a lot in such a manner that, in the event of collapse, the structure and supporting devices shall be contained within the confines of the property lines.~~
- (c) No above-ground portion of any freestanding communications facility shall project into a required setback more than the maximum projection permitted in the zoning districts in which the facility or antenna is located. Any communications facility that projects over a public right-of-way shall have a minimum clearance of [redacted], and is subject to city council's approval of a right-of-way use agreement for the facility itself, or for the structure to which it is attached.
- (d) Where ~~alternative tower,~~ monopole tower, lattice tower or other self-supporting tower support structures are permitted, either by right or by special use permit:
 - (1) The communications facility shall be set back from any existing residence, residentially-zoned property, public street or other public property, a distance of at least the height of the PWSF or communications facility, but in no event less than one hundred (100) feet.
- (e) By special use permit, City Council may modify the requirements of paragraph (a) or (b).

Comment [RL1]: See Va. Code 15.2-2030

Sec. 34-1076. - Separation requirements.

- ~~(a)~~ Freestanding communications facilities shall conform to the following separation requirements (i.e., minimum distance from the nearest established freestanding communications facility):

<u>Structure Facility</u> Height	Minimum Separation

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	Requirement
<50 feet	300 feet
50—100 feet	500 feet
101—150 feet	750 feet

~~(b) Alternative tower structures, and attached communications facilities, shall be exempt from the provisions of section (a), above.~~

(c) When a freestanding communications facility is located on a lot site containing one (1) or more other buildings principal uses or other uses, the minimum distance between the facility tower support structure and any principal other building or principal use located on the same lot site shall be the greater of: Hey, twenty (20) percent of the height of the facility communications facility, or twenty-five (25) feet.

Sec. 34-1077. - Screening and landscaping.

(a) Landscaping shall be used at ground level to screen the view of towers and base stations freestanding communications facilities from adjacent public streets and public property, and from adjacent residentially-zoned property and adjacent residences. The minimum landscaping requirements shall be as follows:

(1) For towers and base stations facilities one hundred fifty (150) feet in height or less, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting shall be spaced not more than five (5) feet apart within ten (10) feet of the perimeter of the required setback area.

(2) For towers and base stations more than one hundred fifty (150) feet in height, in addition to the requirements set forth in subsection (a)(1), above, at least one (1) row of deciduous trees, with a minimum caliper of two and one-half (2½) inches at the time of planting, and spaced not more than forty (40) feet apart, shall be provided within twenty (20) feet of the perimeter of the required setback area.

(3) All security fencing shall be screened from view.

(b) Landscaping materials shall consist of drought-resistant native species.

(c) Landscaping materials shall be maintained by the owner and operator of the lot on which the support structure is constructed or installed, for the life of the support structure installation.

(d) Existing vegetation on the site shall be preserved to the greatest practical extent. Existing vegetation, topography, walls and fences, etc., combined with shrubs or other features may be substituted for the required shrubs or trees, if the director of neighborhood development services or his designee finds that they achieve the same degree of screening as the required shrubs or trees.

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(e) The requirements of this section shall not apply to an existing building that serves as the support for an antenna, but they shall apply to any related equipment and shelters placed on the ground adjacent to such buildings.

Sec. 34-1078. - Lighting and security fencing.

- (a) No communications facility shall be artificially lighted, except for:
- (1) Security and safety lighting of equipment and shelters/buildings, if such lighting is appropriately down-shielded to keep light within the boundaries of the site.
 - (2) Such lighting as may be required by the FAA, FCC or other applicable governmental authority, installed in such a manner as to minimize impacts on adjacent residences. Where the FAA or FCC requires lighting "dual lighting" (red at night/strobe during day) shall be utilized unless otherwise recommended by FAA or FCC guidelines.
- (b) Security fencing shall be required around the perimeter of towers and base stations (but not for existing buildings that serve as the support for an antenna) support structures and any accessory utility structures associated with freestanding communications facilities, in accordance with the following minimum requirements:
- (1) Security fencing shall be maintained by the owner and operator(s) of the communications facility, for the life of the facility. Security fencing shall be constructed of decay-resistant materials, and shall be not less than six (6) feet in height.
 - (2) Security fencing shall be equipped with anti-climbing devices.
 - (3) When a For alternative tower structures where the support structure is secured so that the public cannot access any component of a wireless facility the antenna array, equipment shelter and other apparatus for a PWSF or other communications facility, security fencing shall not be required.

