



CITY COUNCIL AGENDA
July 16, 2012

6:00 p.m. – 7:00 p.m.

Closed session as provided by Section 2.2-3712 of the Virginia Code
(Second Floor Conference Room)

TYPE OF ITEM

SUBJECT

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

AWARDS/RECOGNITIONS
ANNOUNCEMENTS

MATTERS BY THE PUBLIC

Public comment will be permitted for the first 12 speakers to sign up in advance of the meeting (limit of 3 minutes per speaker) and at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

COUNCIL RESPONSES TO MATTERS BY THE PUBLIC

1. CONSENT AGENDA*

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

a. Minutes for July 2

b. **APPROPRIATION:**

Appropriation of Jordan Park Playground Equipment Insurance Recovery Funds - \$43,828 (2nd of 2 readings)

c. **APPROPRIATION:**

The Pavilion at North Grounds Affordable Housing Contribution - \$278,095 (2nd of 2 readings)

d. **APPROPRIATION:**

Historic Facade Settlement - \$16,000 (2nd of 2 readings)

e. **APPROPRIATION:**

Community Attention Youth Internship Program - \$10,000 (1st of 2 readings)

f. **APPROPRIATION:**

Virginia Department of Criminal Justice Services Neighborhood of Promise Grant- \$97,500 (1st of 2 readings)

g. **APPROPRIATION:**

Workforce Development Programs & Carryover Funding for FY 2013 – Re-Appropriate \$20,032.74 and Transfer \$3,072.50 (1st of 2 readings)

h. **RESOLUTION:**

FY 12-13 Charlottesville Housing Fund Albemarle Housing Improvement Program (AHIP) (1st of 1 reading)

i. **RESOLUTION:**

Transfer Funds from the Capital Improvement Program Project Contingencies to Onesty Pool - \$100,000 (1st of 1 reading)

j. **ORDINANCE:**

Zoning Waiver Provisions (2nd of 2 readings)

2. PUBLIC HEARING / REPORT

McIntire Park Plan – East Side

3. REPORT/ORDINANCE*

Rose Hill/Cynthianna Rezoning (2nd of 2 readings) **DENIED**

4. REPORT

Living Wage

5. REPORT

Capital Improvement Program Application and Review Process Revisions

6. REPORT/RESOLUTION*

Albemarle Place (Stonefield) Erosion & Sedimentation Appeal

OTHER BUSINESS

MATTERS BY THE PUBLIC

*ACTION NEEDED

APPROPRIATION
Jordan Park Playground Equipment
Insurance Recovery
\$43,828

WHEREAS, the City of Charlottesville has received an insurance reimbursement in the amount of \$32,858.58.

WHEREAS, the City of Charlottesville is expecting to receive an additional insurance reimbursement in the amount of \$10,969.42.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$43,828 from insurance reimbursements is hereby appropriated in the following manner:

Revenues - \$43,828

Fund: 425 Project: P-00330 G/L Account: 451110

Expenditures - \$43,828

Fund: 425 Project: P-00330 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$10,969.42 for the additional insurance reimbursement.

APPROPRIATION

The Pavilion at North Grounds Affordable Housing Contribution
\$278,095

WHEREAS, the City granted a special use permit to The Pavilion at North Grounds for increased density;

WHEREAS, it is intended that fees from special use permits relating to density will be applied and used toward the City’s affordable housing initiatives;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby appropriated in the following manner:

Revenue

\$278,095 Fund: 426 WBS Element: P-00672 G/L Account: 451020

Expenditures

\$278,095 Fund: 426 WBS Element: P-00672 G/L Account: 599999

APPROPRIATION
Historic Façade Settlement
\$16,000

WHEREAS, Council approved a settlement agreement for the removal of the historic façade at 219 West Main Street;

WHEREAS, it is intended that the funds received from the settlement be applied towards the cost of a new historic survey of the Downtown Historic District;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby appropriated in the following manner:

Revenue

\$16,000 Fund: 425 WBS Element: P-00484 G/L Account: 434820

Expenditures

\$16,000 Fund: 425 WBS Element: P-00484 G/L Account: 599999

BE IT FURTHER RESOLVED that this appropriation is conditioned upon the receipt of \$16,000.00 in accordance with the terms of the settlement.

RESOLUTION
AHIP Emergency Housing Repair - \$50,000

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$50,000 be paid to the Albemarle Housing Improvement Program for their emergency housing repair program from funds that will come out of Fiscal Year 12 - 13 Charlottesville Housing Funds.

Fund: 426

Project: CP-084

G/L Account: 599999

RESOLUTION
Transfer Funds from the Capital Improvement Program Project
Contingencies to Onesty Pool
\$100,000

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$100,000 is hereby transferred from currently appropriated funds in the following manner:

Transfer From

Amount	Fund	Project	G/L Account
\$100,000	426	CP-080 (P-00684) – CIP Project Contingencies	561425

Transfer To

Amount	Fund	Project	G/L Account
\$100,000	425	P-00158 – Onesty Pool	498010
\$100,000	425	P-00158 – Onesty Pool	599999

**AN ORDINANCE AMENDING AND REORDAINING
CHAPTER 34 (ZONING) OF THE CODE OF THE
CITY OF CHARLOTTESVILLE, VIRGINIA, 1990, AS AMENDED,
TO REVISE PROVISIONS GOVERNING WAIVERS, EXCEPTIONS AND
MODIFICATIONS WITHIN THE ZONING CHAPTER.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Sections 34-282, 34-283, 34-309, 34-312, 34-328, 34-343, 34-345, 34-801, 34-802, 34-820, 34-862, 34-865, 34-913, 34-971, 34-973, 34-983, 34-986, 34-1003, 34-1004, 34-1038, 34-1041, 34-1042, 34-1043, 34-1045, 34-1075, 34-1077, 34-1078, 34-1120, and 34-1124 of Chapter 34 (Zoning) of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained as follows:

ARTICLE II. OVERLAY DISTRICTS

Division 2. Historical Preservation and Architectural Design Control Overlay Districts

Sec. 34-282. Application procedures.

- (a) Applications shall be submitted to the director of neighborhood development services, by a property owner, contract purchaser, or lessee of the property, or by the authorized agent of any such person. Each application shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council.
- (b) Prior to submission of an application for a certificate of appropriateness, a property owner or his agent may request a conference with the full BAR, the chairman of the BAR or the director of neighborhood development services ("pre-application conference") to discuss and review a proposal for activities that require such certificate. The principal objective of the conference shall be to simplify and expedite the formal review process.
- (c) A pre-application conference with the entire BAR is mandatory for the following activities proposed within a major design control district:
 - (1) Development by the City of Charlottesville, or on land owned by the city;
 - (2) Development on property owned by the city that is being sold for private development;
 - (3) Development being financed in whole or in part by the city, or by a related governmental authority (such as the Economic Development Authority or the Redevelopment and Housing Authority);
 - (4) Development having a projected construction cost of three hundred fifty thousand dollars (\$350,000) or more; and,

- (5) Any other development deemed significant by the director of neighborhood development services or the chair of the BAR, due to its size, location or potential impact on surrounding properties.

The required pre-application conference shall take place prior to an applicant's submission of a completed application.

(d) After the pre-application review, if any, has been completed, and at least twenty-one (21) days prior to the meeting at which an application will be considered by the BAR, a property owner or his agent may apply for a certificate of appropriateness. ~~The BAR may waive the twenty-one day requirement when necessary for reasons of public health or safety.~~ The following information and exhibits shall be submitted along with each application:

- (1) Detailed and clear descriptions of any proposed changes in the exterior features of the subject property, including but not limited to the following: the general design, arrangement, texture, materials, plantings and colors to be used, the type of windows, exterior doors, lights, landscaping, parking, signs, and other exterior fixtures and appurtenances. The relationship of the proposed change to surrounding properties will also be shown.
- (2) Photographs of the subject property and photographs of the buildings on contiguous properties.
- (3) Samples to show the nature, texture and color of materials proposed.
- (4) The history of an existing building or structure, if requested by the BAR or staff.
- (5) For new construction and projects proposing expansion of the footprint of an existing building: a three-dimensional model (in physical or digital form) depicting the site, and all buildings and structures to be located thereon, as it will appear upon completion of the work that is the subject of the application.
- (6) In the case of a demolition request where structural integrity is at issue, the applicant shall provide a structural evaluation and cost estimates for rehabilitation, prepared by a professional engineer. ~~The BAR may waive the requirement for a structural evaluation and cost estimates in the case of an emergency, or if it determines that the building or structure proposed for demolition is not historically, architecturally or culturally significant under the criteria set forth in section 34-274.~~

(e) The director shall establish submission deadlines for applications. For purposes this division, a complete application shall be deemed to be "officially submitted" on the date of the next submission deadline following the date on which the application was received by the director.

