

Minutes

**PLANNING COMMISSION REGULAR MEETING**  
**March 8, 2022 – 5:30 P.M.**  
**Virtual Meeting**

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

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

***Location:*** Virtual/Electronic

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

**Members Absent:** Commissioner Mitchell, Commissioner Dowell

**Staff Present:** Patrick Cory, Missy Creasy, Matt Alfele, Remy Trail, Sam Sanders, James Freas

Chair Solla-Yates called the meeting to order at 5:00pm. Ms. Creasy provided an overview of the process for the meeting this evening. Chair Solla-Yates asked if there were any comments on the minutes and asked Commissioner Russell to prepare to provide a motion in the meeting. The Chair then asked if there were questions on the Grove applications. He also requesting that since Commissioner Stolzenberg provided the motions at the last hearing if he could prepare to do so this evening. Commissioner Stolzenberg asked why there was an additional hearing held in October 2021 after the hearing in May 2021. Mr. Alfele provided explanation on the progression of the application.

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

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

***Location:*** Virtual/Electronic

**A. COMMISSIONER’S REPORT**

**Commissioner Dowell** – No Report

**Commissioner Habbab** – The Rivanna River Bike Pedestrian Crossing Stakeholder Committee met in mid-February. We closed out that effort. We’re going to have to continue plugging in feedback along the way. I believe the project is now with the MPO. There was a public survey that closed March 4<sup>th</sup>. We will see what happens with the smart-scale application.

**Commissioner Lahendro** – I attended two meetings this past month. The Board of Architectural Review met February 15<sup>th</sup>. We passed four Certificates of Appropriateness. The requirements for one SUP were also approved. We had two deferrals. We looked at preliminary designs and had discussions regarding two projects. One was a new residence at 0 Preston Place. The other is a multi-unit residential building at 1301 Wertland Street. The second meeting I attended was the Tree Commission. That was March 1<sup>st</sup>. We reviewed the annual Tree Commission presentation to City Council. Because of the impacts on urban planning, setbacks, lot coverage, etc., we decided that we would like to bring it to the Planning Commission. You will be hearing that presentation tonight. The Tree Commission Education and Advocacy Committee announced the RELEAF Arbor Day plans. That Arbor Day celebration will be held

on April 21<sup>st</sup> from 1 PM to 2 PM. It is going to be at Charlottesville High School. We're going to have 15 to 20 landscape vendors and professionals set up in stalls. The science students will be making their way around these stalls and learning from the professionals and vendors that will be there. Arbor Day is going to be on April 29<sup>th</sup>. The Charlottesville Area Tree Stewards are planning an event that the Tree Commission will attend. It will be at Sojourners Church around an elm tree there that is going to be nominated to be on the city's tree list.

**Commissioner Russell** – No Report

**Commissioner Stolzenberg** – No Report

**Commissioner Mitchell** – No Report

## **B. UNIVERSITY REPORT**

**Commissioner Palmer** – There was a Board of Visitors meeting last week. The only thing of note was that they approved a project at the Fontaine Research Park for an upgrade to the Encompass Rehabilitation Facility there. It is mostly a rehab facelift. There is some exterior work.

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

**Chairman Solla-Yates** – I attended two meetings of the Thomas Jefferson Planning District Commission. Many items were discussed. A lot of money is coming for rural broadband, which may change things in some ways for the entire area. There is a new effort to do a rural transportation study, which might have some effects for those commuting to the city.

## **D. DEPARTMENT OF NDS**

**James Freas, NDS Director** – There are several things that might be of interest. We announced at the Council meeting last night that there is a planning process for safety improvements and design for a new smart-scale application for the 5<sup>th</sup> Street corridor. As part of that process, we do intend to engage the Planning Commission. You guys will hear more about that. We will likely be scheduling some time on a future agenda for that topic. The other announcement from last night was regarding the Climate Action Plan. There will be a scheduled work session on April 18<sup>th</sup> at the City Council meeting. That is at their 4 PM session to look ahead towards that Climate Action Plan. The conversation around natural gas hookups is being rolled into that climate conversation and will be touched upon at that session on the 18<sup>th</sup>. Earlier this week, we awarded the contract to Timmons Group for our new permitting software system. That is a big deal that is probably going to be up to about a year of implementation time. Hopefully, there will be aspects of this project that we can roll out periodically through that time. It is moving us towards a digital permitting system. With the zoning rewrite project, we had a steering committee meeting last week. Last night in front of Council, there was an appropriation request to extend our funding for community engagement and project management and to add in funding for modeling the housing market outcomes of the new zoning or the proposed new zoning. That will come as part of the approach report. We will be releasing the approach report, if we stay on schedule, mid-April. I am working with a group of UVA students on an expanded and enhanced zoning 101 document. We are 'flushing' out what that is going to look like. I imagine infographics and explanation as to what zoning is, how zoning works, and what our proposal is in the approach document.

**Commissioner Lahendro** – What is the target audience for the Zoning 101 document?

**Mr. Freas** – Everyone. The idea is to make the zoning project more universally understandable. Zoning is a very technical topic. Most people don't know about zoning and what is happening there. How could we make this project approachable and understandable so that people can engage on it at an equal basis. That's what we're aiming for.

**Missy Creasy, Deputy NDS Director** – I wanted to note things that we have coming up in April. We have a couple of items that we're expecting on our April agenda. The CDBG (Community Development Block Grant Task Force) Home Budget will come forward as its yearly item. We also have a couple of special use permits that are gearing up. We're not sure how exactly many of them will be on the April agenda. We are working on that. We have a potential for four public hearings next month. In speaking with the chair about that potential, that is a maximum. We're going to do the best we can to see how that works. As you can see from the anticipated list, we have several things that are in the hopper, though not all moving quickly. As the weather gets nicer, applications keep flowing.