Sec. 34-1079. - Signs and advertising.

- (a) No sign(s) shall be permitted on any communications facility, except as may be required for public safety purposes, or as required by the FAA or FCC.
- (b) No materials or markings containing any advertising or advertisement shall be permitted on any communications facility.

Sec. 34-1080. - Visibility and placement.

- (a) Attached communications facilities that are permitted to be visible from adjacent streets or properties shall comply with the following standards/requirements as to visibility and placement:
 - (1) Where ~~Such facilities are visible from adjacent properties, or from public rights-of-way, they~~ shall be designed and located so as to blend in with the existing support structure. The facilities shall be attached to the support structure to the maximum extent feasible, through measures such as placement in the least visible location that which is consistent with proper functioning of

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- ~~the communications~~ equipment. ~~The –and colors of the facility and the attachment structure will be coordinated, and use of~~ compatible ~~or~~ neutral colors ~~shall be utilized.~~
- (2) Where such facilities are visible to adjacent residences, but have a visual impact that cannot reasonably be mitigated by placement and color solutions, the facilities shall be screened by planted materials or building appurtenances, to an extent that they are not readily apparent to the occupants of the adjacent residence~~from view or concealed.~~
- (3) Antennas and any supporting electrical and mechanical equipment shall be of a neutral color that is compatible with the color of the attachment structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
- (b) Attached communications facilities that are permitted only if **not visible** from adjacent streets or properties shall comply with the following standards:
- (1) Such facilities must be concealed by an architectural feature or lawful appurtenance of the support structure, provided that ground-level equipment may be concealed by landscape screening.
- (2) The concealment referenced in (b)(1), above, shall be provided to such an extent that the communications facilities cannot be distinguished from the architectural feature, appurtenance, or landscape plantings used to conceal them.
- (3) Within a design control district, any exterior construction, reconstruction, and alteration proposed for the purpose of providing concealment for any component of a communications facility requires a certificate of appropriateness.
- (c) In addition to the requirements of paragraphs (a) and (b), above:
- (1) Portions of towers and base stations that extend ~~All support structures shall be of a galvanized finish, or painted gray,~~ above ~~a the~~ surrounding treeline or built environment ~~shall be painted gray or shall have a galvanized finish.~~ Below the surrounding treeline such facilities support structures shall be painted gray or green. ~~Below –or, below–~~ the line of the surrounding built environment, such ~~facilities structures~~ shall be painted in a neutral color that will blends with the surrounding built environment.
- (2) Alternative coloring or marking may be utilized if an applicant identifies. ~~These requirements shall apply unless other coloring or marking is required by~~ FAA or FCC regulations requiring such alternative coloring or marking.
- (e) (2) Equipment shelters shall ~~to the extent practicable, use be~~ fabricated, constructed and installed using materials, colors, textures, screening and landscaping that will blend with the natural setting and built environment. ~~Equipment The equipment shelters and/or cabinets used ancillary to a microcell~~ shall be contained wholly within a building, ~~–or–~~ structure, or enclosure, unless otherwise concealed and/or camouflaged, as may be required, or located underground.
- (d) (3) Collocated antennas ~~Antennas and other broadcasting or receiving equipment collocated on a single support structure or attachment structure~~ shall, to the greatest extent feasible, be of similar size, design, coloring and appearance.
- (4) For towers having a height in excess of one hundred fifty (150) feet, the number and placement of antennas or other receiving or transmitting devices collocated on a single support structure shall be limited so that, in the aggregate, the facility(ies) will not have an excessive adverse visual impact on adjacent properties, or on the view from any historic or entrance corridor overlay district.
- (de) As long as all siting, setback, separation and general requirements of this division are met, towers, where permitted, freestanding communications facilities may occupy a parcel meeting the minimum lot size requirements for the zoning district in which they are located.

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- (f) ~~For freestanding communications facilities with a height in excess of one hundred fifty (150) feet, the number and placement of antennas or other receiving or transmitting devices collocated on a single support structure shall be limited so that, in the aggregate, the facility(ies) will not have an excessive adverse visual impact on adjacent properties, or on the view from any historic or entrance corridor overlay district.~~

Sec. 34-1081. - Construction and operational standards.