Sec. 34-283. Administrative review.

(a) Notwithstanding any contrary provision of this article, the director of neighborhood development services may review, and may approve or deny, applications for certificates of appropriateness, in the following situations:

- (1) Exterior alterations which are shown, through adequate documentation, to have been approved for a tax credit under either the federal rehabilitation tax credit program or the similar Virginia state tax credit program;
- (2) The repainting of an existing building or structure in a different color;
- (3) The addition or deletion of awnings, canopies, storm windows, storm doors, gutters, and similar appurtenances;
- (4) The addition, alteration or removal of any sign(s) where such sign(s) are the sole subject of the application, or where all other improvements comprising part of the application are subject to administrative review under this section or sections 34-1041 through 34-1043 ~~34-1049 and 34-1052~~; and
- (5) Structural changes to a building or structure which do not require issuance of a building permit under the Uniform Statewide Building Code except for the following, which must be reviewed by the BAR: replacement of roof coverings and installation or replacement of siding on any buildings or structures, and replacement of windows and doors on any buildings or structures.

(b) In reviewing an application for a certificate of appropriateness, the director of neighborhood development services shall apply the same Criteria and Design Guidelines that the BAR must use in its review process.

(c) Failure of the director of neighborhood development services to approve or disapprove an application within ten (10) working days from the date the application was submitted shall be deemed approval of the application.

(d) Upon approval of an application by the director of neighborhood development services, the director shall issue the approved certificate. If the application is denied, the director shall mail or hand-deliver written notice of this decision to the applicant, which notice shall set forth the specific reasons for the denial, with reference to specific ordinances, laws or regulations. The director shall inform the BAR of his administrative decisions at the next regular meeting following the date of such decisions.

(e) Following a decision of the director upon an application, the applicant, or any other aggrieved party, shall have ten (10) working days from the date of the decision to appeal that decision to the BAR.

(f) In considering an appeal of a decision of the director, the BAR shall review the application as if the application had come before it in the first instance. In an appeal the BAR

may consider any information or opinions relevant to the application, including, but not limited to, those provided by the director.

Division 3. Entrance Corridor Overlay Districts

Sec. 34-309. Certificates of appropriateness.

(a) The following shall require a certificate of appropriateness issued in accordance with this division:

- (1) All improvements requiring a building permit (but for which no site plan is required), other than single- or two-family dwellings where the work requiring the building permit (i) is new construction, or (ii) represents an addition or modification of twenty-five (25) percent or more of the gross area of an existing building or structure.
- (2) Regardless of whether a building permit is required: (i) signs; and (ii) installations or replacements of roof coverings, windows, doors or siding on any building or structure, any part of which, once installed, will be visible from an EC street referenced in section 34-307(a) above, other than those installed on a single- or two-family dwelling.
- (3) All development requiring a site plan.

(b) All applications for the certificates required by subparagraphs (a)(1) or (a)(2) above, shall be reviewed and approved administratively by the director. If administrative approval is granted the applicant shall post a notice of such approval on the subject property. If the application is denied the director shall mail or hand-deliver notice of his decision to the applicant. In either case, the applicant or any other aggrieved party shall have ten (10) working days from the date of the director's decision to appeal the decision to the ERB; no certificate shall be issued prior to expiration of the 10-day period.

(c) All applications for the certificates required by subparagraph (a)(3) above shall be reviewed and approved by the ERB following the process set forth within sections 34-310 through 34-313.

- (1) The ERB shall approve or disapprove an application and, if approved, shall issue a certificate of appropriateness with any reasonable conditions as it may deem necessary to ensure compliance with this division. Failure of the ERB to act upon an application within sixty (60) days from the date of its original submission shall be deemed to constitute approval of the application.
- (2) Nothing contained in this subsection shall be deemed to compromise, limit, or otherwise impair the planning commission in its exercise of preliminary or final site plan review as set forth within Article VII, section 34-800, et seq. of this zoning ordinance.
- (3) It is the express intent of the city council in enacting the provisions of this subsection that matters related to public health and safety, as may be defined by the planning commission, shall prevail over issues within the purview of the ERB. ~~Therefore, the~~

~~planning commission in its review of any preliminary or final site plan may modify, vary or waive any requirement of the certificate of appropriateness as issued by the ERB, upon finding that such action would serve the interests of public health or safety.~~

(d) Notwithstanding the foregoing provisions of this section, no certificate of appropriateness shall be required for the following activities:

- (1) Interior alterations to a building or structure.
- (2) Construction of ramps and other modifications to serve the handicapped.
- (3) Repair and maintenance of buildings or structures which are non-conforming for failure to comply with the provisions of this article.
- (4) General maintenance of buildings or structures, where no substantial change in design or materials is proposed.
- (5) Additions or modifications to a building or structure, where no substantial change in design or materials is proposed, as determined by the director of neighborhood development services or his designee.

(e) Once issued, a certificate of appropriateness shall be binding upon the proposed development, as to any conditions of issuance specified therein. The certificate shall certify that the proposed development (subject to any conditions stated within the certificate) is consistent with the design guidelines applicable to the specific EC street. Signature by the zoning administrator upon a final site plan or building permit, as the case may be, shall constitute such certification.

(f) The validity period of a certificate of appropriateness shall be as follows:

- (1) A certificate of appropriateness associated with a project for which a valid site plan is not required shall expire and become void eighteen (18) months from the date of approval by the entrance corridor review board, unless a building permit to construct the authorized improvements or activities has been issued; or, if no building permit is required, unless construction of the authorized improvements or activities has substantially commenced.
- (2) The validity period of a certificate of appropriateness associated with a project for which a valid site plan is required shall be consistent with that of the approved preliminary and final site plan pursuant to sections 34-822 and 34-825, except a certificate of appropriateness shall expire and become void eighteen (18) months from the date of approval by the entrance corridor review board if preliminary site plan approval has not been granted, or upon revocation of an approved preliminary site plan or expiration of an approved final site plan.
- (3) Prior to the expiration of a certificate of appropriateness, upon written request and for reasonable cause, the director of neighborhood development services or the entrance

corridor review board may extend the validity of any such certificate for a period not to exceed one (1) year.

Sec. 34-312. Application requirements.

(a) Application for a certificate of appropriateness pursuant to this division shall be filed with the director of neighborhood development services by the owner, contract purchaser, or lessee of the property, or by the authorized agent of any such person, of the subject property.

(1) A complete application shall include all plans, maps, studies, reports, photographs, drawings, building elevations, and other informational materials which may be reasonably required in order to make the determinations called for in a particular case.

~~(2) Building elevations shall be provided, unless waived by the director.~~

(3) Each application for a certificate of appropriateness shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council.

(b) The director shall establish submission deadlines for applications. For purposes of this division a complete application shall be deemed to be "officially submitted" on the date of the next submission deadline following the date on which the application was received by the director.

(c) Each application shall include a landscaping plan, for the uses described following below.

(1) For development subject to site plan review, such plan shall meet the requirements set forth below as well as those required within Article VII, section 34-867.

(2) For other applications, the landscaping plan shall consist of drawings, documents and information sufficient to allow the director to determine whether the following requirements are satisfied:

a. Uses to be screened: Parking lots, loading areas, refuse areas, storage areas, detention ponds and mechanical equipment shall be screened from view from the adjacent EC street.

b. Standards for screening: When required, screening shall consist of the following:

(i) A planting strip of vegetation or trees, an opaque wall, an opaque fence or a combination of these.

(ii) Where only vegetative screening is provided, such screening strip shall not be less than twenty (20) feet in depth and shall consist of a double staggered row of evergreen trees on fifteen-foot centers, a minimum of five (5) feet in height when planted, or a double staggered row of evergreen shrubs on five-foot centers, a minimum of twenty-four (24) inches in height when planted. Alternative methods of vegetative screening may be approved by the ERB or the director in connection with approval of a certificate of appropriateness.

(iii) Where a fence or wall is provided for screening, it shall be a minimum of six (6) feet in height with planting required at ten-foot intervals along such structure.

(3) Landscaping. All nonresidential uses, including parking lots and vehicular display areas, shall have all of the street frontage, exclusive of driveways and walkway connections, landscaped with trees and other varieties of plant material at least eighteen (18) inches in height at maturity. ~~The planning commission or the planning director may allow a deviation from these requirements if, in its judgment, such deviation is consistent with the intent of this article.~~ The tree varieties shall conform to those recommended in the city's List of Approved Plantings. All uses shall have the side and rear property edges defined with a fence, wall or curbed planting strip of trees and other plantings a minimum of twenty-four (24) inches in height at maturity.

