

Minutes

PLANNING COMMISSION REGULAR DOCKET
October 8, 2019 – 5:30 P.M.
CITY COUNCIL CHAMBERS
NDS Conference Room

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

Beginning: 4:30 pm

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

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

Members Absent: Commissioner Dowell

Staff Present: Lisa Robertson, Missy Creasy, Patrick Cory, Alex Ikefuna, Matt Alfele

Chair Mitchell called the meeting to order at 5:08pm. He provided logistics for how the items will move forward this evening. Matt Alfele will provide reports for both items followed by questions and then the applicant will have an opportunity to speak. There will be one hearing followed by questions and discussion. Votes will be taken for each action.

Lisa Robertson noted that the applicant for 209 Maury has provided an updated proffer statement to include affordable housing considerations. She noted the code section which allows for the timing of this modification and noted that the Commission does have the opportunity to forward the item to a future meeting if it is deemed to have substantially changed the item.

Commissioner Stolzenberg asked if the proffer was legitimate since cash is being provided. Ms. Robertson said that since the language notes that it would address the application impacts that it would be enforceable.

Commissioner Lahendro asked how to determine the proffer amount since there is not a requirement. Ms. Robertson noted that the document presents a dollar figure and percentage of square feet so it could be calculated.

Chair Mitchell asked for confirmation on how the motion should be addressed and it was noted that the motion in the report can be used and updated based on the discussion.

Commissioner Green asked if there were timing concerns if the units were to be located on site. The Commissioners then noted different ways the motions could be addressed.

II. COMMISSION REGULAR MEETING

A. COMMISSIONER'S REPORT –

Commissioner Lahendro – Attended the BAR meeting on the 17th of September. The topic of conversation at the BAR Meeting was the planned development of 218 West Market Street for increased height and density. It would have no adverse impact for the downtown ADC provided the following conditions: The building's massing will be broken up to provide compatibility with the character defining features of the historic district, provide adequate protection of nearby historic structures, provide a plan to replace the street's trees on site, improve pedestrian

access of Market Street and Old Preston, and provide pedestrian through access between Market Street and Old Preston. I also attended the Tree Commission meeting on October 1st. We discussed tree related issues that came up during the work session with City Council on September 30th. There will be a meeting between the Tree Commission and city staff to resolve those issues. We looked at a draft of an annual report on the state of the urban forest that goes to City Council in November. The planting committee reported that 167 trees will be planted this fiscal year. The data committee has completed its work to develop metrics for tracking activities of the Tree Commission. That committee will be replaced with an education committee to educate the public on the importance of urban trees.

Commissioner Solla-Yates - The Housing Advisory Committee met on the 18th of September. The two important issues for this body are the following: The policy group developed a legislative agenda asking permission to do some affordable housing policies that included the following: An affordable housing overlay district allowing by right increases in density in exchange for affordable home construction, a property tax circuit breaker, and allowing separate taxation of land and improvements similar to Fairfax and Roanoke. There was also a presentation by Susan Elliot about a new city climate protection tool that can guide the housing advisory committee and this body as well. The procurement process continues.

Commissioner Heaton – No report

Commissioner Stolzenberg – Attended the PLACE Design Task Force in the past month. The meeting was supposed to be about the mall crossings, but mostly talked about trees and the upcoming historic landscape study that will have an RFP shortly. That is a combination of a tree study and a historical cultural landscape study. They are going to be combined into one RFP. There is a tension between maintaining the historic integrity of the Mall and planting those trees in a way that they can be healthy. Our MPO Tech meeting was canceled, and we went to see the self-driving cars over at Perron Robotics. I attended the PAC Meeting, which is the coordination council between Charlottesville, Albemarle, and UVA. They decided to dissolve the body and form a new body that will meet behind closed doors. They will provide updates twice a year to each of the respective bodies. They can talk about ideas earlier in the process between the three different jurisdictions. They recommended dissolution, and that will be going back to each of the bodies for consideration.