- (a) ~~All towers and base stations shall comply with requirements of the applicable version of the Virginia Uniform Statewide Building Code (USBC). All support structures shall be constructed to comply with the Electronic Industries Association (EIA) current standards (EIA222-D, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," published by EIA, effective June 1, 1987, as from time to time amended or revised).~~
- (b) ~~All support structures shall be constructed to comply with the Virginia Uniform Statewide Building Code (USBC), effective September 1, 1973, as from time to time amended or revised, and with the provisions of any applicable city ordinance(s). Structures necessary for the housing or shelter of equipment used in direct support of a communications facility shall be allowed as accessories to the communications facility, but such structures may not be used for offices, vehicle storage or other storage. No equipment, machinery or vehicles other than that which is utilized in direct support of a communications facility shall be stored or parked at the site, except when necessary in connection with repairs to the facility~~
- (be) ~~All communications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal or state government having authority to regulate such facilities. An applicant seeking approval of a communications facility shall be required to certify such compliance. Every twelve (12) months from the date of issuance of a building permit, or, where required, from the date of final approval of a site plan, the owner or operator of an approved communications facility shall submit to the director of neighborhood development services or his designee documentation that the communications facility complies with all applicable federal and state standards and regulations.~~
- (d) ~~The owner and operator of a tower freestanding communications facility shall provide for and conduct an inspection of the tower support structure at least once every three (3) years. Such inspection shall be conducted by a structural engineer authorized licensed to practice within the Commonwealth of Virginia. A written report of the results of the inspection shall be provided to the City's Building Official/director of neighborhood development services or his designee, verifying structural integrity and the name(s) and address(es) of any tenant(s) having equipment located on the structures.~~
- (e) ~~Machinery and equipment used ancillary to a communications facility shall be automated to the greatest extent possible. Communications facilities may be located on sites containing one (1) or more other principal uses, or such facilities may be the principal use of a lot. However, multiple uses of a single lot shall be prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas or dangerous chemicals.~~
- (f) ~~Areas sufficient for the temporary off-street parking of at least two (2) vehicles shall be provided for freestanding communications facilities. The type and configuration of parking may be approved by the director of neighborhood development services or his designee.~~
- (fg) ~~A copy of any road maintenance agreement for any site accessed by private easement shall be provided as part of any application for a freestanding communications facility, or for a modification of an existing such facility. Where a freestanding communications facility site abuts or has access to a~~

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collector and local street, access for maintenance vehicles shall be exclusively by means of the collector street.

~~(h) Freestanding communications facilities in excess of one hundred fifty (150) feet of height (including antenna arrays) shall be constructed to accommodate no less than three (3) telecommunications carriers or service providers.~~

Comment [RL2]: Moved to a different section

Sec. 34-1082. - Collocation.

(a) Providers of communications services are encouraged to design, construct and site their facilities PWSF and other communications facilities, attached or freestanding, in a manner that will promote with a view towards sharing facilities and support structures with other utilities, collocation with other providers, and to accommodating the future collocation of other future facilities, wherever technically, practically and economically feasible. ~~The city shall work with telecommunications providers to facilitate the siting of PWSF or other communications facilities on city-owned and other publicly-owned property, by identifying existing facilities, the appropriate contact persons, and the appropriate leasing procedures.~~

(b) A person seeking approval of a site plan or special use permit for a new freestanding communications facility shall document that reasonable attempts have been made to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.

~~(c) Accessory structures necessary for the housing or shelter of equipment used in direct support of a communications facility shall be allowed, but such structures may not be used for offices, vehicle storage or other storage. No equipment, machinery or vehicles other than that which is utilized in direct support of a communications facility shall be stored or parked at the site, except when necessary in connection with repairs to the facility.~~

Comment [RL3]: Moved to a different section.

~~(d) Communications facilities may be located on sites containing one (1) or more other principal uses; however, such joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas or dangerous chemicals.~~

Comment [RL4]: Moved to a different section

(c) Proposed collocations shall be reviewed by the city in accordance with (i) requirements of federal law, and (ii) unless pre-empted by federal law, the applicable requirements of this division.

Sec. 34-1083. — Required approvals Permit processes.