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

No Comments from the Public

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

1. Minutes – June 29, 2021 – Work Session
2. Minutes – February 8, 2022 – Pre-Meeting and Regular Meeting

**Motion to approve the Consent Agenda – Commissioner Russell (Second by Commissioner Lahendro). Motion passes 7-0.**

#### **G. TREE COMMISSION REPORT**

**Jeff Aten, Chair of the Tree Commission** –

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The purpose of us coming to you today is to convey to you, the Planning Commission, the state of the urban forest and to solicit your help.

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Our urban tree canopy is declining at an increasing rate. We have good intentions and are planning for a robust urban canopy in our comprehensive plan. We believe that more needs to be done to ensure that this is the case as we build for more affordable housing and adjust streets to be more friendly to pedestrians and bicyclists. The City Parks Department and urban forester have, over several years, been contracting for aerial imagery to be collected and analyzed. We have been doing this since 2004 on a 5-year cycle. The trends are clear in this bar graph. We have seen a 10 percent drop in urban tree canopy coverage from 2004 to 2018.

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Given that our city is approximately 6600 acres, that urban tree canopy loss equates to about 660 acres.

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The data that was used in the most current or recent report is 2018 data. Once that is finalized, that will be shared on the city website. If we project out, an additional loss of 5 percent from 2018 to 2022, we're looking at close to 990 acres of urban tree canopy loss.

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We can see in this chart and map that low-canopy neighborhoods correlate with historically low-income neighborhoods. Those are the ones that are in red here that have very low urban tree canopy coverage. It is also clear that, as the sub-heating shows here that canopy has declined in all but 2 neighborhoods. In those 2 neighborhoods, it has remained stable. It is not the direction we would like to be trending in.

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That loss of tree canopy and the resulting lack of tree canopy coverage is not good for our health or for energy costs. This map shows the correlation between low tree canopy and more pavement exposed to solar radiation and, therefore more absorption and retention of that heat in the pavement leading to worsening heat island effects.

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To combat this, we're trying, but not doing a great job of planting, preserving, and maintaining our urban tree canopy currently. There are many reasons for this; some in our control and some not. Those reasons are ranging from the pandemic to winter storms to funding. We have not recently been meeting the goal of planting 200 trees per year, which we think is a reasonable goal. We would like to see that change. You can see on the graph to the right that there is further detail relative to what we have been able to do recently. For instance, the 151 trees that were planted in FY2020, 80 percent of those were new plantings but 13 percent were replacement plantings. Even with those 151 trees being planted, only a portion of them are new trees replacing lost canopy.

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We believe that there are code issues. Development in the city has been happening per code. Staff has been enforcing code. We believe the code does need to change to help preserve some existing high-value trees and to incentivize developers to work with the city to keep those trees and/or to plant new trees when existing ones must be removed. Sometimes trees get removed and only one gets replanted. Rows of oaks were removed along Garrett Street, and we saw only one tree planted.

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We believe denser development and new affordable housing does not need to be at odds with tree preservation and sustainable tree planting. Really good planning needs to account for a robust urban tree canopy. It is one of the key components to a healthy living environment for all city residents.

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Action is required when we believe there is collaborative work to be done between our two commissions to ensure a brighter or perhaps shadier future for the city of Charlottesville.

**Peggy Van Yahres, Vice-Chair of the Tree Commission –**

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What is the Tree Commission doing to fix this problem? With our ongoing activities, we were set up 10 years ago. We are an advisory body to you, Council, and staff. We engage with the public. We had a Venable Arbor Day celebration at Venable with the Tree Stewards several years ago. We collaborate with other nonprofits. We monitor the effects of development on our green infrastructure. Our two main projects this year: 1. We are going to be reviewing the zoning ordinance with you. We have 4 main objectives. One is to increase the requirements for new trees, strengthen and enforce tree protection during construction, establish consequences for public tree damage. In Richmond, they have an ordinance. When a developer is allowed to take down a public tree, they must pay into a fund for more planting around the city. This can result in hundreds of thousands of dollars. Those oaks would be conservatively estimated at \$25,000 apiece. We also want to refine the site plan application review.

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Our second project is a fund we just started to develop this year. For the last couple of years, the Tree Commission has become aware of the relationship between trees and health. Scientists have proven that areas that have low tree canopy have a higher incident of heat-related and pollution diseases. This includes asthma, strokes, and heart attacks. We have a big claim. We think that trees save lives. Our mission is to protect the health and wellbeing, particularly of our low canopy neighborhoods from the heat effects of climate change.

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This is how we're going to do it. We're going to plant trees, preserve existing big trees, and educate kids and families about trees and nature in the city.

#### **Next Slide**

Our first project is going to be in the 10<sup>th</sup> and Page Neighborhood. We chose this neighborhood because it has a very low canopy. We have very few places to plant public trees. They will have to go on private homes. We know that 50 percent of the families in the 10<sup>th</sup> and Page Neighborhood pay over 10 percent of their income on energy. The average in the city is 2 percent. We haven't documented the health consequences. I am sure that they are like those that have been documented in Richmond with the low canopy neighborhoods. This is a project where we will be planting trees this fall and helping to preserve trees with the Tree Commission, RELEAF, and Tree Stewards.

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As Commissioner Lahendro told you, we're going to have an event this spring at CHS. We're going to introduce kids to jobs in the green industries. We have about 15 vendors coming. It's going to be a fun event. It's going to be the day before Earth Day. We will have music and food. We're working with The City of Promise to develop what we call teenage ambassadors. These will be kids in the neighborhood, who will learn about the value of trees in nature. They helped us knock on doors in the fall to encourage people to plant trees. We've given presentations or going to give presentations about trees and nature to elementary schools and City of Promise.

