

**PLANNING COMMISSION REGULAR MEETING
October 11, 2022 – 5:30 P.M.
Hybrid Meeting**

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

Beginning: 5:00 PM

Location: City Space

Members Present: Commissioner Schwarz, Chairman Solla-Yates, Commissioner Habbab, Commissioner Mitchell, Commissioner Stolzenberg, Commissioner d’Oronzio, Commissioner Palmer

Members Absent: Commissioner Russell

Staff Present: Patrick Cory, Matt Alfele, Missy Creasy, Carrie Rainey, Remy Trail, James Freas, Danna O’Connell, Jack Dawson, Javi Gomez Jacome, Brennen Duncan, Sam Sanders

Chair Solla-Yates called the meeting to order at 5:00pm and began by asking for commissioner questions on agenda items. Commissioner Mitchell asked for clarification on the questions he posed related to the critical slope application. Jack Dawson provided clarification concerning the Erosion and Sediment, wetland information and limits of disturbance. He noted that the biggest concern for slopes is during the construction phase. It was noted that the last submission had more information, and it appears this one will change. Commissioner Mitchell asked if there would be a community detriment to remove the 800 sf of wetland. Commissioner Stolzenberg expressed concern about the wetland and stream. Chair Solla-Yates asked Commissioner Mitchell to present the motion for this item and he noted that he did not yet have a decision in mind.

Commissioner Schwarz asked if the application should be deferred since there is no site plan with sufficient information for engineering to review. Matt Alfele outlined the process for the critical slope waiver request and confirmed that the site plan application does not need to move forward at the same time. Commissioner Schwarz asked how the stormwater would be addressed. Mr. Dawson noted that the conditions outlined in the motion for consideration were developed based on his experience reviewing these applications. They are slightly above the minimum required and he noted that 125% outlined for this project is good. Commissioner Stolzenberg noted concern if they cannot get 125% to work, then there is not a way to address. Mr. Dawson noted that they would have to make it work if there was a condition.

Chair Solla-Yates asked Commissioner Stolzenberg to consider a motion for the consent agenda during the meeting. A question was asked about the Preston Commons application which was addressed by Ms. Rainey. Commissioner Stolzenberg asked about lighting for the Lyndhall application and information was provided by Mr. O’Connell.

II. COMMISSION REGULAR MEETING – Meeting called to order by Chairman Solla-Yates at 5:33 PM

Beginning: 5:30 PM

Location: City Space

A. COMMISSIONER’S REPORT

Commissioner Stolzenberg – I had one meeting of the MPO Technical Committee. I am chair again for another year. We are beginning the planning for the 2050 long-range Transportation Plan, which is the high-level plan that all the projects that will eventually submit to smart-scale and build will come out of. It will be a roughly 2-year process with lots of community engagement, lots of stakeholder groups, etc. There is a grant chart on the TJPDC

website. It should be finishing in roughly May of 2024. That will be an important process. I am sure that I will be telling you guys a lot more about it over the next couple years. Commissioner Habbab mentioned the Safe Streets for All Grant Program. That is the federal grant funding that came out of the bipartisan infrastructure law. It is the first phase where you must create a comprehensive safety action plan with ideas and projects and problem areas. Once you do that, you can submit for more BIF funding in future tranches. TJPDC is spearheading the effort to create this comprehensive safety action plan for all the localities in the district. That will be the first year of funding.

Commissioner Mitchell – The LUPEC Group met. We submitted our biannual report to Council last week. It was a written document. We didn't do a verbal report. I copied you guys by email today. You should have a copy of that report. The LUPEC group met on the 16th. There were several topics. One was presented by Mr. Duncan. He presented the Fifth Street Study. This is something he had already presented to this body. There are a couple of reminders about Fifth Street. Fifth Street is something that we are going to be talking about later today. In that area, there have been 95 crashes between 2017 and 2022. Four people have died in those crashes and six people have been badly injured in that area. He 'walked us through' some possible fixes there. Fixes included roundabouts, guardrails, road diets (limit the lanes), photo enforcement, and bike lane enhancements. We are waiting for some direction and input from Council as to which of these fixes we are going to embrace. The County also presented. They are worried about safety. Their big issue is traffic congestion. They have several projects that will address that. They are talking about bus stops, a roundabout at Fifth Street & Old Lynchburg Road, and shared paths and a concept design for Rio Road. The Rio Road Concept Plan was presented. It focuses on the eastern side of Rio Road as it crosses 29. Another report from Albemarle County was about the 29 and Hydraulic intersection and the improvements they are thinking about there. The improvements will make it more pedestrian friendly and pedestrian safe. What they are talking about is a bridge that goes east to west/west to east across 29. They are looking at it being somewhere between Costco and Stonefield. They are also talking about putting pedestrian crossings in that area as well. They are talking about a roundabout at Hydraulic and District Avenue. That is where you are leaving Stonefield and getting onto Hydraulic. It has been a busy summer with Parks and Recreation. We have a new adaptive recreation manager and a new athletics manager. Vic Garber, who has been with us for a while, is leaving. He is going to Harrisonburg to be assistant director of Harrisonburg Parks and Recreation. There is a new app that our users are going to be able to use to look at scheduling, when facilities are going to be available, and when programs are going to be available. I believe that you will be able to use the app to reserve and schedule things within Parks and Recreation. It is supposed to be online in October. We have a bunch of capital improvement projects happening. With a lot of those capital improvement projects, we can't get bids on because we can't get people to bid on them.

Commissioner Schwarz – With the BAR, one large item was an apartment building on Wertland Street around an old house. The house is staying. The apartment building is coming back again. We deferred it. It was treated like a preliminary discussion. There is a work plan to preserve the house in addition to adding the apartment building. Nothing has yet been approved. There was some discussion on 612 West Main Street, which is a future apartment building where University Tire used to be. That will be coming back next week. They are changing some exterior materials. Next week, I believe we will be looking at the step backs on 218 West Market Street. It has a special use permit from the Planning Commission from September 2019. This month will be busier than last month. With the Bike & Ped Advisory Committee, we talked about crosswalk signals. We are going to be doing some evaluation and measuring how long the signals are, trying to give some advice to the city on some recommended improvements. I understand that the city will be undertaking a large measuring of all the traffic signals this year. There should be a lot of useful information. I am no longer chair of the Bicycle & Pedestrian Committee.

Commissioner D'Oronzio – I did make a brief appearance in my personal capacity at the County Board of Supervisors to express my encouragement of Phase II of the Habitat Southwood Development, where a discussion by everybody but the public happened.