(a) ~~Building permit. The facilities listed below may be authorized by Zoning Verification pursuant to paragraph (b), below, and issuance of a building permit, if required by the USBC): Where a microcell or attached communications facility is a permitted use, and will not exceed the by-right height restrictions or dimensions set forth within this division, only a building permit shall be required.;~~

(1) Eligible Facility requests;

(2) A new attached communications facility permitted by right, if such new facility meets all applicable requirements of this division;

(3) Ordinary maintenance of a communications facility in existence on the date of an application; or

(4) Placement of a COW at any location within the City, (i) for a single, temporary period of not more than one hundred twenty (120) days, or (ii) for any period corresponding with the duration of an emergency or disaster declared by the Governor or City Council.

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(b4) Zoning Verification: upon receipt of an application seeking approval for a facility, or modification, listed in paragraph (a), above. Prior to issuance of a building permit, the zoning administrator shall verify in writing that the certify that the proposed facility or modification meets applicable requirements of the zoning ordinance (“Zoning Verification”). If the zoning administrator determines that facility or modification is not within the scope of (a)(1)-(4), above, or does not meet applicable zoning requirements, the zoning administrator shall notify the applicant in writing of the basis of his determination, and the facility or modification shall not be permitted until all applicable requirements have been satisfied. microcell or attached communications facility meets all applicable standards and requirements set forth within this division.

(1) The zoning administrator may require documentation and information to the extent reasonably related to determining whether a request is within the scope of (a)(1)-(4) above and otherwise meets applicable zoning requirements.

(2) Within 60 days of the date on which an applicant submits an Eligible Facility request, the request shall be approved, unless the zoning administrator determines, with the concurrence of the city attorney, that the application does not involve an Eligible Facility. For the purposes of this paragraph “approved” refers to issuance of the required Zoning Verification and approval of any certificate of appropriateness that may be required for a concealment element. All aspects of the city’s review of an Eligible Facility request shall be conducted in accordance with, and shall be governed by, the mandates set forth within 47 C.F.R. § 1.40001 (April 8, 2015), as such regulations may subsequently be amended.

(4)(3) The 60-day review period (“shot clock”) begins to run from the date on which the application is filed, and it may be suspended only by mutual agreement or in cases where the city determines the application is incomplete. To suspend the running of the shot clock for incompleteness, the city must give written notice to the applicant within 30 days after the date on which the application is filed. The notice must reference all missing documents and information. Thereafter, the shot clock will begin running again when the applicant makes a supplemental submission in response to the notice. Following a supplemental submission, the city will have 10 days to notify the applicant in writing, if the supplemental submission did not provide all of the information required in the original notice. If a second or subsequent notice of incompleteness is given, the shot clock will be suspended until the next resubmission. Second and subsequent notices of incompleteness may not specify missing documents or information that were not referenced in the original notice of incompleteness.

(c)(2) Upon application for a building permit, review will be conducted by the department of neighborhood development services and the zoning administrator, with support from other city staff and/or city retained consultants as may be designated or deemed necessary by the director of neighborhood development services or his designee. The city shall have the right to obtain retain independent technical consultants and experts that it deems as necessary to render the required determination, and the city may properly evaluate such applications, and to require an applicant to bear the reasonable cost of such services, charge a reasonable fee for such services to the applicant as part of the required application fee. Such reasonable costs fee shall include but shall not be limited to, the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate such applications.

(d) Materials required for a Zoning Verification:

(1) Application form and related information completed and signed by the applicant, accompanied by the application fee(s) set forth within the most recent fee schedule adopted by city council;

(2) Copy of a property lease or notarized power of attorney from the property owner (if the applicant is not the property owner) expressly authorizing the applicant to apply for and make binding

Comment [RL5]: Mandated by The Spectrum Act (federal law)

Comment [RL6]: This procedure for incomplete submissions is DIFFERENT than state-law provisions for reviewing site plans. (A site plan is not deemed “officially submitted” until it is complete; the clock does not start running until the date of official submission.)

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representations as the legal agent of the owner in relation to the proposed communications facility (alternatively, the property owner may co-sign the application form);

c. An Eligible Facility request shall also be accompanied by (i) a written opinion of an attorney licensed to practice within Virginia, certifying that the facility is an Eligible Facility, (ii) drawings prepared by an engineer authorized to practice within Virginia, setting forth all dimensions, elevations and other details establishing the factual basis for the attorney's opinion, and illustrating all proposed changes in dimension—including all existing and proposed concealment elements, (iii) the date(s) and type(s) of approvals previously granted by the city for the existing facilities, and (iv) for applications involving towers or base stations within a design control district, a comprehensive concealment plan, consisting of drawings prepared by an architect or engineer authorized to practice within Virginia, demonstrating how the concealment elements for all antennas and related equipment, in the aggregate, will satisfy the standards set forth within City Code 34-276, 34-310, or 34-342, as applicable.