#### **Next Slides**

We gave this presentation to all 3<sup>rd</sup> and 4<sup>th</sup> graders at Venable. Why are trees important to you? Trees improve health. We took thermometers on one day in September out on the 2 playgrounds at Venable. You can see that one is hot. There are no children there. It is 102 degrees. Trees improve health by cooling your playground. You can see that the shady playground was 82 degrees. It was a 20 percent

difference in heat. We know that children are vulnerable to heat. We had lots of other slides that showed how trees help animals by giving them a home.

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Who are we? This is a fund initiated by the Tree Commission, initially funded by the Virginia Chapter of the Nature Conservancy. It is a partnership between the Tree Commission, Nature Conservancy, City of Promise, Tree Stewards, and Van Yahres Tree Company.

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What the Planning Commission can do for us. You can plant and maintain trees. We are very appreciative that you have approved our CIP funding request for \$100,000 for new trees in the fall. That will get us to our 200 trees and \$105,000 for ash tree removal.

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We want to help you create a zoning ordinance that treats trees as a vital asset and increase setbacks so we can have trees. Some people think that means you're going to lose a lot of land. We're not talking about huge setbacks: 10 to 15 feet. You can see what happens when setbacks are taken to zero if you at look at this picture. That's The Standard. It is the only building along West Main Street that doesn't have trees. We want to increase the requirement for new trees, better protect trees during construction, and provide incentives or disincentives for damaging trees. To protect our natural resources, look for locating new developments, parking lots, or other vacant types of land.

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Improve the city organization. That is already happening. Encourage Parks and NDS and Public Works to work together. We would love to see a creation of a natural resource manager. If you did that, the third point there would take care of itself.

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Enhance our charge. We particularly would like to have some input on large site plans such as Friendship Court. If we begin in the beginning of the process, trees, open space, and nature can go together. There are often compromises. Encourage departments to work together. Perhaps, we could have Public Works attend our Tree Commission. We're interested in the whole urban ecology and all the natural resources. We would like to see our charge expanded. We need your help to stop this loss of our tree canopy and our natural resources.

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This came from our canopy study. It shows that the eco benefits from the trees in the city save the city \$16 million a year. This is the tip of the iceberg. If we were to plug in there the health saving costs for people and the energy saving for homes and businesses, we could probably triple this to \$36 million a year. That's the benefits of trees. We see hope. We're so excited about the new department heads. They seem very willing to work with us and want to be a partner.

**The Planning Commission moved onto the one public hearing on the meeting agenda. Following the one public hearing, the Planning Commission returned to ask questions of the presentation given by the Tree Commission.**

**Commissioner Russell** – Can you explain how the canopy is measured? How do you account for the loss?

**Mr. Aten** – There is aerial imagery. They use that aerial imagery along with GIS information to map the various areas of coverage. They're mapping streets, trees, ballfields, grooves of houses, etc. All those overlays become various area parcels. They use that to determine if there has been a gain or a loss in any area. They can also point to new areas of development, new roads, new clearings, etc. One of the things that they did note in the report is that some of the loss that we saw was some restoration work that was done along Meadow Creek. There were significant trees that were taken out as part of that stream restoration work and the sewer line realignment. A lot of that is coming back up again and will eventually become canopy. We are seeing losses elsewhere in the city relative to new development.

**Commissioner Mitchell** – You talked about the need to develop a canopy with private homes. Have you been talking to the homeowners? Are they receptive to us coming in and putting trees into their properties?

**Ms. Van Yahres** – A couple years ago, the Tree Commission went into the Belmont Neighborhood and worked with the Tree Stewards. We worked for 2 years, there knocking on doors and getting homeowners to plant trees. That was very successful. With our project with RELEAF, we're doing a lot of education of young kids and teenagers to get them to understand the values of trees in nature. We're hoping that is going to 'bubble up.' The Tree Stewards are already working in 10<sup>th</sup> and Page. They have planted about 15 trees going slowly door to door. In the last couple of months, they planted about 15 trees. We have learned from the Nature Conservancy that has done a lot of these projects. It is slow at first. You get a few people to do it. You put signs up. Other people start calling. It takes a while to be successful.

**Commissioner Mitchell** – I like your suggestion that the Parks and Recreation and Tree Commission are dialed into the rezoning that we do and the way we are configuring the tree installations. You talked about why we have lost so much of our canopy. What is the big reason? Is it redevelopment that is driving that?

**Ms. Van Yahres** – The canopy study is not yet complete. They're still working on it. It has been a lot of development. There were two big projects. A lot of it is development. We will know more when the tree study is finished.

**Commissioner Mitchell** – The other question is the loss of ash tree. Do we have a plan to replace the ash trees that we're going to take out because we want to take out because of the infestation? Do you have a plan to replace those ash trees?

**Ms. Van Yahres** – Yes. These are just public trees, not private trees. The ash trees are going to die. We're going to lose at least 300 trees. Our plan to replace those trees depends on how much City Council and Planning Commission allow us to plant new trees. Hopefully, we will be able to plant 200 trees a year for the foreseeable future. The ash trees are big trees. They are going to come down. We're going to be able to plant 10-to-12-foot trees. It doesn't compensate for the loss of canopy.

**Commissioner Mitchell** – Ash trees are big trees. What are we thinking about replacing them with?

**Ms. Van Yahres** – I hope that we can replace them with shade trees: oaks, maples, and sycamores. We believe that shade trees are going to do the most to combat climate change and improve the health of the community. We would like to replace them with large trees. It takes them a while to grow.