Commissioner Green – Did not attend the TJPDC meeting this past month. I was invited to go to see some of the work that is being done on the South First Street project. I cannot wait for them to come before us and present. It was just exciting. That community has come together, and they are currently working on the plan for Phase 2. It is exciting to see, since we are doing all of the community engagement. I was energized and excited. I encourage you all to listen. The Supreme Court is taking a case from California regarding affordable housing and inclusionary zoning. We should pay close attention, since it will have a nationwide impact.

B. University Report –

Commissioner Palmer – Wanted to give a plug for the Community Bridges 5K that is on Saturday, October 12th. It is at 8:00 AM at the amphitheater. All of the money will be going to AHIP, Habitat for Humanity, the Charlottesville Public Housing Association of Residents, and the Piedmont Housing Alliance.

C. CHAIR'S REPORT

Chairman Mitchell – The parks and rec group is a juggernaut of activity. We are very lucky to have had Brian Daly run that organization all of these years. There were a couple of things that caught my attention. The Greenbrier Trail System has had storm water issues. We do not have a fix for that, but we are working on getting that addressed. They are working on a ramp design for the Kneedler Bridge. They are putting together a permit for a local flood plan, and they will be putting out a bid for the plan in the next couple of months. Work should begin

on a flood plan and ramp design by January 1. The work on the trail by Hydraulic has been delayed due to excavation that has had to be done on the slope. The botanical garden committee is meeting on Thursday at City Space. They are looking to establish a garden at the base of McIntire Park near the John Warner Parkway. They are going to be presenting how the project is coming along, the conceptual design, and the funding for the project. Met with the Fontaine Streetscape on the 17th of September. The presentation was the same as what they gave us. The public is asking for three things: better bike lanes, that emergency vehicles will be able to get in and out, and wider sidewalks. They are recommending buffered bike lanes the entire length of the streetscape. That means all of the parking on Fontaine will go away. There is only parking between Lewis and Piedmont, so there is not going to be a lot of parking that we are going to lose. When they presented to us about a month ago, we had thought that they were doing a really good job in getting automobiles up and down the streetscape. They had not thought about how people were going to cross the streetscape. They have now thought about that, and there are now going to be three crosswalks up and down the streetscape. Those crosswalks will have beacons that will help people get across the streetscape. The crosswalks will be located at Lewis, Mimosa, and Piedmont.

D. DEPARTMENT OF NDS

Ms. Creasy – Introduced the new staff, Patrick Cory, who is the new assistant to the boards and commissions. He is currently in his third week of work. We are working to get him up to speed on working with different aspects of boards and commissions and the other things within Neighborhood Development. We welcome him to our staff. We do have two work sessions coming up and these work sessions are not on the regular session days. The first session is at the Water Street Center on Tuesday the 15th of October. This session is with the consultant working on the form based code. There are going to be some questions that are going to be posed as part of those materials for you to provide some input on. This is also going to be scheduled for a public hearing on November 12th. The South First Street group is working on an accelerated time line, and they have requested a work session with you, so that they can share with you their proposals. There will be a work session on the 29th of October in the NDS Conference Room from 5 PM to 7 PM. They will be coming back in December for discretionary reviews and site plans. The development that they are working with has a special use permit, critical slope waiver, site plan, and subdivision. All of this needs to be done before they can turn in their funding application in March.

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

The following made public comments at this time.

Nancy Carpenter – The City of Charlottesville is not ready to adopt form based code. We need a comprehensive plan update with a zoning code update.

Walt Heineke – Supports what the previous speaker said. Brought up the affordable housing crisis in Charlottesville. Asked to hold off on form based code. Form based code will not make a difference in the shortage of affordable housing units.

