

**PLANNING COMMISSION REGULAR MEETING**

**July 12, 2022 – 5:30 P.M.**

**Hybrid Meeting**

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

***Beginning:*** 5:00 PM

***Location:*** Hybrid Meeting

**Members Present:** Commissioner Lahendro, Chairman Solla-Yates, Commissioner Mitchell, Commissioner Habbab, Commissioner Stolzenberg, Commissioner Russell

**Members Absent:** Commissioner Dowell

**Staff Present:** Patrick Cory, Missy Creasy, Brian Haluska, Remy Trail

**II. COMMISSION REGULAR MEETING – Meeting called to order at 5:30 PM by the Chairman.**

***Beginning:*** 5:30 PM

***Location:*** City Space

Chair Solla-Yates called the meeting to order at 5:00pm and began by asking for questions concerning agenda items. Commissioner Mitchell clarified that approval of the consent agenda sign request would include the conditions that staff noted on page 7 of the report. It was noted that these conditions would be included. Chair Solla-Yates asked if we received any feedback from those who spoke on the 10th Street application in June in reference to the changes proposed. It was noted that following the meeting in June, some individuals expressed support of the addition of the IPP request. Additional feedback from them was not provided more recent than that.

Commissioner Mitchell asked if the group wanted to discuss the message that he sent to staff concerning future status of ERB and Critical slopes applications. Ms. Creasy summarized that the diagnostic report contemplated the Entrance Corridor (EC) and Critical slopes applications becoming administrative with regulations outlined in the revised code. She noted that this was a topic where additional conversation was likely. Commissioner Mitchell noted that he was okay with critical slopes becoming administrative but felt that entrance corridor applications were more subjective and would need the review of a board. Commissioner Lahendro agreed but wanted to make sure that all the proper staff reviewed the applications. He liked having the EC items on the consent agenda. Commissioner Habbab suggested that EC applications could go to the Board of Architecture review (BAR) for review and others agreed. Staff clarified that the review for each type of application was different based on a different set of guidelines. Commissioner Lahendro noted that the BAR will be working to update the Architectural Control guidelines and maybe this is a time to work on the EC guidelines as well.

**A. COMMISSIONER'S REPORT**

**Commissioner Mitchell** – I had three meetings. The first meeting was the June Board of Zoning Appeals (BZA) meeting. We heard three cases. The first two were pretty simple and straightforward. They were setback reductions. They did that to build additional structures on the sites. Both of those items were approved. The other case was a zoning determination of appeal for setbacks. This was at 1150 5<sup>th</sup> Street. That is the old Hardees in front of 5<sup>th</sup> Street Station. We had this before us in the ERB in May. We had approved the Wawa design concept. The applicant was not the owner of the property. It is an adjacent owner. They were appealing the staff's determination that gas station setbacks were more restrictive than highway setbacks. Both can be applied in this area. When you have two competing setback ordinances, the one that is more restrictive is the one that you have to apply. It was the opinion of staff that the gas station

setbacks were the more restrictive. After deliberations and consultations with the applicant and lawyers, we agreed that the gas station setbacks were the more restrictive and most appropriate for this site. The UVA Master Plan committee met. They discussed the kind of planning and development that is going to happen over the next 20 years at UVA. It focuses on sustainability, resilience, equity, accessibility, and flexibility. The LUPEC Council met. I did not make that meeting.

**Commissioner Lahendro** – No Report

**Commissioner Habbab** – No Report

**Commissioner Stolzenberg** – I had no meetings last month. We have an MPO Tech meeting coming up in two weeks. If you missed it, Council bought a \$1.65 million parking lot east of 9<sup>th</sup> Street.

**Commissioner Russell** – No Report

## B. UNIVERSITY REPORT

**Commissioner Palmer** – The Ivy corridor is a big construction site with the School of Data Sciences.

## C. CHAIR'S REPORT

**Chairman Solla-Yates** – I met with the Thomas Jefferson Planning District Commission on June 23<sup>rd</sup> to consider whether we should apply for \$250,000 of funds for the Housing Preservation Grant. We decided to apply for those funds.