(e) Zoning approval shall be required for any proposed communication facility other than those referenced within paragraph (a)(1)-(4), above. Each application seeking zoning approval of a proposed communication facility shall include the following:

(1) An application form and such related materials as may be required by the director of neighborhood development services for a proper review of the request, accompanied by the application fee set forth within the most recent fee schedule adopted by city council;

(2) Copy of a property lease or notarized power of attorney from the property owner (if the applicant is not the property owner) expressly authorizing the applicant to apply for and make binding representations as the legal agent of the owner in relation to the proposed communications facility (alternatively, the property owner may co-sign the application form);

(3) A proposed final site plan in accordance with sec. 34-1084; and

(4) An application for approval of a certificate of appropriateness, and related fees and supporting materials, when required by sec. 34-275, 34-309, or 34-340.

~~Site plan. All freestanding communications facilities, all microcells or attached communications facilities exceeding the height or dimensions specified in section 34-696, and all modifications of existing such facilities, shall require an approved site plan. For the purpose of this requirement, location of additional antennas or microcells on a previously approved facility shall not be deemed a modification of an existing facility requiring a new site plan, so long as such additional antennas or microcells themselves meet any applicable requirements of this division.~~

~~(1) Upon application for site plan review, review will be conducted by the department of neighborhood development services, with support from other city staff and/or city retained consultants as may be designated or deemed necessary by the director of neighborhood development services or his designee.~~

~~(2) The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate such applications, and to charge a reasonable fee for such services to the applicant as part of the required application fee. Such fee shall include but shall not be limited to the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate such applications.~~

~~(e) Site plan applications. Each applicant requesting site plan review under this division shall submit the following information as part of the application:~~

~~(1) A site plan and elevations, drawn to scale, and other supporting drawings or photographic simulations, specifying the appearance, height, location and dimensions of the proposed facility, including: support structure; equipment shelters; accessory uses; coloring of materials; parking; access; landscaped areas; fences; adjacent land uses; separation and setback calculations; and property boundaries. A cross section of the support structure shall be included.~~

Comment [RL7]: Site plan requirements have been moved to Sec. 34-1084

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- ~~(2) A landscape plan to scale, indicating the size, spacing and type of plantings, and indicating existing significant vegetation to be removed, and vegetation proposed for planting to replace any lost vegetation; and a natural resources screening, based upon direct observation and/or generally available data sources, of the proposed support structure site; and information as to how the applicant will implement practical measures to avoid, minimize and/or mitigate (in that order of preference) potential adverse impacts.~~
- ~~(3) A utilities inventory showing the location of all water, sewer, drainage, gas, and power lines at the site.~~
- ~~(4) Information concerning support structure specifications, and compliance with applicable EIA, ANSI and USBC standards, as applicable.~~
- ~~(5) Demonstration of the structural integrity of the proposed facility and its support structure; information as to the failure characteristics of the proposed facility and its support structure; demonstration that site conditions and setbacks are adequate to contain debris within the boundaries of the site in the event of structural collapse.~~
- ~~(6) A description of anticipated maintenance and operational needs, including frequency of necessary maintenance services, personnel needs, equipment needs, and traffic, noise or safety impacts of the maintenance and operation of the facility.~~
- ~~(7) Total anticipated capacity of the support structure as proposed, including a description of the number, type, technical capabilities and limitations, and the placement of antenna or other receiving or transmitting devices to be located on the support structure, and information sufficient to enable the city to evaluate the visual impact of the proposed facility on adjacent properties and views.~~
- ~~(8) Information as to the additional tower capacity anticipated, including the approximate number and types of antennas or other equipment the structure could ultimately accommodate, together with a description of any limitations on the ability of the facility to accommodate other facilities or uses (e.g., radio frequency interference, mass height, frequency or other characteristic). The applicant shall include a description of the technical options available to overcome any listed limitations, and reasons why such technical options were not chosen to be incorporated in the proposed facility.~~
- ~~(9) A certification that the applicant has made reasonable efforts to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.~~
- ~~(10) A statement from a qualified radio frequency engineer licensed to practice in the Commonwealth of Virginia, or from the FCC, certifying that, as proposed, a communications facility complies with FCC guidelines concerning radio frequency radiation and emissions.~~
- ~~(11) Written statements from the FAA, FCC and any state governmental authority having jurisdiction or regulatory authority over the proposed facility, verifying that the proposed facility complies with all applicable regulations administered by that agency or authority, or that the proposed facility is exempt from any such regulations.~~
- ~~(12) Any other information which may be requested by the city to facilitate evaluation and review of the application.~~

(f) Special use permits.