(d) Each application shall include information about proposed lighting. Lighting fixtures shall be harmonious with the character of existing and proposed structures fronting along the EC street, and shall not exceed the height of any buildings on the site. Further, lighting shall comply with the provisions of Article IX, Division 3, section 34-100, et seq.

Division 4. Public Park Protection Overlay District

Sec. 34-328. Regulations.

(a) No park property within the PPO district shall be sold except by an ordinance passed by a recorded affirmative vote of three-fourths (3/4) of all the members elected to city council, following a public hearing on the proposed sale. Nothing herein shall prohibit the use of property within the PPO district for public parking, public utilities, improvements for storm water management, streets, roads or any other public improvements as may be authorized by city council.

(b) ~~The planning commission~~ city council may grant a reduction or waiver of off-street parking regulations required in section 34-984 of this Code in the Public Park Protection Overlay District (PPO) ~~upon a determination that: (i) there is adequate on-street parking available; and/or (ii) the amount of parking required by section 34-984 would be unreasonable to serve the proposed use of the property and would be inconsistent with the park classification as identified in the City of Charlottesville Comprehensive Plan.~~

Division 5. Historic Conservation Overlay Districts

Sec. 34-343. Standards for review of demolition, razing or moving of a contributing structure.

The following factors shall be considered in determining whether or not to permit the demolition, razing or moving, in whole or in part, of a contributing structure:

- (1) The historic, architectural or cultural significance, if any, of the specific building or structure, including, without limitation:
 - a. The age of the building or structure;

- b. Whether it has been listed on the National Register of Historic Places, or listed on the Virginia Landmarks Register;
 - c. Whether, and to what extent, the building or structure is associated with an historic person, architect or master craftsman, or with an historic event;
 - d. Whether the building or structure, or any of its features, represent an infrequent or the first or last remaining example within the city of a particular architectural style or feature;
 - e. The degree to which distinguishing characteristics, qualities, features or materials remain;
- (2) Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within the conservation district, and whether the proposed demolition would affect adversely or positively the historic or aesthetic character of the district;
 - (3) The overall condition and structural integrity of the building or structure, as indicated by studies prepared by a qualified professional engineer and provided by the applicant (~~studies may be waived by the director if the building is the applicant's primary residence~~), or other information provided to the BAR;
 - (4) Whether, and to what extent, the applicant proposes to preserve portions, features or materials that are significant to the property's historic, architectural or cultural value; and
 - (5) Any applicable provisions of the city's conservation district design guidelines.

Sec. 34-345. Application procedures.

- (a) Applications shall be submitted to the director by a property owner, contract purchaser, or lessee of the property, or by the authorized agent of any such person. Each application shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council.
- (b) The director shall require the applicant to submit sufficient information for the preliminary review to make a determination whether further review and a certificate of appropriateness is required. If the director determines that review and approval by the BAR is required, then the applicant shall submit a complete application that includes the following information:
 - (1) A written description of proposed exterior changes;
 - (2) A general sketch plan of the property including: the location of existing structures; property and setback lines; and any proposed new construction, additions or deletions, parking areas, and fences;
 - (3) The total gross floor area of the existing building and of any proposed additions;
 - (4) Elevation drawings depicting existing conditions and proposed exterior changes;

- (5) Photographs of the subject property in context of the buildings on contiguous properties;
- (6) In the case of a demolition request where structural integrity is at issue, the applicant shall provide a structural evaluation and cost estimates (unless the building is the applicant's primary residence) for rehabilitation, prepared by a professional engineer. ~~The director may waive the requirement for a structural evaluation and cost estimates in the case of an emergency, or if the building is the primary residence of the applicant.~~

ARTICLE VII. SITE PLANS

Division 1. Applicability and Administration

Sec. 34-801. Administration.

- (a) Except as otherwise expressly provided within this article, the city council hereby designates the planning commission as the approval body for site plans. Recognizing that not all plans may require review and deliberation by the commission, council also provides for an administrative review under which the director of the city's department of neighborhood development services (hereinafter, "director") is authorized to act on behalf of the commission. The director shall have no authority to act on behalf of the commission to modify, vary, waive or accept substitution for any requirement of this chapter, ~~except where expressly provided.~~
- (b) The director has certain duties and responsibilities, as set forth within this article, for the administration of the requirements of this division, including, without limitation, the determination as to whether a site plan is required, and the receipt and processing of site plan applications.
 - (1) The director may from time to time establish such reasonable administrative procedures as shall be necessary for the proper administration of this article. On an annual basis, the planning commission shall review such administrative procedures and recommend any changes that a majority thereof deems necessary.
 - (2) The director may delegate in writing to an employee under his supervision any of the functions for which the director is responsible; thereafter, any action taken by such employee shall be deemed an action of the director himself. Wherever the term "director" is used within this division, the term shall mean and include any city employee or official to whom the director has delegated responsibility for a particular action.
- (c) All city officers and employees responsible for the supervision and enforcement of this article shall have the right to enter upon property which is subject to a site plan at all reasonable times, beginning during review of an application and continuing during the period of construction, for the purpose of making periodic inspections for compliance with this article. It shall be the responsibility of the developer to notify the zoning administrator when each stage of a development is ready for inspection as to compliance with an approved site plan.

Sec. 34-802. Site plans--When required.

(a) In all zoning districts, a site plan shall be required for any construction, use or change in use, for any development, and prior to the removal of trees having a caliper of fifteen (15) inches or more, except that no site plan shall be required for the following:

- (1) The construction, addition to, or location of any single-family detached dwelling upon a lot whereon there are located, or proposed to be located, an aggregate of two (2) or fewer dwellings.
- (2) The construction or location of a two-family dwelling on any lot not occupied by any other dwellings.
- (3) Any accessory structure to a single-family detached or two-family dwelling.
- (4) Any change of a use, provided that:
 - a. Such change does not occasion additional parking under the requirements of this chapter;
 - b. No additional ingress/egress, or alteration of existing ingress/egress is recommended by the city, based on intensification of use; and
 - c. No additional ingress/egress, or alteration of existing ingress/egress is proposed.
 - d. No removal of trees having a caliper of fifteen (15) inches or more is proposed.

~~(b) The planning commission may waive the requirement of a site plan in a particular case, or one (1) or more submission requirements, upon a finding that the requirement of such site plan or submission would not forward the purposes of this chapter or otherwise serve the public interest. No such waiver shall be granted until the commission has considered the recommendation of the director. In the event the director recommends a conditional approval, the director shall, within his recommendation, state the relationship of the recommended condition to the provisions of this article.~~

~~(c) The director may waive the requirement of a site plan, or one (1) or more particular submission requirements, for an addition to any existing building, structure or use, upon a determination that such addition will not adversely impact:~~

- ~~(1) Other existing buildings and land uses in the surrounding area;~~
- ~~(2) The existing natural environment;~~
- ~~(3) The safety or convenience of traffic and pedestrian circulation in the surrounding area;~~
- ~~(4) Drainage and public utilities; or~~
- ~~(5) Existing trees having a caliper of eight (8) inches or more.~~

~~Alternatively, the director, in his sole discretion, may refer any waiver request to the planning commission for consideration. Any decision of the director denying a waiver request may be appealed by the developer to the planning commission.~~

Division 2. Procedures

Sec. 34-820. Preliminary plan submittal and review.

(a) Applications for preliminary site plan approval shall be submitted to the department of neighborhood development services. Each application and each re-submittal of an application previously submitted shall be accompanied by the required fee for a site plan, as set forth within the most recent fee schedule adopted by city council. The director shall establish submission deadlines for such applications. For the purposes of section 34-823, a preliminary site plan shall be deemed "officially submitted" on the date of the next submission deadline following the date on which the application was received by the department.

- (1) Plans that lack the information required by section 34-827 shall be deemed incomplete and shall be denied by the director, in writing, within ten (10) days after the applicable submission deadline.
- (2) Within ninety (90) days after receiving a notice of denial ("grace period"), a developer may resubmit the preliminary site plan, without application fees, and request reinstatement of review of the plan ("resubmittal").
- (3) The date of the next submission deadline following such re-submittal shall be deemed to be the original date on which the application was "officially submitted" for purposes of section 34-823.
- (4) In the event the developer fails to resubmit a proposed preliminary site plan within the ninety-day grace period, a new application and fee shall be required for a subsequent submission.

(b) Upon receipt of a complete application for preliminary site plan approval:

- (1) The director shall circulate the plan for review and comment by the following city officials, employees and departments, together with notice of the date on which the plan has been scheduled for a preliminary site plan conference: the city engineer, the department of public works, the fire department, the building code official, the zoning administrator, and other city or state officials, employees, departments or agencies whose review and comments are deemed necessary by the director. All resulting requirements and recommendations shall be forwarded to the director by city staff prior to the date of the required preliminary site plan conference. For purposes of this article, the term "requirements" shall be deemed to mean regulatory provisions of this chapter, and any duly adopted rules and regulations of a reviewing department, and "recommendations" shall be deemed to include suggestions for design changes deemed to be in the public interest by a reviewing official in the area of his expertise.
- (2) The director shall schedule a preliminary site plan conference, in accordance with section 34-821.