F. CONSENT AGENDA

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

1. Minutes – September 10, 2019 – Pre-meeting and Regular meeting
2. Minutes – August 27, 2019 – Work Session

Some slight changes in the wording of the minutes were made by Ms. Creasy. After the changes in the minutes were made, **Commissioner Solla-Yates moved to approve the consent agenda as presented. Seconded by Commissioner Stolzenberg. The motion was approved 6-0.**

The Chair adjourned the meeting for a five minute recess

III. JOINT MEETING OF COMMISSION AND COUNCIL

Beginning: 6:00 PM

Continuing: Until all public hearings are complete

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

1. **CP19-00001: Comprehensive Plan Amendment – Future Land Use Map Amendment**-The Planning Commission and City Council will jointly conduct a public hearing on a proposed amendment to the 2013 Comprehensive Plan’s Future Land Use Map. The purpose of this request is to evaluate approximately 1.6 acres of land identified within City (2019) tax maps as Tax Map and Parcel (“TMP”) 17-18, TMP 17-18.1, TMP 1718.2, TMP 17-184, TMP 17-185, and TMP 17-186 (collectively, “Subject Property”). The Subject Property is the subject of a rezoning application (ZM19-00002) seeking to increase the intensity of uses as well as allowable density of residential uses. The Subject Property has frontage on Maury Avenue and Stadium Road. The Comprehensive Plan Land Use Map for this area currently calls for Low Density Residential (15 Dwelling Units per Acres); the proposed ZM 19-00002 seeks to reclassify the Subject Properties to the R-3 zoning district classification, which would allow multifamily dwellings and a residential density of development of up to 21 DUA by right or 87 DUA by special use permit. The Comprehensive Plan Amendment is being evaluated by staff to see if it is appropriate to change the Future Land Use Map designation to High Density Residential (Over 15 Dwelling Units per Acres) based on existing patterns of development, probable patterns of development, and other factors.

1. **ZM19-00002 -209 Maury Avenue** – Landowner Southern Property, LLC has submitted an application seeking a rezoning of six lots, collectively having an area of approximately 1.6 acres identified on the City Tax Map (2019) as individual parcels (“TMP”) numbered TMP-17-18 (having an address of 209 Maury Avenue), TMP 17-18.1, TMP 17-18.2, TMP 17-184, TMP 17-185, and TMP 17-186 (collectively, “Subject Property”). The Subject Property has frontage on Maury Avenue and Stadium Road. The application proposes to change the zoning district classification of the Subject Property from R-2U (Two-family University) to R-3 (Multifamily) subject to certain proffered development conditions (“Proffers”). The Proffers include restrictions as to: (1) the number and locations of buildings and structures relative to Maury Avenue and Stadium Road, and the location of ingress and egress points, as depicted in a drawing titled “209 Maury Avenue Application Plan”; (2) the use of space between the façade of the existing Manor House and Maury Avenue, which will be maintained as open green space; (3) landscaping for the Subject Property, which shall be done in accordance with a landscape plan for the entire area within the Subject Property, and which will be prepared by a landscape architect; and (4) require the existing Manor House to be maintained in good repair. (5) affordable housing

Mayor Walker called the Council meeting to order.

Chairman Mitchell –We have two closely related items in front us. The two items are so closely related, that I would like to do both items at the same time. Matt will come up and give us a staff report on both applications. We will ask questions from the dais and Council will ask questions. The applicant will come up and give a presentation. We will ask questions of the applicant and City Council will ask questions of the applicant. We will deliberate our recommendation and vote on each of the applications individually. Our deliberations and conversations will be in conjunction, since the applications are so tightly bound.

Staff Report, Matt Alfele - Commission, tonight you are holding a public hearing and making a recommendation on amending the 2013 Comprehensive General Land Use Plan and a rezoning request. The two hearings are related to 209 Maury Avenue and 5 unaddressed surrounding lots. The Subject property is identified as tax map 17 parcels 180, 180.1, 180.2, 1841 185, and 186.