Commissioner Habbab – I had 2 meetings. The first meeting was the Citizen Transportation Advisory Committee. We met September 21st. We had a presentation on the long-range transportation plan kickoff. It is the 20-year plan that is federally mandated. It looks at the next 5 years for funding. Every regional project must be in the long-range transportation plan to receive federal funding. The general push from the MPO Tech Committee is to focus on choice of transportation and mobility & efficiency of system operations. When we were talking transportation, we were talking about rail, air, and car. The Citizen Transportation Advisory Committee will be helping brainstorm public engagement opportunities as part of the public engagement plan for this process. I found out that Charlottesville needs to create a comprehensive safety action plan as one thing that is required to receive some funding. The other meeting was the Tree Commission. That was October 4th. There was a press release last week about some trees on the Downtown Mall that must come down. There are about 9 trees, 5 of which are oaks or the smaller prune trees. There should not be significant tree canopy loss. It has been long overdue. They are going to come down sometime in January/February of next year. There haven't been any discussions on what is going to be replanted in their place. That is something that will happen with public input in the future. RELEAF did an outreach campaign at the 10th & Page Neighborhood, which is the hottest neighborhood in Charlottesville, to try to plant some trees. They went out to homeowners. There are 25 to 30 trees that are going to be planted in the neighborhood. There is an RFP going out at the end of November for planting of 150 trees next year. There is tree pruning that is taking place at Garrett and Second Street this week. This is a general statistic that there is a 10 percent mortality on trees planted in the spring, which is a good number, that most trees that were planted are doing well.

B. UNIVERSITY REPORT

Commissioner Palmer – I want to mention how happy the University was to be able to get the air rights over Emmet Street to put in a new pedestrian bridge that will connect the Contemplative Commons over to the Newcomb Hall area. It was long overdue to have an ADA compliant bikeable route that traverses that.

C. CHAIR'S REPORT

Chairman Solla-Yates – In my personal capacity, the Virginia Department of Housing Community Development Update Committee met. I spoke in favor of allowing 6-story single stair homes, which would save a lot of money per building if the second staircase is not required. It could be a significant affordable housing benefit. My understanding was that it did not go forward in this code cycle. It will be another 3 years into the next code cycle. Affordable housing will be officially considered as part of that cycle for the first time in Virginia history. I spoke to the Nest Realty Group talking about Charlottesville Plans Together and the work on the zoning rewrite. NDS was generous in giving me some prepared slides that were very helpful. I believe that was productive. I got some good questions and feedback on that.

D. DEPARTMENT OF NDS

Ms. Creasy, Deputy NDS Director – We have things clarified for the Planning Commission Retreat. The Planning Commission is going to be at a retreat on October 22nd from 1:30 PM to 4:30 PM. We have reserved The Pavilion on the stage. We are going to monitor the weather. We also have this room reserved. We have a backup place depending on what we need at that point in time. The Chair, I, and Mr. Freas talked with our facilitator today. She has put together an agenda based on some of the goals that we are hoping to move forward with. It is a good opportunity for commissioners to get to know one another and hear what has happened in the past for those who are newer and to plan for life after a new zoning ordinance. We have a lot of projects that are going on in the community. We have some exciting ones on our agenda this evening. We have received a site plan. It is titled 0 East High Street. It is a property in the flood plain. It is also known as the old fairgrounds. It has some frontage on East High Street and Caroline. I wanted to talk a little about process. We have started to get a lot of feedback from the community. I know that it is helpful if you all are aware of what is going on from a process standpoint. The

applicant has submitted a by right site plan. This site plan is, in their opinion, adhering to the regulations that are allowable in the code. The site plan is currently under evaluation by the technical reviewers. There will be comments that will be provided. There are several concerns that have been raised by the community. There are technical concerns that we know are coming to pass as well. The technical review continues to move forward now. Once that letter goes out with the technical details, typically we get additional feedback. Site plans are ministerial. Site plans that are typically by right don't always come to the Planning Commission. There is a code section that outlines moving a site plan forward to the Planning Commission for review. There has been some public feedback about interest in having that occur. It can happen in different ways, either by 2 commissioners, the director, or the applicant. There are many ways that it can potentially come forward. It would be a ministerial review. It would be specific to the code requirements that are involved. It would give an opportunity for some additional public review. Since there is a lot of discussion, that is something to consider. It is amid the technical review. The concerns that are being presented by members of public are concerns that are being looked at, specifically during that review. We will have more information at a later point when the comments are due.

Commissioner Stolzenberg – Do we have a timeline on that? What is the deadline for the comments?

Carrie Rainey, City Planner – We anticipate we will be able to send out the staff comment letter by October 28th, which is a Friday. Regarding critical slopes, there are critical slopes on site. The applicant is not currently proposing to disturb them. No critical slope waiver is currently required based on the design as proposed.

James Freas, NDS Director – With regards to transportation, we did work closely with PDC on creation of that application for the comprehensive safe streets & roads plan as a first step towards accessing those grant funds. We are also working with the County on a grant. We are a formal partner on a county grant application under the same bill under the reconnecting communities grant program for a project that would extend on Rt. 29 north from the intersection with Hydraulic up to the river. There is a portion of that that is part of the city. We have 2 projects under that overall infrastructure bill that the city is part of grant applications for.

With the zoning rewrite, we are meeting tomorrow with our consultant team to look at the schedule going forward for our review process internally and for when this is going to come out. I should have a schedule to share at the November meeting if not beforehand. I want to thank you for what was a productive meeting with the Planning Commission and Council on the 27th.

We have extended an offer for a transportation planner. He will be starting November 1st. I look forward to introducing him to you formally at the November meeting.

Ms. Creasy – Regarding the climate action plan, several of you were part of the presentation that occurred at the Council meeting. I believe there were some communication concerns. I think it was anticipated to be more of a dialogue and not just you watching. We appreciate everyone who was able to participate. We have been working with the staff who are on that. They are working through their process of moving that forward to Council. One of the steps will be coming to the Planning Commission for an abbreviated presentation with a link to the longer one that was held. Many of you were part of that and the opportunity to provide feedback. We are working with 1 or 2 of the November dates, either our regular meeting or our work session depending timing. If you have any written comments that you had from that opportunity, they are excited to take those comments right now.

Councilor Pinkston – With the Mayor and the people on Council, we had hoped to vote on the CAP (Climate Action Plan) at the first meeting in November. That is what we have been discussing. If you have more work to do, we would need to wait and do that later.

Ms. Creasy – There were many discussions concerning scheduling this morning. There were a couple discussions in trying to make sure that the feedback from the community groups is integrated to that prior to it coming to

Council. There is an urgency of getting that to you all. There are 1 or 2 questions that I was hoping would have had resolution on, but I know the climate team is currently working on.