- (c) Upon conclusion of the preliminary site plan conference:
- (1) For plans reviewed administratively by the director, at such time as the director determines that the preliminary site plan complies with the requirements of this article, the director shall issue a letter to the developer communicating that the plan has been approved and stating the conditions which must be satisfied prior to submittal of the final site plan.
 - (2) For plans reviewed by the planning commission, the director shall transmit the preliminary site plan, together with the recommendations of city staff and the developer's written statement(s) concerning the staff recommendations, to the planning commission for review.
- (d) The planning commission shall review the following preliminary site plans:
- (1) Those submitted in connection with existing or proposed planned unit developments
 - (2) Those reflecting proposed development of property that is the subject of any existing or proposed special permit
 - (3) Those referred to the planning commission at the request of the director, an applicant, or any two (2) members of the planning commission
 - (4) Those which are the subject of an appeal from a decision of the director, as allowed by section 34-823.
 - (5) Those which propose to disturb a critical slope in which the applicant must submit a request for modification or waiver pursuant to section 34-1120.

ARTICLE VIII. IMPROVEMENTS REQUIRED FOR DEVELOPMENTS
Division 2. Landscaping and Screening

Sec. 34-862. Approved list of plantings.

The director shall, from time to time, promulgate a list of trees and other plant materials acceptable for use in meeting the landscaping requirements of this division ("list of approved plantings"). This list shall be maintained in the department of neighborhood development services and shall be available for inspection. ~~Except where otherwise authorized by the director as an approved variation or waiver, all~~ All trees and other plant materials required by this article shall be selected from the current list of approved plantings.

~~**Sec. 34-865. Variations, waivers.**~~

~~(a) — The director may vary or waive the requirement of a landscape plan, in whole or in part, or any improvements required by this article, upon a finding that the requirement of such plan and/or improvements would not forward the purposes of this chapter or otherwise serve the~~

~~public interest; provided that such variation or waiver shall result in a plan substantially in compliance with the approved site plan, together with all conditions imposed by the director or commission; and provided further that any such variation or waiver shall have no additional adverse visual impact on adjacent properties or public areas, nor otherwise would be inconsistent with the stated purposes of this section.~~

~~(b) — A developer requesting a variation or waiver pursuant to this section shall file with the director a written request that shall state reasons and justifications for the request, together with such alternatives as may be proposed by the developer. The director may approve, approve with conditions, or deny such request. In the case of conditional approval, or of denial, the director shall notify the developer in writing as to the reasons for such action within five (5) days of such decision. Thereafter, the developer may appeal the director's decision to the commission, by submitting a written notice of appeal to the director.~~

Division 5. Public Areas, Facilities and Uses

Sec. 34-913. Drainage; stormwater management; soil erosion.

(a) ~~Slopes in excess of ten (10) percent shall be treated in a manner acceptable to the director of neighborhood development services or the planning commission~~ All disturbed areas shall be stabilized in accordance with the current edition of the Virginia Erosion and Sediment Control Handbook to prevent soil erosion and excessive runoff; provided, that measures taken for erosion and sedimentation control shall conform to the standards and procedures set forth in Chapter 10 of this Code; and provided further that, in cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted, reviewed and approved concurrently with the site plan.

(b) The following guidelines shall be followed in developing all site plans:

- (1) New drainage facilities or improvements to existing drainage facilities shall be designed to cope with storms having a ten-year recurrence interval.
- (2) Drainage improvements or those constructed in conjunction with site or subdivision plans shall be constructed downstream to a location where the receiving channel or conduit will convey the ten-year storm without overtopping its banks or eroding.
- (3) All site plans shall include provisions for on-site detention of runoff, or in lieu thereof the developers may be required to contribute the pro rata share for the site toward the estimated cost of a planned neighborhood or regional detention basin. Where on-site detention ponds are proposed, plans shall include a description of the maintenance to be provided for such ponds.
- (4) On-site detention design is intended to restrict post-development runoff to no more than the calculated predevelopment runoff. For new or redevelopment sites the design storm shall be the ten-year storm, or a two-year storm when calculated as if the site were totally vacant in the predevelopment stage, whichever is greater.

~~(e) The director of neighborhood development services or the planning commission may waive or modify the above requirements on the basis of best engineering practices, or may require the installation of water quality devices in lieu of detention. Such devices can include but are not limited to: sand filters, bio swales, grassed swale with check dams, filter strips with level spreaders and other practices as defined in the Virginia Erosion Control Handbook.~~

ARTICLE IX. GENERALLY APPLICABLE REGULATIONS

Division 2. Off-Street Parking

Sec. 34-971. Applicability.

~~(a) Except to the extent that an exemption is granted, off-street parking and loading spaces shall be provided in accordance with the provisions of this division, at the time of construction, erection, alteration, enlargement or change in use of any building, structure or use. Thereafter, such spaces shall be maintained and kept available for such use, to the extent of the minimum number of spaces required hereunder, unless there is a change of use or floor area.~~

(b) Any use for which the required amount of parking was approved as of December 15, 1975 shall be considered as conforming as to the parking requirements, so long as the use remains unchanged. Otherwise, only those uses for which parking or loading space was approved and provided prior to the effective date of this chapter shall be considered in conformance with this division, provided the intensity of such use remains unchanged.

(c) For enlargements of existing structures equal to or greater than 25% of the structure's gross floor area, required parking must equal the sum of those spaces prior to the enlargement and the number of spaces required by these regulations for any additional use area, unless waived by city council. except in the following circumstances: Where the enlargement is less than 25% of structure's gross floor area no additional parking is required.

~~(1) Where the enlargement is less than twenty-five (25) percent of the structure's gross floor area, no additional parking is required.~~

~~(2) The director of neighborhood development services may grant a reduction or waiver of this requirement upon a determination that: (i) space limitations do not permit the provision of additional parking, (ii) there is adequate on-street parking available, (iii) the provision of additional parking would necessitate the demolition of an existing structure, in whole or in part, and/or (iv) the provision of additional parking would necessitate excavation for underground parking.~~

(d) For a change of use within an existing structure where there is no enlargement of the existing structure, no additional parking is required.

(e) The following three (3) parking zones shall be subject to the specific requirements set forth hereunder:

- (1) The Urban Core Parking Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking shall not be required for a development in the Urban Core Parking Zone unless such development requires a special use permit for increased residential density above that allowed by right. Parking required pursuant to Article IX shall be provided for all additional units allowed as a result of the increased density, unless such requirement is waived by council. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below.
- (2) The Corner Parking Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking shall not be required for a development in the Corner Parking Zone unless such development requires a special use permit for increased residential density above that allowed by right. Parking required pursuant to Article IX shall be provided for all additional units allowed as a result of the increased density, unless such requirement is waived by Council. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below.
- (3) The Parking Modified Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking for a development in the parking modified zone shall be computed using the provisions of sections 34-984 and 34-985. Only if a development requires more than twenty (20) parking spaces pursuant to Sec. 34-984 of this Code shall parking be required as follows: non-residential developments shall provide fifty (50) percent of the required parking, and residential developments shall provide one (1) space per unit. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below. Affordable housing units (as defined by city council in its adopted affordable housing policy) created in any development shall not be included in the parking calculation, and parking shall not be required as a result of any such units as long as they remain affordable.
- (4) Required parking in the urban core parking zone, corner parking zone, and the parking modified zone shall be provided either:
 - a. On site;
 - b. Within one thousand (1,000) feet of the site, subject to all other conditions of section 34-973;
 - c. By payment into a city parking fund in a standard amount per space established by city council;
 - d. By making a one-time contribution for transit improvements equivalent to the cost of each required parking space in a standard amount per space established by city council; or by
 - e. Implementation of alternative transportation improvements equivalent to the cost of each required parking space in a standard amount per space established by city council, as approved by planning commission,(5)
- (5) In addition to provision of parking as required herein, all developments requiring a site plan within the urban core parking zone, corner parking zone, and the parking modified

zone shall provide bicycle storage facilities, other than bicycle racks, in accordance with section 34-881.

Sec. 34-973. Off-site locations permitted, subject to conditions.