**Commissioner Mitchell** – In our lifetime, are we going to benefit from it? Are we doing this for our kids?

**Ms. Van Yahres** – The other thing we want to do is preserve existing trees. All the scientists and arborists are saying that, if you preserve the existing trees, that is going to do a lot more to combat climate change and keep your community healthy. That is part of our program. That is to help people who can't afford it; to be able to preserve their existing trees.

**Mr. Aten** – Those ash trees that are coming out/that the city is removing are in the public right of way. Trees need to go back into those same locations, so they provide those same benefits. Shade trees along streets and sidewalks help ameliorate some of those issues that we have had with the urban heat island effects.

**Commissioner Stolzenberg** – I noticed in the budget that the City Manager released yesterday that tree planting is still at \$75,000 and not at the full \$100,000 that we recommended. That is about 166 trees per year. In the ash tree removal line item, is that just for removal? Does that cover any kind of replacement?

**Ms. Van Yahres** – That is basically for removal. The arborist did an average cost to clean up the ash trees. Most of them are huge. They're very expensive to remove. That is just for removal.

**Commissioner Stolzenberg** – Will you present to us again when the canopy study is complete? I have questions about that.

**Mr. Aten** – We can supply it beforehand, so you get a chance to look through it and look at some of the data. We had some questions about the data and some of the metrics that were used that were part of their recommendations. The Tree Commission had some recommendations that were not in contradiction to those recommendations that were coming out of the report. We had questions about how they arrived at various recommendations.

**Commissioner Mitchell** – I recommend that you contact the chair and staff when the tree study is complete.

**Mr. Aten** – We would love to talk to you about some of those code issues Ms. Van Yahres mentioned in her part of the presentation. We have seen these sorts of things written into code that have to do with tree replacement as either per caliber inch or being paid into a fund that would fund future tree planting. It has been effectively used in other municipalities, like Richmond and others around the country. It incentivizes developers to take a 'second look.' They could be penalized for doing something that they might be able to avoid. You can change some of those site plans for the better and get some money for the city to replace trees.

**Ms. Van Yahres** – We have a powerful coach committee that is working hard. It has a couple of lawyers on it. They are looking at codes and zoning and wants to help the city. Mr. Freas has said that he is very



welcome to that. I think he has ideas of his own about how we can make our codes and ordinances much stronger. We're not just about trees. We are about all natural resources and how we can have a denser city and have a healthier city.

**Commissioner Lahendro** – One of the impacts of this tree canopy study and the discussion that we have had is going to play an important role in the ordinance rewrite when we get to setbacks. In my opinion, and why I want to bring it up now, I may not be around. You could have enough setback on paper. We need to remember utilities and the conflict between utilities and trees. We need to look at the kinds of clearances that the Utilities Department requires around their water lines, sanitary sewer lines, gas lines. Those clearances must be maintained between utilities and clearances must be maintained between utilities and trees. If you have the utilities going in the setback areas, you're not going to get any trees. It is something to remember and to include in the calculation of setbacks and how it works together. It is something to keep in mind as we go into the ordinance rewrite.

**Commissioner Habbab** – In continuing that same conversation, I was wondering if it had to do more with several trees along a frontage instead of a setback. If we want to find different ways to control, that way we're not constricting via setback, but we want X number of street trees per lot frontage on a street. There is more room for creativity.

**Chairman Solla-Yates** – I like courtyards. You can plant trees in courtyards.

**Commissioner Lahendro** – The slide that Ms. Van Yahres showed of Main Street and the difference between The Standard and The Lofts across the street. When you go down Main Street, you don't see that many trees along it. There really are many trees. In front of The Standard, there is nothing. It is such a miserable place to walk next to.

**Commissioner Stolzenberg** – I hope when we get into this discussion, we can explore the role of the right of way in this and how we can get more trees into the right of way. I think of some of the residential streets like some in Belmont that have 50-foot right of way widths. You could easily have a bump-out. Even The Standard is a great example. It has little trees tucked into those nooks. It has those tiny planting strips with no trees and that bike lane that is as big as a parking lane. It is always full of cars parked whereas a bicyclist probably would have preferred if the planting strip was thicker so that there were trees there, it would not be perfect for parking in. I wonder if we can look at our rules to make more sense to deal with the trees in front of buildings even without significantly increasing setbacks by using that right of way. When the Tree Stewards are planting trees, are they doing it themselves? If the city wanted to plant 200 trees but only had the money for 150, for those last 50 locations, could they have a wish list? Are we worried about liability issues or utility conflicts?

**Ms. Van Yahres** – The city doesn't plant trees on private property. There are other communities that bypass that by giving money to people like the Tree Stewards or RLEAF to help plant trees on private property. Right now, it is a liability issue. The city does not plant trees on private property.

**Commissioner Lahendro** – When the Tree Stewards worked in Belmont, the Tree Commission, me, and the residents were there. The community was there to helping to plant. It was a big effort.

**Chairman Solla-Yates** – Is there parking space for trees? Is parking there because trees aren't there? How does that relationship work?

**Ms. Van Yahres** – Trees and parking can coexist. With tough urban trees, they don't need a lot of soil. They don't need a lot of setbacks. They can survive in very small amounts of soil. We need to look at our parking requirements and trees and loosen that up. It only helps. It cuts down on the heat that we get from that asphalt.

**Chairman Solla-Yates** – Is there anything large institutional landowners can do to help with our tree troubles (County, City, and University)?