## D. DEPARTMENT OF NDS

**James Freas, NDS Director** – I have the regular update on the Cville Plans Together Zoning Rewrite efforts. On June 16<sup>th</sup>, we released the zoning diagnostic and approach report. The report outlines a slate of ideas for how we can modify our zoning to implement the Comprehensive Plan that you and City Council adopted last November. We held a successful event on June 27<sup>th</sup> at the Ting Pavilion. We had approximately 200 people attend over the course of 4 hours that we were there. Our intent for that meeting was to answer questions about the report we released and begin the process of collecting comments, ideas, and concerns about what is in that report and what is to come with the zoning rewrite. Our public feedback period lasts until the end of August. One of the steps we're going to be taking before your August meeting is that we're going to issue an updated FAQ based on some of the comments and questions we have started to receive and accompany that with a memo. We would like to take all of the questions and comments we have begun to receive from you on the Planning Commission and put that into a memo and create some time in the August meeting to discuss those topics. I understand some of that discussion began tonight. We will have some dedicated time at the August meeting to start to discuss the content of that report and each of your individual comments and questions. I would like to encourage everyone here to submit your questions and comments by the end of July. As we're moving forward with this report, the feedback/public comment period of time ends at the end of August. That sets us up to finalize that document, create a final draft that we can present back to the Planning Commission and City Council at your work session meeting in September. That's the timeframe we're aiming for. That moves us directly into the drafting phase.

The other big thing that is coming up at the beginning of August is that we will be releasing an inclusionary zoning and market analysis report. The market analysis piece of that is the piece looking at how might our real estate development marketplace here in Charlottesville react to this new zoning,

What can we expect in terms of timing for the new development, the kinds of new development, when it might happen, and where it might happen based on our existing market conditions. The inclusionary zoning piece will be looking at what the proposed inclusionary zoning might look like. That report will be at the beginning of August. We'll have an opportunity to begin talking about that at your meeting in August.

**Commissioner Stolzenberg** – Are you preparing a summary of the things that you have heard?

**Mr. Freas** – We're going to incorporate a lot of the questions and comments we have received into an updated FAQ that adds that information. When we get to the end of August, we're going to do a summary of all comments received.

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

No Public Comments

#### **F. CONSENT AGENDA**

1. Minutes – Work Session – August 24, 2021
2. Entrance Corridor – 920 East High Street – Comprehensive Sign Plan Request (*Sentara*)

**Motion by Commissioner Stolzenberg to approve the Consent Agenda with staff recommendations from page 7 on the staff report – Second by Commissioner Lahendro – Motion passes 6-0.**

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

Staff introduced a brief report outlining the concerns regarding the school bus driver shortage and the activities that the city is doing to address the school bus driver shortage and what the Planning Commission can do. Neighborhood Development Services is currently looking to hire several positions to address the bus driver shortage. Those positions include a transportation planner, bike and pedestrian coordinator, and safe routes to school coordinator. Some of the changes included volunteers, crossing guards, bump outs, and other safety features to make transportation safer for students. There was a discussion with staff regarding the possible options that the City Council could do to improve the safety of students going to school.

Commissioner Stolzenberg will be drafting a letter of recommendation to look at possible options and money for improving student safety and address the bus driver shortage.

### **III. JOINT MEETING OF COMMISSION AND COUNCIL**

*Beginning:* 6:00 PM

*Continuing:* Until all public hearings are complete

*Format:* (i) Staff Report, (ii) Applicant Presentation (iii) Hearing, (iv) Commission Discussion and Recommendation

#### **1. 415 and 415-B 10<sup>th</sup> Street Northwest**

- A. ZT-22-00001** - An ordinance to amend and re-ordain Section 34-273(b) of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) relating to Individually Protected properties by creating an “overlay” zoning restriction without affecting the underlying zoning district designation. This ordinance would create minor design control district status for the following:

The structures and property at 415 and 415-B 10th Street NW (TMP 040046000).

(This is a request to provide a historic overlay which would require additional review prior to changes taking place to the building and site and add the property to the language in the zoning code.)

- B. ZM-22-00001** - An ordinance to amend and re-ordain the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, by adding minor Architectural Design Control District for the following:

The property located at 415 and 415-B 10th Street NW, further identified on City Real Property Tax Map 040046000 having approximately 110 feet of frontage on Grady Avenue, approximately 75 feet of frontage on 10th Street NW, and containing approximately 8,190 square feet of land (0.188 acres). The general uses called for in the Land Use Plan of the Comprehensive Plan are for General Residential which recommends up to 2.5 stories in height, up to 3 units per lot (or 4 units if the existing structure remains) and additional unit allowance depending on zoning allowances. The current underlying zoning is R-1S. Report prepared by Jeff Werner, Preservation and Design Planner.

(This is a request to update the zoning map document to show a historic marking on the property noted in A. above.)