Councilor Pinkston – If Council doesn't approve it until later in the month, we just don't approve it until later in the month.

Mr. Freas – The process we are looking at is including the Climate Action Plan as an amendment to the Comprehensive Plan. The Climate Action Plan is identified in the Comprehensive Plan as something that should be done. It is one of the action items within the Comprehensive Plan. That would entail a joint public hearing with Council and the Planning Commission. It would then come to Council for a vote.

Ms. Creasy – We appreciate the feedback. We will communicate the schedule once it is available to you guys. Part of it is the advertising requirement and negotiating through that. The urgency and commitment on this are high. We are working through those processes but also trying to manage that. We are assisting that group.

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

Deborah Jackson (Belmont Carlton Neighborhood) – I would like to thank the city staff who were involved in reviewing the critical slope waiver application. Their comments were thorough and insightful. The points that I will make are related to the stormwater management systems that have been proposed. My comments come from the city staff report dated September 13, 2022. Of critical importance is that city staff 'cannot recommend approval under either finding #1 or finding #2. 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.' I will comment on the response letter from Collins Engineering to the June 9, 2022, city staff technical review. Collins Engineering has not reached out to the adjacent neighbors, with one exception, this week, to discuss their plans, inquire about neighborhood concerns, or act in a manner that shows concern for the Belmont Carlton neighborhood. It is impossible to review the CSW without an approved site plan. Collins Engineering requested this approval of the CSW without reviewing the site plan. The 2 go hand-in-hand as these stormwater management systems are dependent on the final site plan. This site is complex. Reviewing the waiver request without the site plan is challenging. 'It is challenging for city staff to provide insightful engineering concerns or comments without engineered plans at this stage.' My second point is about the release outlet that pumps into a stream that flows into the Rivanna River. It does not appear to be filtered. Why is there a need for release outlet? Why doesn't all the water go through the biofilter? Why does this outlet release water onto our adjacent property? Why is it not directed to the east towards the developer property? It is unlikely that there will be any substantial groundwater recharge to offset the reduction caused by the extensive grading in additional impervious surfaces. In the city report, 'at no time shall concentrated water be directed toward the critical slopes without adequate conveyance and down and beyond the slopes to an acceptable outfall.' Without the site plan, how can you determine this? The required retaining walls will be monstrous. They will be 20 to 30 feet high. They will have a huge impact on the neighborhood filling in the ravine.

Elsa Spencer (Chestnut Street) – The previous public speaker did a fine job talking about my concerns about the critical slope. I will leave those concerns in her fine words. She did a good job. I am also a neighbor. The proposal is parallel to Spruce. Given that she covered the slope concern about the functioning stormwater. From what I can tell functioning stormwater management currently in place would be disturbed potentially, I would focus my concern that I want to state about pedestrian safety in this neighborhood. We have 16 children in this block of Chestnut, Spruce, and Myrtle. I have seen some plans that have a proper street, a 2-direction road coming out emptying out onto Spruce Street, which dead ends by the tracks. We have this small double horseshoe situation with 16 children, who feel safe moving around. My concern is having a street access to this new development coming into what has been a safe area where the children have become accustomed to minimal car traffic. I understand that there must be 2 exits. If we can have both exits on Carlton, that would address my concern. It seems more convenient for the people who would live in the condos to access. They are going to want to get to Carlton.

Kimber Hawkey – I would like to second what the previous speakers stated. From the offset, this is an inappropriate development for this site. The fact that the applicant has applied for this critical slope waiver proves that point. It does not follow good planning practices. It should not be approved. The development is too much for this environmentally sensitive area. The city needs to respect the environmental concerns of each site. The environment here has proven not to be appropriate for this development, as per the staff’s recommendations. We hope that you will deny it. The area has been compared to the ‘lungs of Belmont.’ We have already suffered significant tree loss in our neighborhood due to inappropriate development. This is a great time to act for the climate and preserve the environment as much as possible. There are other concerns about the size of this development with the projected 900+ car trips per day. It is already a problematic intersection that has had accidents and 2 cars cannot pass each other. It boggles the mind how you are going to add 900+ car trips per day, especially since there are 2 other developments that are supposed to be coming up in that area as well. Please deny this.

Mark Kavitt – I hope that the Planning Commission will not approve this waiver and that you listen to what the staff report had to say. I won’t repeat everything previous speakers have said. I echo their comments. I want to comment on the Carlton Road area with the traffic. If you take 2 cars headed on that road, they can’t pass unless somebody pulls over into the parking area. If you have cars parked on the side of that road, somebody must back up. I have done that and watched that traffic. There is a potential future issue there.

Kat Maier – I want to thank Ms. Creasy for being incredibly responsive. I know this is about the critical slope waiver. I want to give some background. As a neighborhood, we have been given multiple site plans. We go through them. We are studying it. This is where we have lived for 20 years. This is a vital place for Charlottesville. We go over them. We care about it. They are so full of errors. NDS does this ‘deep dive’ and recommendations. It is almost that the city is this consultant. They are ‘handholding’ this company through this development. We have been through this before. You give these great recommendations. It is concerning that they don’t have their own consultants. This is a large site. It is special and tender. When it says that, ‘City Council may thereafter grant a modification upon finding that public benefits outweigh leaving it as is.’ They don’t. We have reduced stormwater velocity-not. Where is all this water going to go? There is a green area that looks like a septic zone. I don’t even know if people can play there. The other issue is trees. You made the brilliant recommendation with a 3 to 1 ratio replacing the trees. You said that it doesn’t look like it is landscaped. I cannot tell you the number of foxes. There is this huge ravine. The wildlife is unbelievable. I am grateful that you pushed back. I hope that this waiver is denied. I cannot understand how you could approve this without a site plan.

Becky Reid (Cherry Street) – I wanted to echo a lot of the same concerns that have already been voiced. I would say my concerns focus on safety in our neighborhood in terms of increased automobile traffic, construction traffic. I am a parent of small children that plays in the neighborhood. Most of our neighborhood does not have sidewalks. I think that 2 or 3 houses have sidewalks in front of them. That would be a concern if we are routing more traffic through our neighborhood, which I don’t think is necessary and don’t think is of interest to the people who are going to live next door to us. They are going to want to get out to Carlton. We don’t want people flying through our neighborhood. I also want to echo the concerns about the multiple site plans that we have seen. I want voice my support for density. I know affordable housing is a massive challenge. I don’t know how much this development addresses that. I know density is a key way of housing people close to their jobs. There are maybe some smarter ways we could do some of that. I think preserving neighborhood character and safety through more connectivity for walkers and bikers. They need to get these plans vetted before they come to neighborhoods. I share concerns about our water and the environment. I would like to make that part of my statement.