**Commissioner Lahendro** – From my experience at the University, the University is a model for the city with the kind of care that they take. They have been treating their ash trees for many years to save them. They are adding trees all the time. They have an arboretum committee that reviews any proposal to remove a tree. It must be approved. They have two arborists on staff that work at the University. It is a model for the city and for any other organization.

**Commissioner Palmer** – We try to protect the trees we have. We struggle with the same things with utility conflicts, new construction taking down existing trees. We must reckon with that. We have guidelines in place. All our projects have landscape architecture associated with them to bring back trees, storm water, and all those other natural systems. A good place to look right now is the Ivy Corridor. There was a landscape of trees there that is no longer there. We will be putting them back. Trees take time to grow. The result 30 years from now will be much better than what was there before and meet the needs of UVA's Mission. These canopies are a point in time thing. The hope is that if something is taken away, 20 years from now, you will see canopy back there.

**Commissioner Lahendro** – There was something that I 'wrestled' with as a project manager at the University for a long time. There was a landscape fund. Whenever you did a new project at the University, a certain percentage had to go to a landscape fund. That landscape fund could be used anywhere at the University. What a great idea for developers at the city to have to put in an amount to a landscape fund that goes into trees and improving the landscapes around the city.

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

Mayor Snook called the Council to order for the Public Hearing.

*Beginning:* 6:00 PM

*Continuing:* Until all public hearings are complete

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

- I. **ZM20-00003, SP21-00002, & P21-0023 – 1613, 1611, and 0 Grove Street** – Landowner Lorven Investments, LLC has submitted applications seeking a Rezoning, a Special Use Permit, and a Critical Slope Waiver for approximately 0.652 acres of land, including multiple lots identified within the 2022 City real estate records by Real Estate Parcel Identification Numbers 230133000, 230134000, and 230135000 (collectively, "Subject Property"). The Subject Property has frontage on Valley Road Extended and the unimproved section of Grove Street Extended. The applications propose to change the zoning district classification of the Subject Property from R-2 (Residential

Two-Family) to R-3 (Residential Multifamily Medium Density) subject to certain proffered development conditions (“Proffers”) and development plan. The Proffers include: (1) prior to the issuance of a certificate of occupancy for the seventh (7th) dwelling on the Subject Property, the Owner shall contribute Forty-Eight Thousand Dollars (\$48,000.00) to the City as a cash contribution to support the City’s construction of pedestrian improvements within the Fifeville Neighborhood, and (2) twenty-eight percent (28%) of all dwellings constructed onsite shall be affordable units (AUs), as follows: 14% will be for-rent such that the monthly cost of rent, including tenant paid utilities, does not exceed 125% of the Fair Market Rent (FMR) established by HUD by unit bedrooms for the Charlottesville MSA ,and 14% will be for rent AUs such that the monthly cost of rent, including any tenant paid utilities, does not exceed the FMR by unit bedrooms for the Charlottesville MSA. All of the required AUs shall be reserved as such throughout a period of at least 10 years from the date on which the unit receives a certificate of occupancy. The proposed development plan indicates restoration of a portion of Rock Creek that runs through the Subject Property. The Special Use Permit application seeks to increase allowed density from 21 Dwelling Units per Acre (DUA), or 13.692 units within the Subject Property, up to 43 DUA, or 28.026 units, per, City Code Sec. 34-420 (Use Matrix, R-3 District). The proposed development consists of four apartment (multifamily dwelling) buildings with (4) one-bedroom units and (24) two-bedroom units. The total number of units would not exceed (28) units. 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 existing structure remains) and additional unit allowance depending on zoning allowances. The proposed development calls for disturbance of land within a Critical Slopes area, so a waiver is requested per City Code Sec. 34-1120(b)(6). Information pertaining to this application may be viewed online at [www.charlottesville.gov/agenda](http://www.charlottesville.gov/agenda). Persons interested in the Rezoning, Special Use Permit or Critical Slopes applications may contact NDS Planner Matt Alfele by e-mail ([alfelem@charlottesville.gov](mailto:alfelem@charlottesville.gov)) or by telephone (434-970-3636).

#### **i. Staff Report**

**Matt Alfele, City Planner** – On October 21, 2021, the Planning Commission held a Public Hearing for a proposed development located at 1613, 1611, and 0 Grove St. Ext that included applications ZM20-00003, P21-0023, and SP21-00002. In preparing to move the application forward to City Council, it was discovered one of the Tax Map Parcels numbers was mistyped in the public ad. To ensure accuracy, all three applications have been readvertised and returned to Planning Commission for action. No substantive information has changed or been updated to the application from what Planning Commission reviewed on May 11, 2021 and October 21, 2021. Highlighted information in this report does show the changes as a result of the adoption of the 2021 Comprehensive Plan and Future Land Use Map. Lorven Investments LLC has applied seeking to rezone, a special use permit, and a critical slope waiver for approximately 0.652 acres of land including multiple lots identified within the 2002 city real estate records. These lots are collectively the subject property. The subject property has frontage on Valley Road Extended and the unimproved section of Grove Street Extended. The application proposes to change the zoning district classification of the subject property from R-2 (Residential 2 Family) to R-3 (Residential Multi-family, Medium Density) subject to certain proffers conditions and development plan. (1) prior to the issuance of a certificate of occupancy for the seventh (7th) dwelling on the Subject Property, the Owner shall contribute Forty-Eight Thousand Dollars (\$48,000.00) to the City as a cash contribution to support the City’s construction of pedestrian improvements within the Fifeville Neighborhood, and (2) twenty-eight