- On June 11, 2019 the Planning Commission provided a recommendation to City Council to rezone the Subject Property from R-2U (Residential two-family University) to R-3 (Multifamily) with a vote of 4 – 2 without proffers or a development plan. At this meeting the commission also initiated amending the 2013 Comprehensive General Land Use Plan in accordance with section 34-27 of the city code. An applicant can only ask to change the Comprehensive Plan in either November or December.
- On July 9, 2019 the Planning Commission provided a recommendation to City Council to amend the 2013 Comprehensive General Land Use Plan for the Subject Property from Low Density Residential to High Density Residential (application CP-19-00001) with a vote of 5 - 2.
- At the August 5, 2019 City Council meeting, the applicant presented new materials (a proffer statement and a conceptual layout) that effected the rezoning application. City Council moved to send the rezoning request and comprehensive plan amendment back to Planning Commission to review the updated materials. The updated material that you are reviewing tonight includes the proffer statement. There is a one page general layout that is referenced in the proffer material. The proffer only references the one page conceptual layout that shows the number of buildings, the general location, and the ingress/regress points are. The proffer also addresses the majority of the land in front of the Manor House. The land should be landscaped or used for BMP, but should remain vegetative. The applicant has proposed a fifth proffer, which is an affordable housing proffer. The applicant will be handing out the updated proffers for the commissioners to review. It is written in such that it stays very close to the City's affordable language that we currently have in our code.

Detailed information can be found in the staff reports. Staff finds the proposed zoning change with proffers, will contribute to goals of the City's Comprehensive Plan such as increasing the City housing stock, good urban design, and preservation of historic structures. Staff finds that the by-right uses within the R-3 District are similar to the by-right uses in the R-2U District. The biggest differences are related to residential density, dwelling type, addition of health clinics, and education facilities. Staff finds (33) dwelling units split between two buildings is appropriate for this location.

Commissioner Lahendro – Is there an existing SUP on the historic house on Maury?

Matt Alfele – No. There was an SUP several years ago for an education facility. That SUP expired because it was not acted upon within eighteen months of when it was passed. There is no SUP.

Commissioner Lahendro – There are no restrictions for this site?

Matt Alfele – That is correct. From the City's standpoint, it is the underlying zoning R2U. The applicant has placed a deed restriction on the house. That is a private covenant, and the City would not get involved in that. The proffer language that the applicant is proposing would give more leverage to the City because that would be included as part of the zoning if the rezoning went through with the proffer language. It would be a zoning requirement of the property.

Commissioner Solla-Yates – We can accept them, but we cannot negotiate them. Is that correct?

Matt Alfele – Correct. The applicant has put together a proffer statement that you are reviewing as the Planning Commission to make a recommendation to City Council. It is not a negotiation. This is what the applicant is putting forward.

Charlie Armstrong, Applicant – Charlie Armstrong of Southern Development and Kevin Riddle of Mitchell-Matthews Architects. They are the designer for the site. What is being passed out to you has the new proffer #5 that

was mentioned. The property is R-2 zoning right now. It has R-3 student housing across Maury Avenue to the east, it has UVA dorms across Stadium Road to the north, Scott Stadium is diagonally across the intersection, and behind to the south of the property is a residential neighborhood. Ninety percent of the houses in that neighborhood are single-family detached and duplex. They have been converted to student rentals. Only two of the houses are owner occupied. The current arrangement on this block allows for about twelve duplex units as a by right use. Building permits could be filed for those tomorrow, but we feel that this is not the best thing for this location. One of the primary goals for us is to build something that keeps students from overtaking existing neighborhoods. Putting student housing where students are at the University is a priority. It helps keep other housing options for city residents. We feel pretty strongly about adding density in appropriate places, especially where students are. This is a great place for it. We had a total of three neighborhood meetings on this, since we have seen you. We have had two additional neighborhood meetings with the Fry Springs Neighborhood Association and the JPA Neighborhood. A total of about twenty-five people attended those meetings. Generally, the neighborhood is supportive of multi-family housing in this location. In one meeting, a show of hands indicated about seventeen people supportive, three people opposed, and one who was neutral. In June, you voted 4 to 2 to recommend the approval of rezoning and 5 to 2 in favor of the Comp Plan Amendment. At that time, we were proposing a simple rezoning. There were no proffers, and we didn't have a plan for what we were going to do with the property. Those were the concerns of the two people, who voted 'no,' expressed to us. We are here with proffers and a plan. We spent the last few months developing what we could do on the property and making sure it is something that works. Everyone on the Planning Commission and Council agreed that higher density at this location was appropriate. For the proffers, I will not describe #1 thru 4. Number five is additional as of tonight. It is to provide 15% affordable housing or contribute equivalent cash to the housing fund. I know that you prefer not to get new information at meetings. I hope that you will accept this additional offer with my apologies. This is above and beyond what we had planned to do. The City Attorney's office has reviewed, and that it legally works. It can be offered tonight.