Norman (Cherry Street) – I echo the concern about the critical slope issue. There are only 5 houses on Cherry Street. This is a closed in area. There are limited sidewalks. The street is not all the way up to the property line where the sidewalk would be. In bringing the lot that was purchased last November, it connects with Spruce Street.

That lot will be paved over, which will bring more water down to the creeks. The idea of bringing that kind of traffic into this neighborhood would require sidewalks for the safety of the children. Who will pay for the sidewalks? The amount of traffic that will come into a small closed residential area is dangerous. There were earlier comments about street safety. You will be creating a street hazard by allowing this development. The lot that was purchased is a residential lot. They have not done anything to maintain it.

Anna Towns (900 Belmont) – I did appreciate that staff requested that this project make a street connection over to Spruce Street. I share my neighbor’s concerns about pedestrian safety and about the amount of traffic in the neighborhood. It would be valuable for this new development to be knitted into the city street network.

F. CONSENT AGENDA

1. Minutes – September 14, 2021 – Regular Meeting
2. Major Subdivision – Preston Commons (Robinson Place)
3. Site Plan – Lyndhall Apartments – 64 University Way
4. Entrance Corridor – 1113 5th Street Southwest – Conformance with SUP

Commissioner Stolzenberg – Second by Commissioner Mitchell – Motion passes 4-0 with 2 abstentions (Commissioner D’Oronzio and Commissioner Schwarz-pursuant to the Preston Commons matter conflict of interest)

Mayor Snook called Council to order for the matter of the public hearings.

III. JOINT MEETING OF COMMISSION AND COUNCIL

Beginning: 6:00 PM

Continuing: Until all public hearings are complete

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

- 1. SP22-00007 1113 5th Street Southwest** – On October 11, 2022, the Planning Commission and City Council will conduct a joint public hearing for an application for a Special Use Permit (“SUP”) for the property located at 1113 5th St. SW and identified in the City’s land records as Tax Map and Parcel (“TMP”) 21B004400 (the “Subject Property”). The public hearing will be conducted both in-person and via virtual (electronic) means; individuals who wish to participate electronically may register on the City’s website. Following the public hearing, it is the intention of the Planning Commission to vote on whether to recommend approval of the SUP. The Law Firm of Williams Mullen, on behalf of the contract purchaser of the Subject Property, Green Clean Albemarle LLC, has submitted a SUP Application for, the Subject Property, which is currently owned by Patriot Bank. Pursuant to City Code Sec. 34-796 and Sec. 34-158, the contract purchaser has applied for a SUP to build a Car Wash on the Subject Property. The Subject Property is approximately 0.81 acres with road frontage on 5th Street SW and Harris Road. The Comprehensive Land Use Map for this area calls for Urban Mixed Use Corridor and the Subject Property is located within the Highway Corridor mixed use zoning district classification. The City’s zoning matrix allows car washes in Highway Corridor districts with the approval of a SUP. The property is adjacent to other properties currently used for commercial uses, and is located across from residential housing on the opposite side of Harris Road. Additional information pertaining to this application (SP 22-00007) may be viewed online at www.charlottesville.gov/agenda. Persons interested in the Special Use Permit application may also contact NDS Planner Matt Alfele by e-mail (alfelem@charlottesville.gov) or by telephone (434-970-3636)

i. Staff Report

Matt Alfele, City Planner – You will be having a public hearing and making a recommendation to City Council for a proposed special use permit at 1113 5th Street Southwest. The SUP is for an automatic carwash at the intersection of Harris and 5th Street Southwest. The applicant is proposing to demolish the shuttered bank on the site. The carwash will have a main building fronting on 5th Street Southwest with parking pay stations, vacuums, and a dumpster, and an ingress and egress from Harris Road. Offsite improvements include pedestrian markings across the entrance to the Willoughby Square Shopping Center. Staff has reviewed the application and finds that it meets the general standards for a special use permit and recommends approval with conditions outlined on page 14 of the staff report. Staff's main concerns with the proposed use is any noise created from the vacuum stations. Staff is confident these issues can be mitigated during preliminary or final site plan review by construction of either a small wall or physical barrier to reflect noise back on site, planting large shrubs at time of construction, relocating vacuums to a more internal location of the site, reducing the number of vacuums, and/or installing low noise vacuums.

Commissioner Mitchell – Mr. Duncan, in the report, you suggest that you do not suspect that this implementation/installation is going to have any significant impact on traffic. I want you to think about your presentation to LUPEC and to this board as it relates to the 5th Street safety improvement plan that you have been working on. Can you 'walk us through' how this effort would dovetail into your plans for 5th Street and improving the safety?

Brennen Duncan, Traffic Engineer – I don't know that it is necessarily going to improve safety. As far as being able to compare it to the existing use that is there, from a traffic generation standpoint, they are similar. I think it is less than a 2 or 3 percent difference in traffic generation between the 2 uses. I don't think it would have a negative impact any more so than the current use on the corridor.

Commissioner Mitchell – I think you recommended some pedestrian improvements. That will help with traffic going back and forth on Harris Street. Is that right?

Mr. Duncan – That is correct.

Commissioner Habbab – With one of the conditions, we are saying a way to control the noise or mitigate the noise. Is staff confident that is an appropriate condition, or do we tie it to a specific decibel number? How do we control that? Do we need that at this point?

Mr. Alfele – It is staff's opinion that there are several ways to mitigate the noise. During their presentation, the applicant will talk about their noise study. The conditions are outlined to address it at the site plan stage. I don't think tying it to decibels is going to be appropriate due to enforcement and falling outside that realm of the noise ordinance. Staff wanted to be open to solutions, not only from the applicant, but from the Planning Commission and City Council on addressing that one area to try to mitigate.

Commissioner Stolzenberg – They gave the ambient noise at the area because of cars. I am trying to understand how to consider the noise being generated by this use regarding the ambient noise. In reading the noise ordinance, it doesn't say you can't emit loud noises unless other things are also being loud. Does it make sense to say that the cars are loud anyway? It is Ok for this to be loud.

Mr. Alfele – The noise is absorbed into the ambient background noise. There is some noise that needs to be mitigated. It has to do with off and on of the vacuums. I don't think the machine the cars going through the automatic carwash so much as the vacuum noise where it is periodic of the compressor cutting on and off.

Commissioner Stolzenberg – That makes sense. We did get a public comment about music. Have we heard anything from them about speakers?