percent (28%) of all dwellings constructed onsite shall be affordable units (AUs), as follows: 14% will be for-rent such that the monthly cost of rent, including tenant paid utilities, does not exceed 125% of the Fair Market Rent (FMR) established by HUD by unit bedrooms for the Charlottesville MSA ,and 14% will be for rent AUs such that the monthly cost of rent, including any tenant paid utilities, does not exceed the FMR by unit bedrooms for the Charlottesville MSA. All the required AUs shall be reserved as such throughout a period of at least 10 years from the date on which the unit receives a certificate of occupancy. The proposed development plan indicates restoration of a portion of Rock Creek that runs through the Subject Property. The Special Use Permit application seeks to increase allowed density from 21 Dwelling Units per Acre (DUA), or 13.692 units within the Subject Property, up to 43 DUA, or 28.026 units, per, City Code Sec. 34-420 (Use Matrix, R-3 District). The proposed development consists of four apartment (multifamily dwelling) buildings with (4) one-bedroom units and (24) two-bedroom units. The total number of units would not exceed (28) units. 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 existing structure remains) and additional unit allowance depending on zoning allowances. The proposed development calls for disturbance of land within a Critical Slopes area, so a waiver is requested per City Code Sec. 34-1120(b)(6). During the Planning Commission’s last two discussions, traffic, density, stream restoration, affordability of units, and impact to the surrounding neighborhoods were discussed. At the October 21, 2021 meeting, the Planning Commission voted 4 to 2 to recommend approval of the rezoning, 4 to 2 to recommend approval of the SUP, and 6 to 0 to recommend approval of the critical slope waiver.

**Mayor Snook** – Is the only reason we’re doing this is because of the difficulty with the notice? Is there anything substantively different?

**Mr. Alfele** – It was just the notice. This was out of abundance of caution. Everything else is the same.

## ii. Applicant Presentation

**Justin Shimp, Applicant** – This is a repeat of our prior application. Nothing has changed. We understand that these things do come up with advertising issues. Everyone is familiar with the location. It is 3 parcels at the end of Valley Road Extended.

### Next Slide – Concept Plan

The concept plan is for 4 seven-unit buildings. The darkest pink highlighted here is the ground floor level. The lighter pink shading represents a building above a parking lot area. We have a surface parking lot at the center buildings cantilevered over a portion of the parking that are 3 to 4 stories.

### Next Slide – Revisions from May 2021 Public Hearing

There were revisions between the May 2021 hearing and the October 2021 hearing. What you are seeing in this slide is nothing new from what you didn’t hear last time. We didn’t change our presentation. It is the exact same information. This is a refresher to people. After hearing comments from the Commission, we talked to the owner, who is willing to commit to the 28 percent affordable. That’s four units at the 125 FMR and four units at the FMR rent and eight that meet the voucher eligibility for the FMR level. We adjusted the massing to reduce the height of two of the buildings. We did some grade revisions to help integrate the buildings into the site.

### Next Slide – Affordable Housing

**Next Slide – Grading Revisions**

This is a quick refresher. We ended up with buildings that were basically three stories in the front and then a 3-story with units in the attic. That back building has units in the roof system. We're trying to keep it at that 30-to-35-foot building height. Those were changes made in the last meeting where commissioners voted on it.

**Next Slide – Site Plan Revisions**

A reminder for anybody who is new to the project. On the left is Valley Road. All four buildings park in the center. That blue dashed line is the existing stream that they propose some improvements to it.

**Next Slide – New Construction: Single-Family & Multifamily**

We found last time, and I suspect has probably gotten only worse in this proportion in the months between October and now is that we have a number of structures built in the city that are over 3000 square feet, not different in size plexes. Very few plexes get built. Plexes being triplexes, quadplexes, and 7-plex (in our case). This is a reminder that our buildings are, while larger than a single-family house, not substantially different in scale than a large 3-story home you might find in some of the neighborhoods.

**Next Slide – Sidewalk Improvements & Stream Restoration**

A couple of features to remind people of. We proffered a \$48,000 cash proffer towards neighborhood sidewalk improvements. We have also proffered a stream restoration on the banks on our property, which would be to regrade, restabilize, and revegetate that area as part of the plan. It is a rough section of creek. It has been long abandoned with trash, pipes, etc. When we're done with the project, we will have a fully vegetated and replanted stream bank in that area to help contribute in a small way to water quality downstream of the project.

**Next Slide**

These are the structures in question. The gray at the bottom is your lower-level units. There are units above and 7 units in each building. We read through the staff report about the change in the Comprehensive Plan. The only comment I have on that is that, if anything, the Comprehensive Plan came closer to what our proposal was originally that it had been essentially. I'm talking about infill opportunities and bonus densities for affordable housing. This is an infill and an affordable housing project with a 28 percent proffer for affordable housing.

**Commissioner Mitchell** – With these stream improvements, they happen no matter what? They're not linked to the sidewalk improvements. They're going to happen when you redo the this. Is that right?

**Mr. Shimp** – Yes, provided the plan is approved and developed. It is separate from the sidewalk. The sidewalk is an off-site improvement. That is off-site money. With the stream, work happens on our parcel of land.

**Commissioner Dowell** – Can you speak to how this project is harmonious with the existing neighborhood?

**Mr. Shimp** – One of our efforts with the redesign from the October plan was to scale down the buildings in a way to make them more duplex type of scale. They are still larger. We were trying to strike a balance

of density and affordability on an undeveloped parcel by going up an extra 3 stories versus 2.5. The Comprehensive Plan is 3.5 stories. We pick up that additional density and the additional affordability. We edited the project over time to get these more into scale. They're larger but certainly closer to scale with what is there than what we had started with.

**Vice-Mayor Wade** – I am the councilor that doesn't have history with this project. From my planning days, \$48,000 doesn't get you much sidewalk. Is it a new way to build them cheaper? What are we getting for \$48,000? Why \$48,000?