The following uses may be permitted with a special use permit:

- ~~(1) A microcell which exceeds the dimensions specified within section 34-683 (the definition of microcell), or which is mounted on a support structure exceeding the height restrictions set forth within section 34-1074.~~

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- ~~(2) An attached communications facility that exceeds the height or dimensions specified in section 34-1074.~~
- ~~(3) A freestanding communications facility that exceeds the height specified in section 34-1074.~~
- (1e) ~~Where a facility is permitted by special use permit approval, receipt of final site plan approval and a building permit shall also be required. Each application for a special use permit seeking approval of a special use permit for a communications facility under this division shall include the following information and materials, in addition to the information required as part of a site plan or building permit application:~~
- (1) ~~(4)~~—A proposed final site plan, in accordance with 34-1084;
- ~~(4)(2)~~ Demonstration that the proposed site is appropriate for the location of the facility. Information relevant to this factor includes, without limitation: topographic features or advantages of the site; site location in relation to provision of adequate wireless communications transmission or other type of communications broadcast, transmission or receipt; physical site characteristics in relation to the construction of the facility, including potential impacts on adjacent land uses; technical capabilities and limitations of the facility to be established; adequacy of setbacks to protect adjacent residential or public properties, or public streets in the event of a support structure failure; the ability to buffer, through use of vegetative, topographic or other measures, the impact of the use on adjacent residential or public streets or properties; impact on adjacent buildings, structures or sites of historic significance.
- (32) A list of all existing support structures and antenna sites within a two-mile radius from the proposed site (list to include street address, tax parcel number, existing uses and existing height), outlining opportunities for shared use as an alternative to the proposed use. The applicant shall demonstrate that the proposed support structure, antenna or microcell cannot be accommodated by other existing approved facilities due to one (1) or more of the following reasons:
- Unwillingness of the owner of the existing facilities to entertain a wireless communication facility proposal, or unwillingness of such owner to provide space on economically reasonable terms;
 - The planned equipment would exceed the structural capacity of existing and approved support structures and facilities, considering existing and planned use for those facilities;
 - The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
 - Existing or approved support structures of facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
 - Other reasons, described in specific factual detail, make it impracticable to place the equipment on existing and approved support structures or facilities;
 - The proposed co-location of an existing support structure or antenna site would be, by virtue of the requirements of this division, any city ordinance or the city's comprehensive plan, considered a prohibited use.
- (43) A statement certifying that, as proposed, the facility is consistent with provisions of Subchapter I of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321—4335. If an environmental assessment is performed pursuant to 47 C.F.R. Chapter I, Part I, Subpart I, a copy shall be provided to the city.
- (54) Technical, engineering, and other pertinent factors which led to the selection of the particular design and proposed height of the facility.