Mr. Alfele – Staff went and looked at their carwash at Hollymead. There are speakers. In staff's opinion, that is a noise that could be produced by right. You can have a restaurant with outdoor seating. By right, you could produce music.

Commissioner Stolzenberg – Looking at their noise measurement data, their maximum noise levels that they are measuring, all but one of eight sites they are measuring go above the 65-decibel maximum. Some of them are at 75 decibels. One of them is almost 80 decibels. It is not the average noise level. With the noise ordinance, we should be looking at the maximum level. It doesn't say 'as long as your average noise levels is below 65.' When we are considering the noise impacts, should we be looking to make sure that this site plan or proposal complies with the noise ordinance? Is that a separate matter?

Mr. Alfele – How the noise ordinance is written, it does not apply. It only applies to noise created within a residential zone district or the residential portion of a mixed-use district.

Commissioner Stolzenberg – My reading of the ordinance is that it doesn't apply within the property. If it is 65 decibels across the street in the residential zone at that property line, would it still apply?

Mr. Alfele – The last time I looked at the code it said, noise produced within.

Commissioner Stolzenberg – It says 'to create a sound level in any residential zone in excess of.' It depends on whether you say cause any source of sound to create a sound level. Arguably, it depends on whether you create a sound level or refers to creating it in the residential zone or having the sound level be that in a residential zone.

Assuming the noise ordinance applies, should we use the noise ordinance as our basis for thinking about noise as an adverse impact?

Mr. Alfele – Noise should be handled when we are looking at how there are ways to mitigate it. How staff looked at this is that when you are looking at a by right development on that site versus an SUP at that site, the factor that staff came up with is that sound would be the difference between a by right and what is being proposed and mitigating that. Some of the proposals that staff has put in that condition, staff feels that would mitigate that noise. We don't feel the noise is going to be high pitched for long periods of time. It is that intermediate and how can you reflect some of that back to the site and be absorbed into the ambient background noise.

Commissioner Stolzenberg – When we are thinking about adverse impacts, do we always define them against the most intense or most impactful by right use?

Mr. Alfele – I would say 'yes.' When you are looking at some of the uses in the use matrix and you are looking at what could be done here by right versus what impacts do those produce versus an SUP, if it is producing impacts that are outside that norm of the by right impacts. There are by right uses that could go there that would have an impact that we would not be able to mitigate just because they are by right in use.

Commissioner Stolzenberg – I am wondering whether it is not an impact because there is one by right use that theoretically could go there. That would be impactful versus the probable by right use or some other by right use that wouldn't make any noise.

Mr. Alfele – Some of the other special use things like a drive-thru where the adverse impact is maybe increased congestion of backup in a drive-thru. It depends on the use as to what created that to be an SUP. It doesn't

necessarily mean noise would be the impact for a carwash at every location. If this was located further in that development, there would probably be no impact that staff would have found because it would have spread out by the time it got out there. Staff probably would have still found that it is appropriate in a highway corridor to have a carwash. The noise comes up because it is at the edge of that zoning district.

Commissioner Stolzenberg – I am also thinking about traffic. You could put a restaurant here by right. That would produce a lot of traffic. Can we determine that traffic is an adverse impact because this going to produce a fair amount of traffic, even compared to many by right uses even though there is the possibility of a restaurant?

Mr. Alfele – From staff’s standpoint, we would shy away from that. This is traffic oriented. It would be the number of cars going to a bank or a sit-down restaurant that is by right. That is the same traffic you would probably be getting at a carwash. The same amount of traffic going by is stopping at a carwash. You can make the argument that those would have more traffic than something that is a drive-by commodity where you are not necessarily driving by a carwash and stopping.

Councilor Payne – How many months has that bank been not operating?

Mr. Alfele – I know it has been several months. I don’t have the exact timeframe.

Councilor Payne – You have estimated that the amount of traffic would be like that bank that was there. I don’t have any reason to guess that is not the case. Do we know if there is anything unique to a carwash use that would be likely to create a greater congestion problem than a bank or create any additional problems at that intersection in terms of how traffic enters or is backed up?

Mr. Duncan – I would say no. It would probably be less. There tends to be more off-peak trips. There is less congestion during the peak hours. A lot of this is based on ITE trip generation books that are published. That is where we are comparing the existing use of a bank to a proposed use of a carwash. Every location is a little different. When you are trying to plan these, carwashes have different operating peak hours than a bank would. I don’t think that this would have any adverse impact on that intersection. As far as contributing to the traffic at that intersection, it is still probably 1 or 2 percent of the actual traffic that goes through the Harris and 5th Street intersection is going to be this business.

Councilor Pinkston – What is it that is pushing this project over into requiring an SUP versus by right? Is it the noise?

Mr. Alfele – From a technical standpoint, in the use matrix, this requires an SUP. It is one of the uses that requires a bit of extra review.

Mayor Snook – I am thinking about effects that the ordinance talks about that we are supposed to consider as possible negative impacts. One of them is dealing with the question of impacts on community resources. One of the things that is an impact for carwashes, depending on how they are constructed, is how much water they use. There are some carwashes where they brag that they recycle 90 to 95 percent of their water. Do we know what these people are claiming as far as the amount of water that they recycle and their water use?

Mr. Alfele – We do know. When the applicant gives their presentation, they will speak to the water that they do recycle. From a staff perspective, we are talking about approving an SUP. We are talking about that use. If City Council were to approve a carwash and the applicant decided to sell, that use goes with the land. It is not per owner.

Mayor Snook – It gets back to the question: Are we supposed to be looking at what they are proposing, and we approve it unless we find a reason to disapprove it? Are we expecting to look at it from the other side? To say,

prove to us that you are doing something worthwhile so that we ought to be giving you this benefit/boon of approving the SUP. I am concerned that if we spend all our time trying to evaluate whether there are enough negative impacts so that the negativity rises to the level to say ‘no,’ we are looking at the question backwards.

Councilor Payne – Has there been any analysis or thought on staff side of how this does or doesn’t align with future plans in this corridor, including our future smart scale applications and the long-range safety plan?

Mr. Alfele – From a safety plan, I would say not from an improvement plan, other than what was outlined in the report.

Commissioner Stolzenberg – With the bicycle facilities in that area where the crosswalk is being put in, are those compliant with standards?

Mr. Alfele – I believe they follow our bike-pedestrian master plan standards.

Commissioner Stolzenberg – I am referring to the bike lane with no markings within it that suddenly ends.