All off-street parking spaces shall be located on the same lot as the use or structure to be served, except as follows:

- (1) Off-site spaces shall be within one thousand four hundred (1,400) feet of the use or structure served. For the purpose of this requirement, distance from parking spaces to the use or structure served shall be measured in a straight line from the nearest parking space to the use served.
- (2) Off-site parking spaces may be located in a different zoning district than the use or structure served, if permitted by right or by special use permit in such zoning district.
- (3) An off-site location must either: (i) be located on land in the same ownership as that of the use or structure served, or in the case of cooperative provision of parking space, in the ownership of at least one (1) of the participants in such provisions, or (ii) be subject to arrangements (such as long-term lease, recorded easement, etc., providing the required parking arrangements for a period of at least twenty-five (25) years) as will assure the availability of such space for the duration of the use or structure to be served.
- (4) No changes shall be made to any off-site parking lot that would reduce the parking available for a use or structure served by such lot, unless alternate parking arrangements are made to provide an equivalent number of spaces ~~and such alternate arrangements are approved by the director of neighborhood development services.~~
- ~~(5) Where a waiver has been granted pursuant to section 34-986, the director may alter some or all of the required off-street parking spaces for that use or structure.~~
- (6) The use or structure must supply at least forty (40) percent of its required spaces on-site.
- ~~(7) The planning commission may, for reasonable cause shown, grant an exception to this requirement after consideration of the following factors: (i) proximity of proposed parking areas to the uses and structures served, (ii) ease of access between the proposed parking areas and the uses and structures served, (iii) present and future availability of on-street parking and/or cooperative parking facilities, and (iv) submission by the owner of the structure or use subject to the parking requirement of a parking management plan signed by a professional transportation engineer. All required handicapped parking spaces must be located on site unless. This requirement may be waived by the director of neighborhood development services, upon a determination that space limitations do not permit the provision of the required handicapped spaces, and ~~or~~ the owner of the use or structure to be served by such spaces demonstrates that the proposed use can be adequately served by existing designated on-street handicapped space(s) within seventy-five (75) feet of such use or structure.~~

- (8) All required loading spaces for a use or structure must be located on site, except as provided in section 34-983 (Off-street loading area requirements).

Sec. 34-983. Off-street loading areas.

(a) In addition to any required off-street parking spaces, there shall be provided adequate off-street space for loading and unloading vehicles owned or leased and regularly used in the operation of any commercial (business or industrial) use. In addition, when any such vehicles are to be parked on-site when not loading or unloading, there shall be provided adequate parking spaces to accommodate the maximum number of vehicles that may be reasonably expected to be parked on the site of such use at any one (1) time.

(b) Each loading space shall have a minimum dimension of twelve (12) by thirty-five (35) feet, and a vertical clearance of at least fourteen (14) feet.

(c) Loading requirements ~~shall not apply~~ ~~may be waived by the director of neighborhood development services~~ under the following circumstances: (i) space limitations do not permit the provision of off-street loading areas, ~~or~~ and (ii) the owner of the use of structure demonstrates that the proposed use can be adequately served by an existing designated on or off-street loading facility within two hundred (200) feet of the use served.

(d) Loading spaces may be provided cooperatively for two (2) or more uses, subject to the approval by the director of neighborhood development services of the appropriate legal instruments (a long-term lease, recorded easement, etc.) to ensure the permanent availability of off-street loading for all such uses.

Sec. 34-986. ~~Waivers.~~ Other off-street parking regulations.

~~The planning commission may waive off street parking requirements, in whole or in part, in the following circumstances:~~ Off street parking requirements shall not apply in the following circumstances:

- (1) For a single-family detached dwelling, ~~upon a determination that~~ if (i) the dwelling is not located on a corner lot, (ii) the lot on which the dwelling is located has no access to a public alley, and (iii) the lot has fewer than thirty (30) feet of front yard street frontage.
- (2) For single-family attached and two-family dwellings, ~~upon a determination that:~~ if (i) the owner of the property has demonstrated the availability of adequate on-street parking; or (ii) the lot on which such dwelling is located cannot accommodate the required number of parking spaces.
- (3) For multi-family dwellings, commercial and industrial uses, and mixed-use developments, ~~upon a determination that~~ if (i) the use or structure is not located on a corner lot, (ii) the lot on which the use or structure is located has no access to a public alley, and (iii) the lot has fewer than 40 feet of front yard street frontage.

Division 3. Outdoor Lighting

Sec. 34-1003. Standards.

The following standards shall apply to each outdoor luminaire:

- (a) ~~Except as provided in section 34-1004, e~~Each outdoor luminaire subject to these outdoor lighting regulations shall be a full cutoff luminaire.

...

~~Sec. 34-1004. Modification or waiver.~~

- (a) ~~Any standard of this division may be modified or waived in an individual case, as provided herein:~~

- (1) ~~The planning commission may modify or waive any standard set forth in this division in an individual case, and the planning commission may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations, in either of the following circumstances:~~

- a. ~~Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.~~
- b. ~~Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity, or other evidence if a recommended practice is not applicable~~

- (2) ~~Prior to considering a request for a modification or waiver, five (5) days' written notice shall be provided to the owner or owner's agent and to the occupant of each abutting lot or parcel and each parcel immediately across the street or road from the lot or parcel which is the subject of the request. The written notice shall identify the nature of the request and the date and time the commission will consider the request.~~

- (b) ~~Appeals.~~

- (1) ~~Where the planning commission considers a request for a modification or waiver as part of an application for approval of a site plan, the decision of the commission shall be deemed part of the decision on the site plan, appealable only as set forth within section 34-823.~~
- (2) ~~When the planning commission considers a request for a modification or waiver as part of an application for approval of a rezoning or special use permit, the commission's~~

~~decision shall be subject to review by the city council. Otherwise, neither the grant or denial of a modification or waiver request may be appealed to the city council.~~

Sec. 34-1004. Lighting for Recreational Facilities, Outdoor.

An outdoor luminaire or system of outdoor luminaires required for an athletic facility may exceed the lumens and height standards in Sec. 34-1003 to the minimum extent necessary to provide sufficient illumination of the facility for its safe use as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity.

Division 4. Signs

Sec. 34-1038. General sign regulations.

- (a) ...
- (b) ...
- (c) Marquee signs.
 - (1) Signs on marquees for establishments other than theaters shall not exceed twenty (20) square feet on any side or front section of the marquee. Signs may extend above the top of the marquee on which they are located, provided that the vertical dimension of the marquee and sign, together, does not exceed five (5) feet. If such signs are illuminated, exposed light sources shall not be used.
 - (2) Signs may be mounted or located underneath a marquee, subject to the following restrictions:
 - a. There shall be only one (1) sign for each entrance to an establishment.
 - b. Such signs shall not exceed twelve (12) inches in depth, with not more than an additional three (3) inches in depth to include the supports and hangers attaching the sign to the marquee.
 - c. If such signs are illuminated, the illumination shall be by interior lighting only, subject to the interior lighting restrictions as set forth in this chapter.
 - (3) Theatre marquees including readerboards shall not exceed five (5) feet in the vertical dimension. Such signs may extend above the top of the marquee; provided, the vertical dimension of the structure, including both marquee and sign, shall not exceed five (5) feet. If such signs are illuminated, exposed light sources shall not be used.
 - (4) Unless otherwise provided within this article:
 - a. No marquee sign shall exceed an area of sixty (60) square feet including all faces of the sign.

- b. No part of any marquee shall be lower than ten (10) feet from grade.
- (5) The height standards set forth in this section for marquees located within architectural design control or entrance corridor districts may be modified by the BAR or ERB, as appropriate. ~~respectively, in approving a proposed comprehensive signage plan.~~

**Sec. 34-1041. Downtown and University Corner architectural design control districts--
Special regulations.**

In addition to other applicable regulations set forth in this article, the following regulations shall apply to establishments located within the downtown and university corner architectural design control districts (reference section 34-272) except as approved with an optional comprehensive sign plan.

- (a) Freestanding and monument signs shall not be permitted.
- (b) Pole signs may be permitted with Board of Architectural Review approval.
- (c) Internally lit signs and neon signs shall not be permitted.
- (d) One (1) projecting sign is permitted for each separate storefront fronting on a public right-of-way at ground level.
- (e) No single sign face of any projecting sign shall have an area greater than ten (10) square feet.
- (f) Projecting signs shall have a projection of not more than thirty-six (36) inches beyond the facade of the building to which it is attached, except marquees, which shall be subject to regulations as provided in section 34-1038(c).
- (g) One (1) additional projecting sign may be permitted for a doorway entrance that provides primary access to a business located on an upper floor or basement level.
- (h) The character of all signs shall be harmonious to the character of the structure on which they are to be placed. Among other things, consideration shall be given to the location of signs on the structure in relation to the surrounding buildings; the use of compatible colors; the use of appropriate materials; the size and style of lettering and graphics; and the type of lighting.
- (i) Except in the case of new construction, all signs in this district shall be subject to administrative review by the director of neighborhood of development services, with appeals to the board of architectural review. The board of architectural review shall review all signs for new construction. ~~The director of neighborhood development or board of architectural review may, as part of the appropriate review, waive the requirements herein if necessary to permit the restoration or reconstruction of an original sign associated with a protected property.~~
- (j) ~~Notwithstanding any contrary provisions of this article, the director of neighborhood development services may approve the attachment or suspension of a sign from~~ A sign may be

~~attached to an existing freestanding or projecting sign, or, in~~ In the case of a building on a site with more than one (1) street frontage or more than one (1) principal entrance, one (1) additional freestanding or projecting sign per additional street frontage or principal entrance is permitted, ~~if the director of neighborhood development services determines that such an arrangement is in keeping with the architectural character of the property.~~

(k) Notwithstanding any contrary provisions of this article, the restoration or reconstruction of an original sign associated with a protected property is permitted, if the establishment identified in the sign is still in operation at that location.