- C. ZM22-00001 – 415 10<sup>th</sup> Street Northwest (Old Trinity Church)** - Landowner Dairy Holdings, LLC (the “Owner”) has submitted an application seeking a Rezoning for approximately 0.188 acres of land identified within the 2022 City real estate records by Real Estate Parcel Identification Number 040046000 ( “Subject Property”). The Subject Property has frontage on 10th Street NW and Grady Avenue. The application proposes to change the zoning district classification of the Subject Property from R-1S (Residential Single-Family) to B-2 (Commercial) subject to certain proffered development conditions (“Proffers”). The Proffers include: (1) All non-residential uses allowed under B-2 zoning, other than Art Gallery, Auditorium, Houses of Worship, Club (private), Music Hall, Educational Facilities, Technology Based Business, and Offices, shall not be permitted on the subject property, (2) No additional vehicular ingress and egress to the subject property, and (3) The maximum number of residential units permitted on the property shall be no more than one (1). The Comprehensive Land Use Map for this area calls for General Residential which recommends up to 2.5 stories in height, up to 3 units per lot (or 4 units if the existing structure remains) and additional unit allowance depending on zoning allowances. Information pertaining to this application may be viewed online at [www.charlottesville.gov/agenda](http://www.charlottesville.gov/agenda). Persons interested in the Rezoning application may contact NDS Planner Brian Haluska by e-mail ([haluska@charlottesville.gov](mailto:haluska@charlottesville.gov)) or by telephone (434-970-3186).

**i. Staff Report**

**Brian Haluska, City Planner** – This is a request for a Special Use Permit at property 415 10<sup>th</sup> Street Northwest. This is the item you previously heard at your June meeting. The request is a rezoning from R-1s to B-2 commercial with proffers. In addition to the proffers you reviewed at your last meeting, there is one additional proffer limiting the number of residential units on the property to one. That would lock in the development as it is. The applicant has added a request for Individually Protected Status at the previous meeting. They stated their intent to seek that.

**Commissioner Stolzenberg** – Was there an expressed point to the new proffer limiting the units to one? I don’t see why we should see it as an adverse effect if they were to split that existing house into a duplex.

**Mr. Haluska** – I would forward that to the applicant. My speculation would be that it is an indication that they intend to keep the property as is and not make any interior modifications.

**Commissioner Russell** – I am confused. I understand the Zoning Text Amendment and map amendment apply to both 415 and 415b. The rezoning is 415, the Church.

**Mr. Haluska** – The Special Use Permit is for the tax map and parcel number. Both of those structures are on the tax map and parcel number. It goes with the parcel. It would cover the entire site.

**Chairman Solla-Yates** – Will this be one motion or two motions?

**Ms. Creasy** – The reports are set up such that text (IPP) and the map are included in a single motion. You would take those separately with IPP being first.

**Commissioner Stolzenberg** – Have we heard anything from Trinity Episcopal Church congregation?

**Jeff Werner, Preservation Planner** – I know that people have been in contact with them and asking them about their history and reported back to me. I don't believe, as a congregation, they've officially offered anything. I know members of the congregation are aware of this. They have been wonderful in sharing the information.

**Councilor Pinkston** – The motion of doing the IPP was something the applicant agreed to? The idea is that it puts some sort of guarantee or good faith that the property as it is will remain. Is that what it partly does?

**Mr. Haluska** – The stated concern in the staff report was that there was no prohibition on demolition of the structure. The Special Use Permit was granting additional uses. While the applicant had stated their intention to use the building as it was, at the time staff wrote the staff report, there was nothing from stopping them from getting the Special Use Permit, demolishing the building, and building a new building. At the meeting, they stated their intent to seek Individually Protected Property status, prior to a demolition of the structure, it has to go to the BAR for a public review.

**Commissioner Lahendro** – Any development would still be possible. It would have to be approved by the BAR. Changes that do not impact the historic character of the building, as interpreted by the BAR and as documented in the National Register surveys.

**Councilor Pinkston** – The motion is to change it from R-1s to B-2. With the proffers that were put in, what would be the sorts of things that they could do in that space and the sorts of things that they could not do; things in the neighborhood streets that people would be worried about? I think those concerns are mitigated.

**Mr. Haluska** – In the original submission we reviewed last month, there is a proffer the applicant has submitted that would restrict the additional uses of the property beyond R-1s. R-1s does allow a house of worship, single family residential. The additional uses that would be permitted with the rezoning to B-2 are art gallery, auditorium, private club, music hall, educational facility, technology based business, and office. There may be other uses that are permitted by right or special use in the B-2 district, but they would not be permitted because of this proffer on this property. If you look at B-2, you will see convenience store and retail. Those uses are not permitted though they're by right. They're adding those seven uses as acceptable uses to this property.