Mr. Duncan – It ends as it approaches the intersection and goes right into the left turn lanes. The width of it and the markings are correct. As you approach an intersection, and you approach splitting into multiple lanes ending a bike lane where there is no longer room to have a dedicated lane is common practice.

ii. Applicant Presentation

Valerie Long, Applicant –

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This is a rendering.

Next Slide

This is the general location. I know you are familiar with the location. I wanted to clarify the zoning of the site and the parcels surrounding it and those on the opposite side of Harris Road and 5th Street. As noted, the zoning is the highway corridor district, which as stated in the ordinance, the purpose is to facilitate development of a commercial nature along auto oriented corridors like 5th Street.

Next Slide

The Comprehensive Plan designation for the parcel is urban mixed-use corridor. It contemplates a higher intensity mixed-use development arranged along corridors between employment, commercial, and civic hubs of the city, which is an appropriate designation for this parcel.

Next Slides

These are images of the existing property. These are from Google Street View. With the bank being vacant, you don’t see a lot of activity there right now. I want to point out the state of the landscaping and plantings on site. It is not up to your current standards. We will show you some renderings and plans that will be more what you all would expect.

Next Slide

This is a version of our conceptual plan. At the top center of the page is a proposed sidewalk that does not currently exist. That would go across the travel way entrance and would help with pedestrian safety, given the location of the elementary school down the block. Starting on the left side of the page, you can see the entrance and the 3 rows of the queuing of the cars and the pay stations. The cars would pull forward into the building, proceed through the

building during the wash cycle, and exit the building on the right side. There are parking spaces. Next to each of those parking spaces is a vacuum. If people want to use those vacuums, they are an option. You can also see a sidewalk internal to the site.

Next Slide

This is a copy of the landscaping plan that we also submitted. I circled a note indicating the proposed planting strip adjacent to Harris Road that would be an S3 category buffer, which is the highest level of buffering and screening that your zoning ordinance contemplates. That would be proposed. The rest is conceptual. It is intended to demonstrate the ability to comply with the landscape ordinance. All those specific details would be worked out at the site plan stage.

Next Slides

These are some conceptual renderings we had prepared. This is an overhead view looking at the site if it was developed as planned. That is 5th Street in the lower side of the page and Harris Road on the right. You can see the building adjacent to 5th Street, the parking lot. You can see the black fixtures for the vacuums and the planting buffer there. These are conceptual renderings. We tried to demonstrate what it would look like. We have a view from the opposite direction. We have a conceptual rendering from 5th Street. The proposed plantings across the front of the building do not show up well here. We have a conceptual rendering from Harris Road looking towards the site. The plantings there don't represent a true S3 level screening. It would be more than that. The ordinance calls out specifically what an S3 screening landscape plan requires. You can see the black hoses that represent the vacuums that would be used. You can see in the distance the additional parking and the building. We have a similar view from the corner at Harris Road and the entrance to the shopping center. We have a conceptual image looking at the site from the shopping center entrance road.

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We appreciated the questions and comments that were made about the concerns about noise. We had a community meeting last month and heard similar concerns and questions about that. We wanted to provide some ideas of what we have in mind in terms of addressing those. Our team worked hard over the last few days to come up with a few other ideas that we wanted to share with you. This is new to you. The two smaller red circles are areas shown on the plan that are listed as a vacuum pad. The technical term is vacuum producers. Regarding the vacuum noise, it is not so much the vacuums that make the noise. It is the vacuum producers. Once I understood that better, in noting the one that is adjacent to Harris Road, I started asking questions about what we could do to minimize the noise. If that is the noise emitter, we need to be sensitive to the fact that it is adjacent to Harris Road where people have concerns. The central red circle is just a second one. They came up with some good ideas.

Next Slide

The proposal is to relocate both of those vacuum producers inside the dumpster enclosure. The dumpster must be enclosed anyway. They can expand that dumpster, tuck those 2 producers inside, and we feel that will reduce the noise by having them enclosed, but also moving them away as far as possible from Harris Road and the residents on the far side of Harris Road. It will make a significant difference. That is one proposal that the applicant is willing memorialize in a condition if it is the Commission's preference.

Next Slide

The second idea we had was looking at the original plan. In the bottom right is a circled small retaining wall. That wall is going to be more going down the hill given the slope there. We have an opportunity to use that wall to reflect the noise away from Harris Road. There is some noise that comes out of that end of the carwash, the fans, that dry the cars.

Next Slide

We have a conceptual improvement that is a longer wall. It extends further down Harris Road. We are proposing to extend that a little bit and add a few feet to it. It could serve as potentially, not only a screening wall, but a sound mitigator.

Next Slide

From the renderings, where that location is the walls are not drawn correctly in that way. It helped give us an idea of how we might use that to help it serve multiple functions. The proposal would be to extend that wall to the edge of where that circle is.

I would like to address a couple of the questions that came up at the beginning. With the question about water recycling and recapture, our client tells us that they average about 80 percent of their water being reclaimed and recycled. They tell me that is better for water usage than if individuals were washing their car in their personal driveways.

Commissioner Habbab – I saw on one of the images that there was an accessible ADA ramp that had the raised tactile portion. Is that part of the crosswalk?

Ms. Long – I am not certain that it is reflected in that rendering. If it is, that is great. That is what the condition of approval that staff recommends would require. We are agreeable to that requirement.

Commissioner Schwarz – You have 21 vacuum spaces. Does the applicant or owner have an idea what the right percentage of filling those would be. I am assuming they don't anticipate 21 vacuum spaces being used at once. It seems like a lot of spaces to provide. Is there a formula for how many cars they anticipate using it at peak hours?

Craig Van Brennen, Applicant – We provide those as amenities. I don't think that all 20 vacuums will be used at any given time. We like to provide as a service to our customers. We find that customers like to have a little bit more room on either side. Even if they are using one vacuum, it is nice that they can open both their doors and work side by side. Having enough vacuums to maximize the site and maximize the customer experience is important to us. That is why we have so many.

Chairman Solla-Yates – How many vacuums run at the same time? Do all 20 vacuums run at the same time? Is that typical?

Mr. Van Brennen – The vacuums run on a central vacuum system. Those are the vacuum producers. The vacuums are consistently running. The noise that is produced by them does come from those vacuum producers. I encourage you to look at our site on 29. It is more like a suction sound that is on the vacuums themselves. It is not often allowed on-start-stop of a vacuum.

Commissioner Schwarz – Do you have an anticipation to what your peak usage would be? Our traffic engineer has calculated the traffic. I am trying to understand for myself what your peak usage might be.

Mr. Van Brennen – We don't quantify the vacuum usage in that way. It is an amenity. It is something we provide our customers as a complimentary service. We don't have as much data. I can't provide real hard numbers about how many customers wash and use the vacuums.