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- (65) An inventory of the applicant's existing ~~PWSFs or other~~ communications facilities located within the city ~~and or~~ within one (1) mile of the city's boundaries, including specific information about the location, height and design of each facility.
- (76) A detailed description of ~~any the~~ gap in service (described in technical terms and geographic area) that a proposed ~~communications facility PWSF~~ is designed to serve, together with documentation that the ~~proposed PWSF is the least intrusive alternative available (e.g., that the applicant has considered alternatives that would obviate any need for the proposed installation, including, without limitation: collocation at alternative less sensitive sites, alternative system designs, alternative tower designs, etc.).~~
- (87) Any other information requested by the city to enable it to fully evaluate and review the application and the potential impact of the proposed facility.
- (9f) The criteria to be applied by the city in reviewing an application for a special use permit are as follows:
- (1) Whether the proposed facility has been designed and configured in a way that minimizes the adverse visual impact of support structures, antenna arrays and other associated structures and equipment on adjacent properties, particularly any adjacent residentially-zoned properties or any conservation or historic districts or protected properties, or any entrance corridors;
 - (2) Whether the proposed facility has been designed and configured to promote compatibility with surrounding land uses and to protect the health, safety, general welfare and property values of the community;
 - (3) Whether the proposed facility has been designed and configured so that it will not have undue adverse impact on traffic or parking congestion in the surrounding neighborhood or the community;
 - (4) Whether the applicant has made all reasonable efforts to identify and locate opportunities for shared use (co-location) of existing support structures and antenna sites within an appropriate radius from the proposed site, as an alternative to the proposed use;
 - (5) Whether the proposed facility will meet all applicable federal, state and local laws and regulations, including building, fire and safety regulations; and
 - (6) Whether the proposed facility meets the applicable requirements and standards set forth within this division and within article I, division 8 of this chapter.
- (fg) The planning commission shall review and make recommendations to city council concerning approval or disapproval of the application for a special use permit ~~for a PWSF or other communications facility~~, based upon ~~its the~~ review of the application materials and site plan for the proposed facility and upon the criteria set forth in this division ~~and chapter.~~
- (1) ~~The planning commission may concurrently approve a site plan subject to city council's approval of a special use permit, and subject to the necessary amendments to the site plan as a result of the city council action; or, alternatively,~~
 - (2) ~~The planning commission may choose to consider the site plan after the approval of the special use permit by the city council.~~
- (gh) Except as set forth above, ~~The~~ procedure for ~~filing and~~ consideration of an application for a special use permit for a communications facility is the same as that required by Article I, division 8 of this chapter ~~for a rezoning petition, except that each application for a special use permit under this division shall, in addition, contain a site plan and other supporting data sufficient to demonstrate compliance with the purposes and standards of this division and the other requirements set forth in this division.~~

Comment [RL8]: See paragraph (k), below

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- (hi) Each application for a special use permit for a ~~PWSF or other~~ communications facility, or an amendment to such a special use permit, shall be accompanied by a fee as set forth within the most recent fee schedule adopted by city council~~in the amount of one hundred dollars (\$100.00)~~, plus an additional amount specified by the director of neighborhood development services or his designee, as and for the cost of technical consultant(s) and experts deemed necessary by the city. Such fee shall include but shall not necessarily be limited to the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate the application.
- (ij) In granting any special use permit for a communications facility the city council may expand, modify, reduce or otherwise grant exceptions to the setback regulations, landscaping and screening requirements, height restrictions or visibility and placement restrictions set forth within this division, provided that the city council determines that such conditions are reasonable and will serve approval of the proposed facility meets~~the purpose and goals of this chapter~~. The resolution adopted by city council to grant any such special use permit shall include any exceptions or modifications as specific conditions of such permit.
- (jk) Special use permits issued under the terms of this division shall be reviewed by the department of neighborhood development services no less than every five (5) years from the date of issuance for compliance with this division and any special terms or conditions of approval. Such permits are subject to suspension or revocation at any time if it is determined that the terms of the permit and any conditions contained therein, or any rules or regulations adopted by the state or federal government concerning the use of such facilities are being violated.
- (kl) Special use permits for communications facilities ~~granted by the city council~~ shall be subject to the provisions of City Code Sec. 34-156 et seq., except as follows:
- (1) Application materials shall be reviewed, and zoning decisions rendered, in the following order: (i) the City's agent for approval of a site plan shall take action on the proposed final site plan, as submitted, and any approval shall be subject to the approval of a special use permit, (ii) the BAR or ERB, as applicable, shall make a decision on any required certificate of appropriateness. Approval of a COA shall be conditioned upon approval of a special use permit, and a denial of a COA shall be deemed appealed to city council for resolution in connection with its decision on the special use permit; and (iii) the planning commission and city council shall take final action on the proposed special use permit, subject to final approval of the site plan.
- (2) All required zoning decisions referenced within paragraph (1), above, shall be completed by the City within 150 days of receipt of an application, or within 90 days if the application involves a collocation (other than an Eligible Facility request). The City's review and responses to the application shall be in accordance with requirements of federal and state law. Denial of a special use permit by city council shall be set forth in writing and must be supported by substantial evidence in the record of the proceedings.
- (l) ~~Notwithstanding the provisions of Sec. 34-164, if a tower or base station is abandoned, and it remains abandoned for a period of at least twelve (12) consecutive months, then upon written notice to the owner, the city may require that the tower be removed, or that all communications equipment be removed from the base station, within six (6) months after the date of such notice, expire eighteen (18) months from the date of permit approval, if construction of improvements necessary to the use for which the permit was granted has not commenced to a degree that, in the opinion of the zoning administrator, clearly establishes the intent to utilize the granted special permit in a period of time deemed reasonable for the type and scope of improvements involved.~~
- (m) Procedures for the amendment of a special use permit shall be the same for the original special use permit application.
- (n) In the event of a conflict between any provisions of this article and the provisions of any applicable federal law, regulation, or binding regulatory interpretation or directive, the federal requirement(s) shall govern.