**Mr. Shimp** – There was a formula that the number came from. The city has a sidewalk fund basically per unit. If the city says that instead of building in front of your house, you pay X dollars per unit, we use that same math. That is the origin from the city's formula.

**Mr. Wade** – What definition did you go with as affordable?

**Mr. Shimp** – It is 28 percent total of affordable, which is eight units. Of those, four of them including utilities is capped at the HUD Fair Market Rate (FMR). It is around 65 percent AMI and 125 percent FMR, which is a higher number. That was selected because it falls within what the voucher limit is for the city. People hit that unit renting for that price are eligible to use a housing voucher for it.

**Councilor Magill** – Will full-time University students be eligible for those units?

**Mr. Shimp** – I believe yes. If somebody qualifies based on income, it wouldn't be any different based on occupation.

**Ms. Magill** – HUD does restrict full-time University students from Section 8 vouchers. If it is affordable within the Section 8 range, whether or not it will actually be available to somebody with a Section 8 voucher are two very different things. They're not getting restricted like LI HTC property. It is just that they will be in the affordability range of a Section 8 voucher.

**Mr. Shimp** – That's right. The rent is capped per those formulas. There is no other restriction about the who or the why.

**Mr. Wade** – What would be great is, if you're driving or walking past there, to get an idea. I am sure that they have some software to give a nice visual of what it would look like with anticipated colors of the building.

**Mr. Shimp** – You certainly would not see the buildings from Cherry Avenue. It is the last lot. You can see it from the immediate houses around it. It sits behind a tall railroad track. There are around 15 houses that can see it. You cannot see it from Cherry Avenue.

**Mr. Wade** – Several years ago, we built the Habitat house on this road. I recall that the stream/creek there was in bad shape. It has been many years since I have been by there. I am trying to picture that and if it is still in the rugged shape like it was and has some debris there and if your section is improved; would that throw things off? I need to look to see what is going on there.

**Commissioner Mitchell** – It would be very important that you (Mr. Wade) go by there and see the conditions of the site.

**Commissioner Stolzenberg** – You said that the lower affordable units are at (FMR) fair market rents was a little under 60 percent AMI. The others are at 125 percent of fair market rents.

**Mr. Shimp** – That’s correct.

**Commissioner Stolzenberg** – The proffer for the cash for pedestrian improvements is separate from the sidewalks that you’re going to build in front of the property? Are you still intending to do that?

**Mr. Shimp** – That’s correct. A site plan ordinance requires us to build our own sidewalks. We would offer up the money for some improvement down the road. We talked last time about something at the entrance of Valley Road Extended. That would be up to the city. We tried to make the proffers sufficiently vague so that it could be used in that neighborhood where it made sense.

**Commissioner Russell** – Did we resolve the issue of the non-residential uses not being proffered out? Did anything change? I saw the notes from the October meeting. There was a question about the other uses associated with R-3. I know that it says that the following uses would be by right: bed and breakfast, a townhome, family day home, public health clinic, daycare facility.

**Mr. Shimp** – It does not come to mind as something that was still out there. It looks like we did not proffer that. Our development is intended to be in accordance with the SUP. Should that density be built, we must follow the plan that is offered.

**Mr. Alfele** – What you have before you are three applications. There is a possibility that City Council could approve a rezoning, deny the SUP. The proffers go with the rezoning. You have this affordable proffer that talks about dwelling units. I can’t give you a clear answer. It is three different things that there is a possibility of just getting the rezoning. Any development that went there would have to conform to the two proffers that went with it. I won’t say it is impossible that someone can get the rezoning and build some of these other by right uses. It would be very improbable based on the materials in front of you.

### iii. Public Hearing

**Paul Bennache** – Any analysis done on the increase in traffic on Valley Road Extended? By my count, I counted the houses on that road. This would seem to increase the total number of people on that road by 30 or 40 percent. It seems that road is not wide enough. It is about 1.5 lanes wide, and it is hard to get through there. Just looking at whether any analysis was done on that.

### iv. Commission Discussion and Motion

**Commissioner Stolzenberg** – On page 94 of the agenda, it has the traffic projections, trip generation. That is 171 trips per day and 19 trips during the PM peak hour. It is under 3 per minute.

**Commissioner Dowell** – I was wondering if we could get more background from staff as to why they chose to recommend denial of the rezoning.

**Mr. Alfele** – One of staff’s main concerns was the condition of Valley Road Extended. On the eastern side of Valley Road Extended, you have Rock Creek. On the western side, you have a fully developed neighborhood with limited sidewalks and parking. Any improvements to Valley Road, pedestrians or vehicular traffic would be a major undertaking and would remove a lot of parking from existing homeowners. It was the biggest concern from staff. The scale at this end of the neighborhood is more apartment scale set in a single-family duplex street. Those are the two biggest concerns staff had with the proposal.

**Commissioner Stolzenberg** – I have two comments on things that have changed. It makes sense that this fits in with what we’re talking about as General Residential in our adopted plan. There are no buildings to demolish on this site that is 4-plex by right. We have provisions for bonuses at affordable housing. In each of the seven plexes, you have 4 base units, your very affordable unit at fair market rents that can go to people with federal vouchers, workforce housing at 75 percent AMI that could go to people with city funded vouchers, and the market rate bonus unit. If that isn’t what we’re thinking about with the bonus provision there, I don’t know what would fit. There is certainly four of them on what won’t be a subdivided lot but could have been. I am sympathetic to the point that it is a thin road. I am thinking of other thin roads like Altamount Street that have sizeable apartment complexes at the end, in those cases even more units. People manage. People walk in the street. People slow down when they see people walking in the street. One big advantage that I see in this road is that at the most dangerous point, the part where it curves, that part does have a sidewalk. A pedestrian can get on the sidewalk at that blind curve. The 0 Preston Place that I was looking at is a single-family house in R-1. It is going to have a footprint of 4000 square feet. We saw earlier that these are 2000 or 2200 square feet. They are 3.5 stories, less than 35 feet, which we allow in R-1. The structures are big houses that are subdivided into more units on the inside. In that sense visually, it is compatible with the surrounding area, which are several large duplexes that are relatively new on the opposite side of the street.