Commissioner Schwarz – Do you have a model that you have created for how many uses, how many people would go through the carwash?

Mr. Van Brennen – The busiest times for us are on the commute home from work. It is later in the afternoon from probably about 3 to 5, 3 to 6 in the evenings. That is our busiest time.

Commissioner Stolzenberg – That is helpful with the distribution of sound producers and the hoses. Does that mean, regardless of how many hoses are in use, the producers make just as much noise all the time?

Mr. Van Brennen – That is correct. If they are on, they are going to be making the same level of noise. It would be a similar noise level.

Commissioner Stolzenberg – You showed the retaining wall up against the edge. Do you have a sense of how that will block headlights, whether they will still be able to get through Willoughby Towns?

Ms. Long – We have not looked at that specific issue. There is some landscaping that is also proposed there and some existing vegetation. The thought was that the wall would be several feet off the ground.

Ryan Perkins, Applicant – Typically, when we are blocking headlights, even if it is with shrubs, we try to go to 36 inches. We are flexible on this wall, whether it be 36 inches or possibly 42 inches, which is standard fence height. That would block all the headlights. In addition to that on the opposite side of the right-of-way side street side, we would have significant plantings as well. Our goal would be to block all the headlights leaving. It could be accomplished through 36 to 40 inches in height.

Commissioner Stolzenberg – Do you have a sense of how much moving the vacuum pads to the dumpster enclosure will mitigate that noise production relative to the noise study you showed us?

Mr. Perkins – I can't answer that question. We haven't done that calculation yet or done that study. That enclosure is about 8 feet tall. It will be the same height as the producers. It is a block enclosure plus a brick façade that matches the building. It is a significant enclosure.

Commissioner Stolzenberg – I appreciate you offering that crosswalk. Staff are adamant that the traffic is not an adverse impact here. Would you be willing to do any other paint treatment to the bike lanes while you are there? Our traffic engineer and transportation planner might think it is reasonable there.

Mr. Van Brennen – Safety is a big concern for us. We are happy to work with staff. There is something that we can do while we are working the right-of-way to make sure that students can transit to the property and get to the school up there in a safe way. We are happy to help accommodate that the best we can.

Commissioner Palmer – In terms of the employees at this location, are there any staff available?

Ms. Long – I believe the plan is always for at least 3 staff members.

Mr. Van Brennen – That is right. Our sites are staffed all the time every time during the hours that we are open. There are at least 3 staff members. We work to provide good high paying or good quality jobs for people for a fast-growing company in the community. We are providing opportunities for our employees to have some upward mobility. It is an exciting time for our employees. The site is always staffed with at least 3 people.

Councilor Pinkston – I would note that the sound, like light, follows the inverse square law. The further you get it away; it is a geometric falloff. Moving the vacuum producers, the way you did will make a significant improvement.

Mayor Snook – I would have thought that headlights were not really a relevant concern. I would have thought that most people would wash their cars when they could see what they were doing. Is that not the case? Is that really an issue?

Ms. Long – With this business, the cars would go through the building. The carwash facility washes their car. They could decide to drive out and be finished. They might decide to stop in the parking lot and vacuum out their car. There will be light poles on site. The operating hours are until 8 PM on weekdays and 6 PM on Sundays. During certain times of the year when it is dark earlier, it could be an issue. It is often an issue that comes up with drive-throughs. It is something we try to be thoughtful about.

iii. Public Hearing

John Bond (533 Harris Road) – We live directly across from the intersection. Not only are we talking about a wall breaking sound, but we also live on a hill. I feel negative about this thing. I don't mind noise. I don't want a continuous noise. How would you like for someone to run a vacuum inside your house all day? It may be loud. It is the pitch of the thing. It is not right. I don't push my music on anybody else. I don't believe in letting somebody else push their music onto me. I love music. I want to be able to turn my music off and on when I want to and not mess with somebody else. I have nothing against the carwash, except it is not the proper place for it at the edge of a residential community. We can't sit in our front yard without listening to something continuously running. I don't care if it is low or high. It is the wrong place for it. If it was at the other end of the shopping center, that is fine and good. Putting it right there on the edge of a residential community is wrong. You don't see all the piping and all the mechanical works like the one on 29. This is an eyesore in my front yard. We are going to be overlooking all of that. It is not right. It is devaluing residential land. It is not fair.

Claire Denton-Spalding (137 Old Fitch Circle) – I urge you to deny this application. We are opposed to the development of the Green Clean Auto Wash. At that intersection, there is already a lot of traffic. There was a huge car accident there today that stopped traffic. It is a difficult and deadly intersection. Adding a carwash would attract cars to the area and make heavier traffic. I believe that the speakers today have noted that the bank has been closed for some time. The direct comparison between a carwash and a bank isn't one-to-one with the current situation. We are concerned about the increased traffic. It is already overcrowded. It is a difficult intersection. The carwash will attract cars. A carwash is not pedestrian or biker friendly. Over the past years, we have attended some meetings and contributed to re-envisioning 5th Street. There are plans to make 5th Street more walkable and bikeable. Adding a carwash and the increased traffic would counteract those plans. If Charlottesville wants to become less car dependent, the city ought to seek new forms of development that don't directly service cars. We are urging you to deny that application.

iv. Discussion and Motion

Commissioner Mitchell – The noise issue can be mitigated based on some of the things that we have talked about. There have been 95 accidents up and down that corridor the last 3 or 4 years. We have lost 4 lives. There have been 6 serious injuries. That gives me a lot of concern. I know that Mr. Duncan suggests that the traffic won't be significant. Any operation like this must drive more traffic, people turning in off 5th Street onto Harris. The noise doesn't bother me, but the safety does.

Commissioner d'Oronzio – With the noise, I tend to agree with Commissioner Mitchell. There seems to be ways to mitigate that. I deplore this. Background ambient noise disappears when the power cuts off. You recognize how many little motors and engines there are in their house that they don't hear minute-to-minute. With the traffic point, right now it is a vacant bank. Any use is going to be substantially more. To Commissioner Stolzenberg's earlier point, if Bodos comes in, no one is going to have anything to say about the traffic. There is no place to make that complaint. They are going to come in and start moving traffic through there. I don't see the traffic because of this is dramatic. I understand we have 20 spaces. I imagine that some of that is not for a full-fledged vacuum. It is to pause for a second to throw away your trash.

Commissioner Mitchell – By right, we could get a Bodos. The traffic would be as bad. We might not get the help with the work on the streets that we want these guys to do.

Commissioner d’Oronzio – You are going getting a whole lot of cars rolling into that parking lot if you open a Bodos or something similar there.