Sec. 34-1042. West Main Street architectural design control district--Special regulations.

In addition to other applicable regulations set forth within this article, the following regulations shall apply to certain signs within the West Main Street Architectural Design Control district (see section 34-272), except as approved with an optional comprehensive sign plan:

- (a) One (1) projecting sign is permitted for each separate storefront fronting on a public right-of-way at ground level. One (1) additional projecting sign may be permitted for a doorway entrance that provides primary access to a business located on an upper floor or basement level.
- (b) No single sign face of any projecting sign shall have an area greater than ten (10) square feet.
- (c) Projecting signs shall have a projection of not more than thirty-six (36) inches beyond the facade of the building to which it is attached, except marquees, which shall be subject to regulations as provided in section 34-1038(c).
- (d) No internally lit signs, except internally lit channel letters, or neon signs shall be permitted.
- (e) The character of all signs shall be harmonious to the character of the structure on which they are to be placed. Among other things, consideration shall be given to the location of signs on the structure in relation to the surrounding buildings, the use of compatible colors, the use of appropriate materials, the size and style of lettering and graphics, and the type of lighting.
- (f) Except in the case of new construction, all signs in this district shall be subject to administrative review by the director neighborhood development, with appeals to the board of architectural review. The board of architectural review shall review all signs for new construction. ~~The director of neighborhood development services or board of architectural review may, as part of the appropriate review, waive the requirements herein if necessary to permit the restoration or reconstruction of an original sign associated with a protected property.~~

- (g) Notwithstanding any contrary provisions of this article, the restoration or reconstruction of an original sign associated with a protected property is permitted, if the establishment identified in the sign is still in operation at that location.

Sec. 34-1043. North Downtown, Wertland Street, Ridge Street, Oakhurst Circle, and Rugby Road architectural design control districts--Special regulations.

In addition to other applicable regulations set forth in this article, the following regulations shall apply to establishments located within the North Downtown, Wertland Street, Ridge Street, Oakhurst Circle, and Rugby Road architectural design control districts (reference section 34-272), except as approved with an optional comprehensive sign plan:

- (a) The total area of all signs permitted for any establishment shall not be greater than twelve (12) square feet.
- (b) No single wall sign shall have an area greater than six (6) square feet.
- (c) Freestanding signs other than pole signs shall not be permitted.
- (d) The character of all signs shall be harmonious to the character of the structure on which they are to be placed. Among other things, consideration shall be given to the location of signs on the structure in relation to the surrounding buildings, the use of compatible colors, the use of appropriate materials, the size and style of lettering and graphics, the type of lighting, and whether an original sign associated with a protected property is being restored or reconstructed.
- (e) Except in the case of new construction, all signs in this district shall be subject to administrative review by the director of neighborhood development, with appeals to the board of architectural review. The board of architectural review shall review all signs for new construction. ~~The director of neighborhood development or board of architectural review may, as part of the appropriate review, waive the requirements herein if necessary to permit the restoration or reconstruction of an original sign associated with a protected property.~~
- (f) Notwithstanding contrary provisions herein, ~~the director of neighborhood development services may approve the attachment or suspension of a sign from~~ a sign may be attached to an existing pole or projecting sign or, in the case of a building on a site with more than one (1) street frontage or more than one (1) principal entrance, one (1) additional pole or projecting sign per additional street frontage or principal entrance is permitted.
- (g) No internally lit signs or neon signs shall be permitted.
- (h) Notwithstanding any contrary provisions of this article, the restoration or reconstruction of an original sign associated with a protected property is permitted, if the establishment identified in the sign is still in operation at that location.

Sec. 34-1045. Optional comprehensive signage plan.

(a) For a proposed development subject to site plan review, and for any development that is subject to architectural review under Article II, Divisions 2, ~~or 3,~~ or 5 of this chapter, ~~the reviewing official or public body may waive or~~ city council may modify requirements of this division by approving a comprehensive signage plan for such development or project. ~~Where a particular development is subject to both site plan review and architectural review, the official or public body conducting the architectural review shall be the decision maker upon a proposed comprehensive signage plan.~~

(b) For the purposes of this section, the term "comprehensive signage plan" refers to a written plan detailing the type, quantity, size, shape, color, and location of all signs within the development that is the subject of the plan, where the number, characteristics and/or locations of one (1) or more signs referenced within the plan do not comply with the requirements of this division.

(c) ~~The official or public body~~ City council may approve a comprehensive signage plan, upon a determination that:

- (1) There is good cause for deviating from a strict application of the requirements of this division, and
- (2) The comprehensive signage plan, as proposed, will serve the public purposes and objectives set forth within section 34-1021 of this division at least as well, or better, than the signage that would otherwise be permitted for the subject development.

(d) Applications for approval of a comprehensive signage plan shall be submitted in writing to the director of neighborhood development services, and shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council.

(e) Each application for approval of a comprehensive signage plan shall include the following information:

- (1) A written narrative description of the overall plan, including, without limitation: a tally of the total number of signs included within the coverage of the plan, and a summary of how the applicant believes the comprehensive signage plan will serve the objectives set forth within section 34-1021;
- (2) A color illustration or photograph of each sign included within the plan. For signs with multiple faces, an illustration or photograph shall be provided for each face. For monument and pole signs, an illustration or photograph of proposed landscaping shall be provided;
- (3) A written description of the type, size (dimensions), materials, and proposed location of each sign;

- (4) A map or other written identification and description of all existing signs on the property comprising the proposed development;
- (5) Color illustrations or photographs of signage existing on adjacent properties;
- (6) A written description (and illustration or photograph) of proposed lighting (for illuminated signs).
- (f) ~~Appeals from decisions of a city official or public body reviewing a proposed comprehensive signage plan shall be taken in the same manner as provided within this chapter with respect to other decision(s) of that official or public body.~~

Division 5. Telecommunications Facilities

Sec. 34-1075. Setback requirements.

- (a) All communications facilities shall comply with the minimum setback requirements of the zoning district in which they are located.
- (b) Support structures for freestanding communications facilities shall be located on a lot in such a manner that, in the event of collapse, the structure and supporting devices shall be contained within the confines of the property lines.
- (c) No portion of any freestanding communications facility shall project into a required setback more than the maximum projection permitted in the zoning districts in which the facility or antenna is located.
- (d) Where alternative tower, monopole tower, lattice tower or other self-supporting tower support structures are permitted, either by right or by special use permit:
 - (1) The communications facility shall be set back from any existing residence, residentially-zoned property, public street or other public property, a distance of at least the height of the PWSF or communications facility, but in no event less than one hundred (100) feet.
 - (2) ~~The planning commission may waive or reduce setback requirements applicable to such support structures, if presented with engineering data that proves, to its satisfaction, that adjacent properties are reasonably protected from the potential impact of a support structure failure.~~
- (e) ~~Upon receipt of evidence that the failure characteristics of a freestanding communications facility are such that the required setbacks would be insufficient to contain debris in the event of the failure of a facility or its support structure, the director of neighborhood development services or his designee shall have the authority to increase any required setback to a distance sufficient to contain debris in the event of a such failure.~~

Sec. 34-1077. Screening and landscaping.

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

- (1) For facilities one hundred fifty (150) feet in height or less, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting shall be spaced not more than five (5) feet apart within ten (10) feet of the perimeter of the required setback area.
- (2) For towers more than one hundred fifty (150) feet in height, in addition to the requirements set forth in subsection (a)(1), above, at least one (1) row of deciduous trees, with a minimum caliper of two and one-half (2 1/2) inches at the time of planting, and spaced not more than forty (40) feet apart, shall be provided within twenty (20) feet of the perimeter of the required setback area.
- (3) All security fencing shall be screened from view.

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

(c) Landscaping materials shall be maintained by the owner and operator of the support structure for the life of the installation.