**Commissioner Russell** – I want to follow up on that assessment of units. That is important. I don’t see it the same way. General Residential is 3 units per lot with an additional bonus. We haven’t defined what that bonus is. We have 3 parcels here. The maximum would be 4 units per parcel, 12 units maximum. This is a proposal that proposes no more than 28. Why that delta? Am I completely off on my logic?

**Commissioner Stolzenberg** – The lot differentiation here is a good point. In terms of the structure and vision in General Residential, they’re 4 different structures. I am taking them individually. I don’t read the conception of a bonus as meaning one more unit for two reasons. This isn’t a sensitive area as we defined them. If you’re not demolishing a house, I think the base would be four. If we’re adding a bonus to, it would be both with extra units plus massing since it is two and a half height limit base, you can’t just have a bonus. You must allow one affordable unit. Typically, with bonuses, it is an incentive. You give us something (an affordable unit and a workforce affordable unit), you get one market rate unit. At the very least, I would imagine that would have to be two extra units. We will define it later when we get to the zoning rewrite.

**Commissioner Habbab** – There is a lot happening for this project that meets the Comp Plan. You’re doing some stream restoration, funds for pedestrian improvement, affordable units. It does check a lot of boxes. It is a green field. There is nothing on there. We should use that as an opportunity to add more housing where we can. There aren’t that many left in the city. You’re making use of the grade to add an



extra level. You're arguably adding canopy to a site that doesn't have any now. If I am reading the drawings, there aren't any impacts on trees.

**Commissioner Russell** – In this case, the proffer does not address the impact to the neighborhood. That is an important component of a proffer. It is to directly speak to the impact in the neighborhood. As we have discussed and as Councilor Wade pointed out, the \$48,000 isn't going to provide sidewalks on Valley Road Extended. It is very narrow.

**Commissioner Dowell** – What other adverse effects, other than parking, are we seeing that this project may have on the neighborhood?

**Commissioner Stolzenberg** – Parking is going to be all right. It has more than one parking space per unit. It is the traffic along the road that is a real legitimate concern. Per the ITE estimates, in that PM peak hour, it is going to be 1 trip every 3 minutes.

**Commissioner Russell** – I would compare it to the issue we discussed with Stribling. We had a lot of concern about traffic. People walk on the street because there aren't enough sidewalks. In that case, the proffer spoke to that need.

**Commissioner Dowell** – The reason for me asking about the sidewalks is we already don't have it in our regular CIP funding, Councilor Wade has already said that the \$48,000 is not going to make a difference in improving the project. I am wondering if there is something else, we can do to balance this out.

**Commissioner Stolzenberg** – I made a couple suggestions the last time. You're right that there are no projects for the neighborhood. I think they had reframed it to be vague enough that it could be used in the general area. At the end of the street, the intersection with Cherry Avenue, there is a curb with no curb cut. People in wheelchairs or with strollers going along Cherry can't keep going. That is something that is in the CIP that they pick out intersections every year that money could potentially be applied for. There is that. There is a bus stop with no shelter that CAT could potentially pull money out of that pot for building things up for improving that bus stop. I mentioned that Stribling was 170 units; over 6 times as much traffic as this and larger units.

**Motion – Commissioner Sotlzenberg (Rezoning) – I move to recommend approval of this application to rezone the Subject Property from R-2, to R-3, on the basis that the proposal would service the interests of the general public and good zoning practice. Second by Commissioner Habbab. Motion passes 4-3.**

**Motion – Commissioner Stolzenberg (Special Use Permit) – I move to recommend approval of this application for a Special Use Permit for Tax Map & Parcels 230133000, 230134000, and 230135000 (1613 Grove Street Extended) to permit residential density up to forty-three (43) DUA and adjusted yard requirements as depicted on the site plan dated September 29, 2021 with the following listed conditions.**

- 1. Up to 43 dwelling units per acre (DUA) are permitted on the Subject Properties with a maximum of two bedrooms per unit.**
- 2. The restoration of Rock Creek as presented in the applicant's narrative dated July 14, 2020 and revised September 29, 2021.**
- 3. Modifications of yard requirements to:**

- a. **Front yard: Twenty-five (25) feet.**
- b. **North Side yard: Five (5) feet.**
- c. **South Side yard: Fourteen (14) feet.**
- d. **Rear yard: Twenty-five (25) feet.**

**Second by Commissioner Habbab. Motion passes 4-3.**

**Motion – Commissioner Stolzenberg (Critical Slopes Waiver) – I move to recommend approval of the critical slope waiver for Tax Map and Parcel 230135000, 230134000, and 230133000 as requested, with the conditions outlined in the staff report, based on a finding that the public benefits of allowing the disturbance outweigh the benefits afforded by the existing undisturbed critical slope, per Section 34-1120(b)(6)(d)(i). Second by Commissioner Habbab. Motion passes 5-2.**

#### **IV. COMMISSION ACTION ITEMS**

*Continuing:* until all action items are concluded.

**The meeting was adjourned at 7:09 PM**