**Commissioner Stolzenberg** – In the existing zoning, it is R-1s. That allows single family residential. Is the lot subdividable? Or is it too small?

**Mr. Haluska** – Minimum lot size in R-1s is 6000 square feet. You would need 12,000 square to subdivide. Additionally, there are several non-conforming structures. Any change of lot lines is going to get really complicated.

**Commissioner Stolzenberg** – In R-1s, there is single family residential and house of worship. Let's say a church didn't want to rent the space. The only remaining option would be to turn it into a single family residence. Since there is already a single family residence, you couldn't have two of them? It would just have to combine the both of them into one large single family residence?

**Mr. Haluska** – That's correct. If there's one unit on the property, it can't be turned into a duplex. A duplex is not permitted in that zone.

**Commissioner Habbab** – Would there be a way to structure it so that it would be open to our new comp plan residential regulations for what would be allowed on R-1s instead of locking it down to just one unit?

**Mr. Haluska** – This topic did briefly come up last month. It is a larger discussion around the general rezoning and redrafting of the zoning ordinance. What we're going to do with properties, like the property here or previous rezoning applications that had proffers attached to them? If we do a general rezoning, we may wipe those proffers out. That's probably a question for legal counsel. That's more of a general discussion. What do we do with R-1s zoning if we do a general rezoning across the city? What does R-1s turn into and what is the scope of that? You still have the issue here of the uses they're asking for being classified as commercial uses? That's usually a pretty hard line with what is general residential and commercial. The seven uses I mentioned are almost always classified in a commercial setting.

## ii. Applicant Presentation

**Craig Katariski, Applicant** – This congregation used to meet where the County Office Building was. When Lane High School was built, they were forced out. The building was actually constructed in Fluvanna County. It was deconstructed and placed on this site in 1937. There are a lot of deep roots in the 10<sup>th</sup> and Page community and neighborhood with regards to what this building has been used for. During different periods of time, it has served as a school, daycare, outreach ministry, and for community gatherings. This property was acquired by Stony Point in 2018. There was this desire from the community about wanting to revitalize this property. It was basically sitting vacant. The uses that are available are church or single family residence. There's already a single family residence on the property. It means a lot to the community. It obviously has a place within the community. The idea was what we can do to revitalize it and make it useful. Community meetings and weddings make a lot of sense. In 2020, the owner made some significant investment. The image on the screen is what it looks like today after the renovations had taken place.

(Next Slide)

R-1 zoning doesn't allow for the building to be used. What we're hoping to do with the B-2 zoning is to allow for things like weddings, social gatherings, music hall, art gallery, and those sorts of things in bringing it back and restoring the vitality to that building.

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We have talked about forgoing the additional residential uses in excess of one residential dwelling unit. To answer some of the questions that came up, that was actually in direct response to some of the things we heard at the community meeting. Some of the uses allowed under B-2 zoning would be apartment type buildings. This is not a bait and switch. There is desire to restore vitality to that building itself. All of the other non-residential uses we're proffering, we would waive those out of this zoning. There would be no additional ingress or egress to the subject property. The Individual Protected Property designation would go on top. It is not a proffer but a separate application.

**Commissioner Russell** – Can you explain why a daycare would not be viable?

**Zach Zingsheim, Applicant** – The intention going back was to always be our original thought of a gathering space for the neighborhood and community and secondarily to hold weddings and being able to restore the church to what it is and what it has been historically.

**Mr. Katariski** – With regards to daycare and that consideration is the traffic component of that. With little kids and drop off zones, it is a busy intersection. There are some challenges from that perspective. It is one of the reasons why we have the proffer in there with no additional ingress or egress.

**Commissioner Stolzenberg** – That Special Use Permit would lapse if it wasn't used for two years?

**Ms. Creasy** – That becomes a legal question. If it wasn't an abandoned use, based on the legal perspective that comes into play.

### iii. Public Hearing

No Public Comments

### iv. Commission Discussion and Motions

**Commissioner Mitchell** – I support the application.

**Commissioner Habbab** – I also support it. I am a bit hesitant about limiting to just one unit. There are some examples of churches and buildings split into two or three apartments that are potentially more affordable. I do generally support it.

**Commissioner Lahendro** – I support it. I thank the applicant for voluntarily pursuing an IPP designation.

**Commissioner Russell** – I am generally supportive of it. I think it is worth considering the sensitive area designation of this structure/these parcels fall within. In thinking about how that would make us think about that density, in the General Residential Sensitive area, there is a one unit per lot with additional units with certain conditions. There is maybe something that could follow that precedent. I appreciate that this is also speaking to our historic preservation adaptive reuse. It falls within the comp plan.