Kevin Riddle, Mitchell Matthews Architects – Want to give a quick summary of some of our strategies. You can see two new buildings that will have most of the apartments. Those are located on the property inside the setbacks and the front yard that would be required by zoning. We also sought to give the original house space and give it as much as space as possible. We would re-establish the front yard. The original house would be rehabilitated and restored. We have also sought to locate the parking out of the way as possible, relegated to the sides and the back of the property. About a third of the parking is under Building 2. The rest of it would be surface parking. It would be landscaped and screened in a way that would not be prominent. If you look at the other apartments down Maury Avenue, many of those make no attempt to acknowledge the street or the neighborhood. Our effort has been to make an alternative. The plan is for these buildings to have front doors to the streets and pathways that would be inviting to pedestrians. The scale of the buildings would give them a residential character in keeping with the neighborhood. We have taken the cues from the existing house, but it is still a work in progress. We provided the renderings to give an idea of the spirit that we would be pursuing in the development of this project. We would be trying to make this development a good neighbor to the people that surround it.

Charlie Armstrong – We had an earlier version of this layout that connected the two parking areas through the space between buildings two and three. Some of the feedback that we heard was for that area to be a plaza area that would pull pedestrians to and from the street without having to go through roadways. That connection is no longer there. It would feel like a landscaped plaza for pedestrians only.

Commissioner Questions

Commissioner Solla-Yates – What is similar to “front doors on the street”?

Charles Riddle - If you look at the plan, we would have a pedestrian path leading to an entry point to apartment building 1 there. Off of Maury Avenue, we have paths and landscaped stairs that would lead to an entry point in building 1 and building 2. Those entry points into the buildings have awnings that acknowledge the street and entry points from the street.

Commissioner Green – You want to re-zone and change the comp plan, housing, and density. Correct? We had this wonderful proposal along 5th Street and Cherry Avenue for a lot of affordable housing and market rate housing. When we rezoned that, we did not do our due diligence on the by right chart to see what other things might be allowed under R-3. Why would you change the by right chart to take out BNBs, home stays, etc.? I don't see that helping our housing numbers.

Charlie Armstrong – The main reason is that we did not feel that those were inappropriate uses. That is not what we are planning for the site. That is not what our proffers promise you. This is an apartment residential complex. Having a day care center in the existing house would not be a bad thing in our opinion. That would be a good use if we mixed a use like that in. We don't know how the house is going to be programmed. We intend for it to be a community space or residential living space. Making it exclusively living space could preclude something that would be a good use like a day care.

Commissioner Green – How does that help with the numbers that we need for housing?

Charlie Armstrong – If it was in place of some of the residential square footage in the existing house, it would take up some of it, but it would not take up all of it. The majority of the units are going to be in buildings 1 and 2. You are going to have at least 31 residential units, even if the Manor House is used for something else.

Commissioner Green – If the market was calling for it, could we put an athletic facility here?

Charlie Armstrong – It is not going to be one of those. If it was small enough to fit in the flexible space, I suppose. We are taking our cues from the R-3 District. If one of those does concern the Commission, we would consider removing it. We know what we want to do here. It might be a good thing to have mixed use.