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

~~(e) In lieu of the landscaping requirements set forth within this section, an applicant may prepare a detailed plan and specifications for landscaping and screening, including plantings, fences, walls, topography, etc., to screen support structures and accessory uses. The plan shall accomplish the same degree of screening achieved by the requirements of this section, but may deviate from the specific requirements set forth if, in the opinion of the director of neighborhood development services, or his designee, the public interest will be equally served by such plan. In certain locations where the visual impact of a proposed facility would be minimal (such as a property surrounded by undevelopable land, or a site located within a heavily developed area of the city) the specific landscaping requirements set forth within this section may be reduced or waived by the director of neighborhood development services or his designee.~~

Sec. 34-1078. Lighting and security.

(a) No communications facility shall be artificially lighted, except for:

- (1) Security and safety lighting of equipment buildings, if such lighting is appropriately down-shielded to keep light within the boundaries of the site.

- (2) Such lighting as may be required by the FAA, FCC or other applicable governmental authority, installed in such a manner as to minimize impacts on adjacent residences. Where the FAA or FCC requires lighting "dual lighting" (red at night/strobe during day) shall be utilized unless otherwise recommended by FAA or FCC guidelines.

(b) Security fencing shall be required around the perimeter of support structures and any accessory utility structures associated with freestanding communications facilities, in accordance with the following minimum requirements:

- (1) Security fencing shall be maintained by the owner and operator(s) of the communications facility, for the life of the facility. Security fencing shall be constructed of decay-resistant materials, and shall be not less than six (6) feet in height.
- (2) Security fencing shall be equipped with anti-climbing devices.
- (3) ~~Security fencing requirements may be waived by the director of neighborhood development services or his designee, for alternative tower structures.~~ For alternative tower structures where the support structure is secured so that the public cannot access the antenna array, equipment shelter and other apparatus for a PWSF or other communications facility, security fencing shall not be required.

Division 7. Lots and Parcels - Development; General Regulations

Sec. 34-1120. Lot regulations, general.

(a) *Frontage requirement.* Every lot shall have its principal frontage on a street or place (i) that has been accepted by the city for maintenance, or (ii) that a subdivider or developer has been contractually obligated to install as a condition of subdivision or site plan approval and for which an adequate financial guaranty has been furnished to the city. Except for flag lots, stem lots, and cul-de-sac lots, or other circumstances described within the city's subdivision ordinance, no lot shall be used, in whole or in part, for any residential purpose unless such lot abuts a street right-of-way for at least the minimum distance required by such subdivision ordinance for a residential lot.

(b) *Critical slopes.*

(1) Purpose and intent. The provisions of this subsection (hereinafter, "critical slopes provisions") are intended to protect topographical features that have a slope in excess of the grade established and other characteristics in the following ordinance for the following reasons and whose disturbance could cause one (1) or more of the following negative impacts:

- a. Erosion affecting the structural integrity of those features.
- b. Stormwater and erosion-related impacts on adjacent properties.
- c. Stormwater and erosion-related impacts to environmentally sensitive areas such as streams and wetlands.

- d. Increased stormwater velocity due to loss of vegetation.
- e. Decreased groundwater recharge due to changes in site hydrology.
- f. Loss of natural or topographic features that contribute substantially to the natural beauty and visual quality of the community such as loss of tree canopy, forested areas and wildlife habitat.

These provisions are intended to direct building locations to terrain more suitable to development and to discourage development on critical slopes for the reasons listed above, and to supplement other regulations and policies regarding encroachment of development into stream buffers and floodplains and protection of public water supplies.

(2) Definition of critical slope. A critical slope is any slope whose grade is 25% or greater and:

- a. A portion of the slope has a horizontal run of greater than twenty (20) feet and its total area is six thousand (6,000) square feet or greater; and
- b. A portion of the slope is within two hundred (200) feet of any waterway as identified on the most current City Topographical Maps maintained by the Department of Neighborhood Development Services."

Parcels containing critical slopes are shown on the map entitled "Properties Impacted by Critical Slopes" maintained by the Department of Neighborhood Development Services. These critical slopes provisions shall apply to all critical slopes as defined herein, notwithstanding any subdivision, lot line adjustment, or other action affecting parcel boundaries made subsequent to the date of enactment of this section.

- (3) Building site required. Every newly created lot shall contain at least one (1) building site. For purposes of this section, the term building site refers to a contiguous area of land in slopes of less than 25%, as determined by reference to the most current City Topographical Maps maintained by the Department of Neighborhood Development Services or a source determined by the city engineer to be of superior accuracy, exclusive of such areas as may be located in the flood hazard overlay district or under water.
- (4) Building site area and dimensions. Each building site in a residential development shall have adequate area for all dwelling unit(s) outside of all required yard areas for the applicable zoning district and all parking areas. Within all other developments subject to the requirement of a site plan, each building site shall have adequate area for all buildings and structures, parking and loading areas, storage yards and other improvements, and all earth disturbing activity related to the improvements.
- (5) Location of structures and improvements. The following shall apply to the location of any building or structure for which a permit is required under the Uniform Statewide Building Code and to any improvement shown on a site plan pursuant to Article VII of this chapter:

- a. No building, structure or improvement shall be located on any lot or parcel within any area other than a building site.
- b. No building, structure or improvement, nor any earth disturbing activity to establish such building, structure or improvement shall be located on a critical slope, except as may be permitted by a modification or waiver.

(6) *Modification or waiver.*

- a. Any person who is the owner, owner's agent, or contract purchaser (with the owner's written consent) of property may request ~~the planning commission to modify or waive~~ a modification or waiver of the requirements of these critical slopes provisions. Any such request shall be presented in writing and shall address how the proposed modification or waiver will satisfy the purpose and intent of these provisions.
- b. The Director of Neighborhood Development Services shall post on the city website notice of the date, time and place that a request for a modification or waiver of the requirements of these critical slopes provisions will be reviewed and cause written notice to be sent to the applicant or his agent and the owner or agent for the owner of each property located within five hundred feet of the property subject to the waiver. Notice sent by first class mail to the last known address of such owner or agent as shown on the current real estate tax assessment books, postmarked not less than five days before the meeting, shall be deemed adequate. A representative of the department of neighborhood development services shall make affidavit that such mailing has been made and file the affidavit with the papers related to the site plan application.
- c. All modification or waiver requests shall be submitted to the Department of Neighborhood Development Services, to be reviewed by the Planning Commission. In considering a requested modification or waiver the Planning Commission shall consider the recommendation of the director of neighborhood development services or their designee. The director, in formulating his recommendation, shall consult with the city engineer, the city's environmental manager, and other appropriate officials. The director shall provide the Planning Commission with an evaluation of the proposed modification or waiver that considers the potential for soil erosion, sedimentation and water pollution in accordance with current provisions of the Commonwealth of Virginia Erosion and Sediment Control Handbook and the Virginia State Water Control Board best management practices, and, where applicable, the provisions of Chapter 10 of the City Code. The director may also consider other negative impacts of disturbance as defined in these critical slope provisions.
- d. The Planning Commission shall make a recommendation to City Council in accordance with the criteria set forth in this section, and City Council may thereafter grant a modification or waiver upon making a finding that:

~~The planning commission may grant a modification or waiver upon making a finding that:~~

- (i) The public benefits of allowing disturbance of a critical slope outweigh the public benefits of the undisturbed slope (public benefits include, but are not limited to, stormwater and erosion control that maintains the stability of the property and/or the quality of adjacent or environmentally sensitive areas; groundwater recharge; reduced stormwater velocity; minimization of impervious surfaces; and stabilization of otherwise unstable slopes); or
- (ii) Due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of a property, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property or would result in significant degradation of the site or adjacent properties.

No modification or waiver granted ~~by the commission~~ shall be detrimental to the public health, safety or welfare, detrimental to the orderly development of the area or adjacent properties, or contrary to sound engineering practices.

- e. In granting a modification or waiver, ~~the commission~~ city council may allow the disturbance of a portion of the slope, but may determine that there are some features or areas that cannot be disturbed. These include, but are not limited to:
 - (i) Large stands of trees;
 - (ii) Rock outcroppings;
 - (iii) Slopes greater than 60%.

~~The commission~~ City council shall consider the potential negative impacts of the disturbance and regrading of critical slopes, and of resulting new slopes and/or retaining walls. ~~The commission~~ City council may impose conditions as it deems necessary to protect the public health, safety or welfare and to insure that development will be consistent with the purpose and intent of these critical slopes provisions. Conditions ~~applied by the commission~~ shall clearly specify the negative impacts that they will mitigate. Conditions may include, but are not limited to:

- (i) Compliance with the "Low Impact Development Standards" found in the City Standards and Design Manual.
- (ii) A limitation on retaining wall height, length, or use;
- (iii) Replacement of trees removed at up to three-to-one ratio;
- (iv) Habitat redevelopment;
- (v) An increase in storm water detention of up to 10% greater than that required by city development standards;

- (vi) Detailed site engineering plans to achieve increased slope stability, ground water recharge, and/or decrease in stormwater surface flow velocity;
- (vii) Limitation of the period of construction disturbance to a specific number of consecutive days;
- (viii) Requirement that reseeded occur in less days than otherwise required by City Code.