**Commissioner Stolzenberg** – I support the rezoning. I don't see that having an empty church with no rights to be anything but a church provides any value to the community. I don't see any real downside to this property getting the same rights as to what R-1 becomes with the sensitive overlay. If they were to split that rectory into a duplex, that would not seem to have any real downside. It would only serve to make it more affordable. I don't see how keeping this property in the existing state will lessen pressure on 10<sup>th</sup> and Page or make the house that sold for \$550,000 on Page Street sell for any less. I think one day there could be a better use of this land that would better serve the community. Without the church speaking up and saying

that it should be saved and preserved forever, I'm not sure I am prepared to support it being an IPP. I understand the inclination.

**Commissioner Mitchell** – I ask that we remember this is an important icon to the African American community. For that reason, we ought to give some additional consideration for the need to preserve it.

**Councilor Pinkston** – I support it.

**Mayor Snook** – I generally support it. It has been an important part of the community. It is important that it remain an important part of the community.

**Councilor Wade** – I am supportive of it. I do understand the importance of this building in the African American community. I have seen it when it has been in use. I am not sure how this can be proffered or included. I think it's important that there be some allotment for community use. This building, that was once an African American church and a pillar of the community, will probably be home to expensive weddings. When people in the community walk by, they won't see it as part of anything. During the week, it can be used for community meetings and things like that. If the meeting rooms at the bottom of Dairy Market are being used, that can all be accommodated without impacting parking.

**Chairman Solla-Yates** – This is a reasonable balance between current needs and future needs. Things will keep changing. I appreciate the effort to try to find that balance. It seems like the right direction to me.

**Commissioner Russell** – Are there any tools we can codify the comment from Councilor Wade? Would the applicant be able to speak to that concern about community availability?

**Mr. Zingsheim** – It is very similar to Dairy Market. There currently is a neighborhood meeting that takes place monthly in Dairy Market. It has been the intention that the neighborhood could have the meeting at the church. That would certainly be the meeting place of their choice going forward. In terms of going forward, we would envision continuing the same relations with the community. We have been very transparent and open in dialogue and whatever fits the need of the community at that particular time to make sure there's an action plan to enact that in a similar way as we have done with the neighborhood meetings in the Dairy Market. We're always open to conversation and dialogue with whatever fits the needs of the community.

**Commissioner Stolzenberg** – Is that a commitment to allow them to do it?

**Mr. Zingsheim** – That once a month meeting will certainly continue as is in place. With any sort of plan going forward, we're certainly going to be open to dialogue in making sure that we are able to make that happen.

**Commissioner Habbab** – Would you consider discounted fees for the community to use the space?

**Mr. Zingsheim** – Absolutely. In a very similar fashion, people in the community reaching out to us, we would be open to some sort of discount. Looking at the calendar booking, if there's a recurring event, we would make sure that is part of the calendar.

**Councilor Wade** – I have worked with nonprofits. They have been very generous with their use of the building and the opportunities.



**Motion – Commissioner Lahendro – I move to recommend that City Council approve ZT-22-00001 and ZM-22-00001 amending and reenacting the Zoning Map incorporated within Section 34-1 of the Charlottesville City Code, 1990, as amended, by the rezoning of 415/415-B 10th Street NW (Parcel 4-46) to add a historic overlay district designation to the property, and also amending and reenacting Section 34-273 of the Charlottesville City Code, 1990 as amended, to add this property to the City’s list of Individually Protected Properties. Second by Commissioner Russell. Motion passes 5-0 with one abstention (Commissioner Stolzenberg).**

**Commissioner Russell –** Would it be reasonable to have the restrictions follow the use categories for sensitive areas that additional units are allowed? Would that satisfy concern?

**Commissioner Stolzenberg –** I prefer that way. I don’t know if we have the ability to effect that proffer.

**Mr. Hubbard, City Attorney’s Office in the chat -** Don’t know

**Motion – Commissioner Lahendro – I move to recommend approval of this application to rezone the Subject Property from R-1S, to B-2, with proffers, on the basis that the proposal would service the interests of the general public and good zoning practice. Second by Commissioner Mitchell. Motion passes 6-0.**

#### **IV. COMMISSION’S ACTION ITEMS**

*Continuing: until all action items are concluded*

#### **V. ADJOURNMENT**

The meeting was adjourned at 6:36 PM.