Commissioner Green – You were here before when we had affordable housing on Cherry Avenue, and that's why we rezoned that. We had a planned unit of development, and we got a hotel. That does not give us housing.

Charlie Armstrong – And \$400,000 to the housing fund.

Commissioner Green – It did not give us units.

Charlie Armstrong – I don't know where that money went to, but I sure hope it did.

Commissioner Stolzenberg – Do you know what your plan is for the Manor House?

Charlie Armstrong – Right now the plan is for either apartment units or community space. There is a provision in the R-3 code requiring a certain amount of community space for multi-family developments. We could put a community room on the first floor and upstairs could be a unit or two.

Commissioner Heaton – In the new proffer, does the formula, in calculating the cash contribution, include the Manor House, which is already constructed?

Charlie Armstrong – It would include all residential square footage. That would include all residential constructed space.

Commissioner Solla-Yates – The idea of a day care center does not conform to my idea of traditional student housing. How are you thinking about the use of this property?

Charlie Armstrong – We are not. That does not see far enough down the road for what the future could hold. We are not planning for those right now. It has been suggested by members of the community that could be a good use. We don't have that in our plans right now. It is planned to be community space or residential space.

Commissioner Lahendro – Are there deed restrictions on the existing house that provides for its preservation? Could you review those for me?

Charlie Armstrong – They are in your packets, and they are reiterated in the proffer that we are now offering. For the deed restriction, the house must be maintained in good condition and that any changes be architecturally consistent with the existing house itself. The City could not enforce because it is a private matter. We have added a proffer that would be a zoning issue and be enforceable by the city that almost matches the deed restriction.

Commissioner Solla-Yates – We have some new language in the proffer that I would like clarified by staff. What is the timing requirement for 3-B-i?

Ms. Robertson, City Attorney – Prior to the issuance of a building permit for construction of any new building within the subject property, the landowner will demonstrate the following. A1, 2, and 3 are the three options that the developer is reserving. The developer has to make that choice before getting a building permit. If the developer chooses the rental option, the for rent ADUs have to be constructed as part of the development. They would be constructed simultaneously with the new units going on site. If the developer chooses A2, the developer has to notify the city of that election by the time of the building construction and the for sale ADUs have to be under construction someplace else. If the developer selects option 3, the developer has to make the cash contribution prior to the building permit being issued.

Public Hearing

Adrienne Dent – Frustrated at not being able to address the fifth proffer. Adrienne urged the Commission to deny the application for rezoning 209 Maury Avenue. An informed housing strategy and an updated comprehensive plan are key mechanisms for determining general welfare, needs, and desires of the community. There is little ground for spot rezoning. Staff speaks only for the enforceable parts of the applicant's plan and not to quality. You are charged with necessity, convenience, and good zoning practice. There is little enforceable substance.

Jennifer Ward – The blocks near this property are a very stable neighborhood. The neighborhood has been stable for eighty years. The idea of spot rezoning seems like an improper use of zoning laws. It would change the whole atmosphere of the neighborhood.

Bill Atwood – More discouraged than the last time in front of the Planning Commission. There are a couple of questions regarding the site plan. The drawing has four levels with four units and two exits. An apartment building normally has eighty units, and thirty-three units does not seem to be in that scope. This apartment complex should be on the other side of the street, not in the neighborhood. It is very close to transitional zoning, and we need transitional zoning. I think that you need to wait.

Genevieve Keller – The architecture of the existing house is significant architecture for the City of Charlottesville. I hope to convince the applicant to change the proffer language. The language in the proffer could be more specific. The language could allow for future additions to the existing building. I can imagine a hotel a block from Scott Stadium being a very attractive thing and wouldn't meet your goals for housing.

Commissioner Discussion

Commissioner Green – Are we making the motion first on the comprehensive plan?

Chairman Mitchell – We would need to update the comprehensive plan before we vote on the rezoning.