~~e. In considering a requested modification or waiver the planning commission shall consider the recommendation of the director of neighborhood development services or their designee. The director, in formulating his recommendation, shall consult with the city engineer, the city's environmental manager, and other appropriate officials. The director shall provide the commission with an evaluation of the proposed modification or waiver that considers the potential for soil erosion, sedimentation and water pollution in accordance with current provisions of the Commonwealth of Virginia Erosion and Sediment Control Handbook and the Virginia State Water Control Board best management practices, and, where applicable, the provisions of Chapter 10 of the City Code. The director may also consider other negative impacts of disturbance as defined in these critical slope provisions.~~

~~d. A modification or waiver granted or denied by the commission in conjunction with an application for a special use permit shall be subject to review by the city council. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer, considered in conjunction with an application for approval of a site plan or subdivision plat may be appealed as set forth within Article VII of this chapter or within Chapter 29 of the City Code, as may be applicable. All other decisions of the commission with respect to a requested modification or waiver may be appealed to the city council.~~

(7) Exemptions. A lot, structure or improvement may be exempt from the requirements of these critical slopes provisions, as follows:

- a. Any structure which was lawfully in existence prior to the effective date of these critical slopes provisions, and which is nonconforming solely on the basis of the requirements of these provisions, may be expanded, enlarged, extended, modified and/or reconstructed as though such structure were a conforming structure. For the purposes of this section, the term "lawfully in existence" shall also apply to any structure for which a site plan was approved or a building permit was issued prior to the effective date of these provisions, provided such plan or permit has not expired.
- b. Any lot or parcel of record which was lawfully a lot of record on the effective date of this chapter shall be exempt from the requirements of these critical slopes provisions for the establishment of the first single-family dwelling unit on such lot or parcel; however, subparagraph (5)(b) above, shall apply to such lot or parcel if

it contains adequate land area in slopes of less than 25% for the location of such structure.

- c. Driveways, public utility lines and appurtenances, stormwater management facilities and any other public facilities necessary to allow the use of the parcel shall not be required to be located within a building site and shall not be subject to the building site area and dimension requirements set forth above within these critical slopes provisions, provided that the applicant demonstrates that no reasonable alternative location or alignment exists. The city engineer shall require that protective and restorative measures be installed and maintained as deemed necessary to insure that the development will be consistent with the purpose and intent of these critical slopes provisions.

Sec. 34-1124. Vacant lot construction--Required sidewalks, curbs and gutters.

(a) The director of neighborhood development services shall, from time to time, promulgate criteria by which the utility and necessity (i.e., high-priority versus low-priority, taking into account public necessity versus cost to the property owner) of community sidewalks may be assessed ("sidewalk criteria"). A copy of these criteria shall be maintained within the department of neighborhood development services.

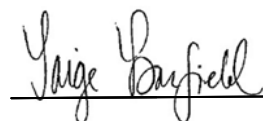
(b) For the protection of pedestrians and to control drainage problems, sidewalks, curbs and gutters shall be required along all public rights-of-way when any building or structure is constructed upon a previously unimproved lot or parcel, or when any single-family dwelling is converted to a two-family dwelling unless this requirement is waived by city council. ~~The director of neighborhood development services or planning commission may waive this requirement for sidewalks deemed unnecessary, or of only low-priority, based on the sidewalk criteria established by the director pursuant to paragraph (a), above.~~

~~(1) If the director of neighborhood development services denies a request for a waiver, the applicant may appeal that decision to the planning commission. Any person who has been denied a waiver by the planning commission may appeal to the city council within thirty (30) days of the date of denial. The decision of the city council shall be final.~~

~~(2) If the director of neighborhood development services intends to grant an exemption to the requirements of this section, he shall first give written notice to the members of the planning commission who have expressed in writing a desire to be so notified, at least seven (7) days prior to granting the proposed exemption. The chair or any two (2) members of the commission may then direct that the application for the exemption be heard and decided by the planning commission.~~

(c) Sidewalks, curbs and gutters required by this section shall be constructed in accordance with the standards set forth within the city's subdivision ordinance.

Approved by Council
July 16, 2012



Clerk of Council

*Appeal by Albemarle Place EAAP, LLC
Stonefield Project – E&S Plan Requirements*

*Planning Commission Review: July 10, 2012
City Council Review: July 16, 2012*

RESOLUTION

WHEREAS, Albemarle Place EAAP, LLC (“Albemarle Place”) is the developer of the project known as Stonefield a/k/a (formerly called Albemarle Place) on Seminole Trail in the County of Albemarle; and

WHEREAS, the Stonefield project (“Stonefield”) requires major storm water improvements under its development plan, but the drainage outfall to Meadow Creek is located in the City of Charlottesville and is subject to an Erosion and Sedimentation (E&S) permit issued by the City’s Department of Neighborhood Development Services (NDS); and

WHEREAS, the E&S permit required Albemarle Place to install a larger storm water pipe (72”) under U.S. Route 29 to handle the increased water flow which will result from the Stonefield project, while the existing 42” storm sewer pipe remained in place to drain on-site water -- provided, however, the 72” pipe was required to be “plugged” to prevent any drainage flow until Albemarle Place had completed the drainage improvements required by the E&S permit to adequately channel the drainage on the City side of Route 29; and

WHEREAS, on June 1, 2012, James E. Tolbert, Director of NDS, sent a letter to Albemarle Place advising of his determination that Albemarle Place had violated the E&S permit by not installing the required rip-rap and prematurely opening the 72” pipe; and Albemarle Place thereafter filed a timely appeal dated June 11, 2012 to the Clerk of Council, requesting an appeal of the determination; and pursuant to §10-8 of the City Code, the matter was referred to the City Planning Commission for review and findings of fact at its meeting on July 10, 2012; and

WHEREAS, the Planning Commission has reported its findings to City Council, and Council has heard and examined the relevant evidence in the record, as presented by NDS and Albemarle Place; now, therefore,

BE IT RESOLVED that this Council finds as follows:

Albemarle Place has an Erosion and Sedimentation Control Plan approved by the City for the Stonefield project. The plan requires certain improvements. The work required by that plan has not been completed. Specific issues are as follows:

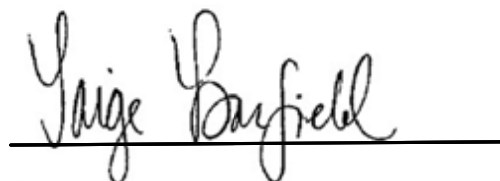
- 1. To date, rip-rap has not been completely installed as required on the approved E&S plan.**
 - a. At the pre-construction meeting, Albemarle Place was informed that any work (including installation of rip-rap) off the U.S. Post Office property will require

permission and/or easements from adjoining property owners. These permissions have not been acquired.

- b. The revised site plan directs the contractor to ensure that the rip-rap at the end of the energy dissipater ties into the rip-rap channel in the detention basin. This has not been done. Several sheets of the E&S Plan indicate that new rip-rap will tie to existing rip-rap, but the existing rip-rap is located on adjoining property and does not tie into the new rip-rap.
 - c. Rip-rap currently exists in the channel below the existing 48" outfall, but not to the extent required by the Stormwater Management Plans.
 - d. The approved plans meet 4 VAC 50-30-40 (MS-19) but the construction has not been completed in accordance with the approved plans. Until all rip-rap is installed per approved plans, the construction has not met MS-19 requirements.
2. **As of May 24, 2012, the 72" pipe was un-plugged and is being used to discharge stormwater prior to completion of the required drainage improvements, in violation of the approved E&S plan.**
- a. Albemarle Place was informed at the pre-construction meeting that the 72" pipe should remain plugged until any Department of Conservation and Recreation requirements are fulfilled, which included rip-rap installation.
 - b. Albemarle Place has not completed Phase 1A or 1B of the Stonefield project, as the rip-rap has not been completed and the rip-rap is an integral part of the 72" outfall. The 72" pipe, therefore, must remain plugged at this time.

For the reasons stated above, this Council hereby affirms the determination of James E. Tolbert dated June 1, 2012 that Albemarle Place has violated its E&S permit for the Stonefield project. Reference is hereby made to the attached Staff Report, dated July 10, 2012, provided to the Planning Commission for detailed information on the Erosion and Sedimentation Plan for the Stonefield project.

Approved by Council
July 16, 2012

A handwritten signature in cursive script, reading "Yajie Bayfield", is written over a solid horizontal line.

Clerk of Council