Comment [RL9]: Time periods mandated by federal law: (1) the Federal Telecommunications Act of 1996, and (2) The Spectrum Act.

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34-1084. Site plans—required contents.

- (a) Each proposed final site plan required by applicant requesting site plan review under this division shall contain the submit the following information and materials as part of the application:
- (1) A site plan and elevations, drawn to scale, and other supporting drawings or photographic simulations, specifying the appearance, height, location and dimensions of the proposed facility, including: support structure; equipment shelters; accessory uses; coloring of materials; parking; access; landscaped areas; fences; adjacent land uses; separation and setback calculations; and property boundaries. A cross section of the support structure shall be included.
 - (2) For Substantial Changes, scaled drawings depicting the improvements and related equipment and concealment elements, including their appearance, characteristics and dimensions.
 - (3) A landscape plan to scale, indicating the size, spacing and type of plantings, and indicating existing significant vegetation to be removed, and vegetation proposed for planting to replace any lost vegetation; and a natural resources screening, based upon direct observation and/or generally available data sources, of the proposed support structure site; and information as to how the applicant will implement practical measures to avoid, minimize and/or mitigate (in that order of preference) potential adverse impacts.
 - (3) A utilities inventory showing the location of all water, sewer, drainage, gas, and power lines at the site.
 - (4) Information concerning support structure specifications, and compliance with applicable EIA, ANSI and Virginia USBC standards, as applicable.
 - (5) Written verification from an engineer certifying that the support structure is structurally and mechanically capable of supporting the proposed facility, together with other facilities located, on the same structure. The site plan shall include ~~Demonstration of the structural integrity of the proposed facility and its support structure;~~ information as to the failure characteristics of the proposed facility and its support structure;
 - (6) Engineering calculations of the fall zone for the communications facility, and scaled drawings depicting the area of the fall zone in relation to the boundaries of the lot on which the facility is located. The scaled drawings shall demonstrate ~~demonstration~~ that site conditions and setbacks are adequate to contain debris within the boundaries of the site in the event of structural collapse.
 - (6) A description of anticipated maintenance and operational needs, including frequency of necessary maintenance services, personnel needs, equipment needs, and traffic, noise or safety impacts of the maintenance and operation of the facility.
 - (7) Total anticipated capacity of the support structure as proposed, including a description of the number, type, technical capabilities and limitations, and the placement of antenna or other receiving or transmitting devices to be located on the support structure, and information sufficient to enable the city to evaluate the visual impact of the proposed facility on adjacent properties and views.
 - (8) Information as to the additional tower capacity anticipated, including the approximate number and types of antennas or other equipment the structure could ultimately accommodate, together with a description of any limitations on the ability of the facility to accommodate other facilities or uses (e.g., radio frequency interference, mass height, frequency or other characteristics). The applicant shall include a description of the technical options available to overcome any listed limitations, and reasons why such technical options were not chosen to be incorporated in the proposed facility.

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- (9) A certification that the applicant has made reasonable efforts to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.
- (10) A statement from a qualified radio frequency engineer licensed to practice in the Commonwealth of Virginia, or from the FCC, certifying that, as proposed, a communications facility complies with FCC guidelines concerning radio frequency radiation and emissions.
- (11) Written statements from the FAA, FCC and any state governmental authority having jurisdiction or regulatory authority over the proposed facility, verifying that the proposed facility complies with all applicable regulations administered by that agency or authority, or that the proposed facility is exempt from any such regulations.
- (12) Any other information which may be requested by the city to facilitate evaluation and review of the application.

Secs. 34-1084—34-1099. - Reserved.