Commissioner Green – Is there a way to amend the comp plan without amending the rezoning?

Chairman Mitchell – Yes. We will have to vote on both. That will give Council something to work with.

Commissioner Green – I will not support the rezoning. Housing is what we need. This does not give me any comfort to think that this will be housing. As the Planning Commission, we did not do our due diligence in looking at the land use matrix when we said ‘yes.’ We were sold a mixture of types of housing and incomes of housing in a location with transportation in a place where we needed homes. When it came back before us, we did not have much choice because it was in the matrix. We got a hotel. We did not get housing. We might have gotten some money in the affordable housing. I cannot support this as it stands.

Chairman Mitchell – The matrix is associated with the R-3, not the proffer?

Ms. Creasy – Correct.

Chairman Mitchell – Is it possible, in the motion, to take out offending pieces of the matrix?

Ms. Creasy – No

Commissioner Heaton – Is Ms. Green correct in the way that she interpreted the formula?

Lisa Robertson – The applicant, during the presentation, did indicate that there will be a residential development on this site. One person is already reading the words in a way that is not clear, and suggests that it could potentially be problematic. Unless the applicant is willing to provide some clarifying language, there is a problem with clarity.

Commissioner Green – Since we are in conversation, I do not see any ambiguity in this. To be constructed is pretty clear.

Commissioner Lahendro – I keep hearing references to hotels, but I do not see that in the matrix.

Commissioner Green – That is not in the matrix. There would be nothing to say that this would be a B&B. A B&B would rent out like crazy in this location. That also does not give us \$2 per square foot. I do support an increase in density. This is a location where we can support an increase in density. I am not comfortable with what the actual outcome is going to be. There are too many questions for me as I am reading this.

Commissioner Stolzenberg – I did want to clarify the use matrix. With the last rezoning that was done on Hinton Avenue, there were changes to the use matrix.

Ms. Robertson – Changes can be made with in a proffer.

Commissioner Stolzenberg – We should commend the applicant for going well beyond the city code 34-12. Going above that only applies to floor area above 1.0. Proffers one and two are good. Proffer three is the same as code 34-12. I do have to wonder if the intent is to go above three. I am concerned about the wording that has already been raised. It is very clear that we need as many homes as possible at this site. There is good transit and the location is near the University. It does matter if we cram one hundred students in this location. Those one hundred students are going to be spreading all over the city. We are always hearing from the Fry Spring Neighborhood Association about students going further and further into their neighborhood and renting up all of the houses there. UVA keeps on growing adding thousands of undergrads every decade. There is nowhere for them to go. My initial

recommendation is that council reject the location of buildings in proffer one. There has been discussion about changing the setback and parking requirements of R-3. I do think that it is a good plan.

Commissioner Solla-Yates – Is a four story thirty-three unit B&B contemplated in R-3 zoning? Is that permissible by right?

Ms. Robertson – Bed and breakfast is allowed in R-3. There are some restrictions in the building code about the height of that type of use. It can be whatever height is allowed in the zoning district.

Commissioner Heaton – When this was before us the last time, we were talking about density. By right, this could be re-developed in another way that would increase density. It is obvious to me, with the timing of the proffers, that we do have more work to do with this application, before we pass it.

Commissioner Lahendro – I am fine with the increased density at this location. I do think that it is inevitable. I am fine with the site plan. I think that it should be broken down into a couple of buildings to help with the scale of this site and the neighborhood. I cannot support this application for rezoning because I find the protections of the historic house to be completely inadequate. I find the protections to be essentially unenforceable. I do not think that it is appropriate for this structure.

Chairman Mitchell – There are three basic objections to this application. The first objection is what is in the matrix. The second objection is the protections regarding the Manor House. The third objection is proffer number one.

Charlie Armstrong – The intent that we have is the intent that I presented to you in the presentation. If some of these uses cause concerns, we are willing to proffer them out. We had not heard this concern prior to tonight. We had stuck with R-3 as a guide. If B&Bs, health clinics, and colleges/universities are viewed by the Commission as not advisable here, that is not what we are planning to do. We will proffer those out. The language “to be constructed” is not the intent. The intent is for it to be all residential square footage that triggers that proffer. If we remove the words “to be constructed,” I think that it gets it to what we want/intend. We are willing to do that tonight or in the future with Council. The house protections were crafted by the previous owner with the expressed intent of preserving the character of the house that they know and want to stay the same. It has been looked at by other folks, who are on historic preservation committees in town, and they liked it. I think that it does what it is supposed to do. The intent is for the house to stay there and to be renovated. It is going to be the centerpiece of a new development, and it needs to act as that centerpiece for this project to be successful. If those things help, that is our intent. We want to make sure that our application matches our intent. Your objections are with the way it is captured in the application. We can add to proffer number five that will be residential development on the property.

Chairman Mitchell – Regarding your objection to proffer number one, I do believe that the proffer was in there because Council was uncomfortable with a little more specifics.

Commissioner Stolzenberg – I am not going to make this a sticking point. If you could move that back building to the side, I would not have a problem with that.

Commissioner Green – I would rather the applicant construct the proffer language.

Charlie Armstrong - We are removing the “to be constructed” from the proffer. The landowner should make a cash contribution, which shall be calculated as follows: Two dollars per square foot of the habitable residential floor area within the subject property.

Commissioner Green – That does get that minor detail worked out. The applicant might sell this. If somebody take over this, it goes with the new owner.

Ms. Robertson – Under our city code, 34-64B, Mr. Armstrong is on the record. The code allows the proffers to be modified orally. He can submit a final revised statement at a later date before Council. It would have to be consistent with representations that he made. He can work on that and we can help him craft the language so that it is clear.

Commissioner Green – The by right uses for R-2 are clearly defined. The bed and breakfast – homestay and the bed and breakfast – B&B fly in the face of everything that we are trying to accomplish.

Ms. Robertson – R-3 is not a zoning district, in which hotels are allowed. For a homestay to be permitted, somebody does have live in the unit. It would have to be a condo, a single family dwelling, or a townhouse. The only districts where the rules are different than that are the places where transient occupancy is allowed. That is where hotels are allowed by right. That is not R-3.

Charlie Armstrong – We will proffer out bed and breakfast – homestay, bed and breakfast – B&B, public health clinic, elementary schools, high schools, and colleges and universities. They are not our intent.

Commissioner Stolzenberg – With regards to the conditions of the Manor House, the conditions here and in the deed, I do not see a way where this does not end up being a lot better.

Commissioner Lahendro – My concern is the accountability of protecting the historic resource and keeping it in good repair is the not the same thing as preserving the historic resource.

Commissioner Solla-Yates moves to recommend approval to amend the 2013 Comprehensive General Land Use Map for the “subject property” from low density residential to high density residential. Seconded by Commissioner Stolzenberg. The motion for approval is approved 5-1.

Commissioner Heaton – The process has resulted in some good work being done in making it a better application. The process has been perfected. I don’t think the original issues that passed this application have changed a lot.

Commissioner Green – I voted for the increase in density, and I apologize to the neighborhood. There is some preservation for some of the things that are still there.

Commissioner Solla-Yates – I believe that preservation happens from public interest and public view. I believe there is value in some public exposure to historic buildings like this.

Commissioner Stolzenberg – Putting apartments here is a great idea. The only thing that would make this greater is if it were not surrounded by a sea of parking and had more apartments there. I really don’t understand why the parking modified zone exists.

Commissioner Stolzenberg moves to approve the application to rezone the subject property from R-2U to R-3 on the basis that the proposal would service the interests of the general public and good zoning practice, given the amended oral proffers that were presented. Seconded by Commissioner Solla-Yates. The motion to approve the application is approved 5-1.

Meeting is adjourned at 8:30 PM.