Commissioner Habbab – Looking at it as a noise issue and everything else could happen by right, the applicant moving those vacuum producers into the site shows that they are listening to the complaints and trying to address them. I am confident that it could be mitigated.

Commissioner Schwarz – I feel stuck on this. Current uses that are by right are a gas station or repair service shop. A repair shop can be noisy. Are we looking at this as something that is a negative that we need to mitigate? Will we only approve it if it is going to bring something better to the area? I realize that our existing zoning and the entrance corridor guidelines talk about car-oriented buildings. Our Comp Plan talks about mixed-use and up to 5 to 8 stories in height. This is a sad use for this corner. I am sure that it is a fantastic use for the applicant. With planning and zoning, it is a little depressing. If we are looking at it in terms of a use that any negatives can be mitigated and then we would approve it, I think they can accomplish that as others have said. If we are looking at it in terms that it needs to bring something special to the area, it doesn’t pass that. The lack of a bike lane on Harris, if you look at the city’s bicycle and pedestrian master plan, there is an up-and-down 5th Street. It is level 4, which is the highest. There is a small level 4 on Harris, which is the north border of this property, which is where the bike lane ends. I don’t know that we can require this applicant to improve that situation. I don’t think the city should look at this intersection as complete and satisfactory as far as bikes are concerned.

Commissioner Stolzenberg – I agree with Commissioner Schwarz in a lot of respects. My first impression of this is that it is a sad use for this intersection in what we hoped it would be. It made me wonder if the applicant was aware that there was a zoning determination that the highway corridor has unlimited density by right until we rewrite the zoning code. I believe if you believe that we shouldn’t have carwashes in the city, it is not an invalid opinion. The venue to do that is a zoning text amendment that removes carwashes as an allowed use and not by denying an SUP for vague reasons that are not related to adverse impacts. There are adverse impacts here. Noise and light pollution are some of the most classic adverse impacts that we are supposed to be worried about as a body that does zoning. Noise is something I am very worried about especially with this noise study that promises to violate the noise ordinance. I do think that moving the noisy things into an enclosed area would significantly mitigate it. I am wondering if we could craft a condition that limits the noise to some strict level measured from the property line or the nearest residential property line ideally beyond what the noise ordinance would require. It seems like it is an engineering problem that can’t be solved. You could bury the vacuum producers. It is a matter of engineering it. I don’t know the extent to what putting it in a dumpster enclosure will do. A noise study or something similar could say that this will be less than 50 decibels to the property line or something like that. With lights, we should add a condition that headlights won’t bleed over into the neighboring properties. I think it is not required in the code. It is good to hear that they plan on mitigating that. I want to enshrine that as a condition. Similarly, full cutoff lighting. What Commissioner Schwarz said about traffic and bike facilities is right. While it might be a small percentage of trips at the Harris/5th Street intersection, it is still a fair number of trips in that driveway/Harris intersection. We are talking about 42 or 43 trips at the peak hour. If we can get bicycle improvements and paint treatments to that intersection, that would be beneficial in mitigating those impacts. I would ask staff if we could enshrine their representation that they are willing to work with transportation staff as a condition on this. I appreciate that they will hopefully do that. I am ambivalent about it. I am leaning towards approval with some rigorous conditions to make sure that this doesn’t have impacts on the neighbors across the street.

Chairman Solla-Yates – I will be pleased for the property owner to be able to do as they desire with their property. I see a benefit to that, to the jobs, and to the revenue. I do see troubles. There are engineering solutions that we can use to mitigate those.

Councilor Payne – The Mayor raised an important point. As I read it, the applicable standard, which is ‘Council may approve in its discretion whenever the public necessity, convenience, general welfare, or good zoning practice requires.’ Our default would be to look for reasons to approve an SUP. Is there a compelling reason how this benefits the general welfare? That is within our discretion to approve or deny. There is no requirement that we need to look or should look upon an SUP of something which we default to approving. It seems our legislative discretion is broad enough that we can use whatever standard we want that we consider to be advantageous to the general welfare. In either case, this proposal would fail both standards. I see there being adverse impacts on the adjacent residential neighborhoods in terms of noise, light, and traffic. There is the principle of economies of glomeration. If you build one car lot, why are there a bunch of car lots that pop up next to them? It is same with drive-throughs. I would consider this to be a drive-thru use. It is a drive-thru for a carwash rather than a restaurant. My concern is that if we approve this, it is going to be creating a lot of path dependency where the pattern of development in this area will be more drive-throughs and more car-centered uses. We know there has been a fatality at this intersection. There was a crash today at this intersection. There could be a by right development, which is as negative for the neighborhood in the community. There could be a lot of by right uses, which are better and include residential development. I don’t see how this benefits the community or that neighborhood. I see how it has adverse impacts in terms of traffic. I don’t see how this conforms with our smart scale applications and the safety improvement plans.

Councilor Pinkston – Listening to what people have said, I can see how this might be an amenity to the community to have this option. Even in Charlottesville, people might like to wash their cars from time to time. With the commerce and jobs that would be derived by having that there, I can see those things too. I am not sure that it is the best use for that space. I have concerns in terms of the noise, the light, the traffic, and how it fits into our smart scale work in that area. I am still on the fence about it.

Mayor Snook – A lot of the discussion tonight has been a discussion that is appropriate to the consideration of a site plan. Can you mitigate various effects? Can you deal with screening of the neighbors of sound and light? Although that is part of the SUP consideration, that is not all of it. I feel that an SUP application and SUP granting ought to contribute something to the community in return for getting a deviation from the norm. I have voted to approve every SUP application that has had a housing ramification because I could see that we needed more housing. That was a positive. I will say that I am not morally opposed to carwashes. We must consider more than that. It would be different if there was no other place in the community where you could get your car washed. It would be different if there were not zones and property zoned accordingly that allowed for the installation of a carwash. There is no reason that a carwash is necessarily needed or appropriate here. I don’t know what I have in mind for that stretch of the entrance corridor. It is probably not a carwash.

Commissioner Stolzenberg – The intent of the zoning district is for auto-oriented uses. Should we have a zoning district that is encouraging auto-oriented uses? That is a good question. That is the stated intent of the district. We haven’t changed it yet. The point I was trying to make about Bodos was that you could have a Bodos here. There could be a lot of traffic by right. We should be considering traffic as an adverse impact. It seems true that the SUPs we have considered before, many of them were in places where there could be a Bodos. We found that traffic was an adverse impact. It is not an unmitigable one. I was hoping that we could craft a condition on noise that puts some teeth, some numbers, and decibel levels on how much that noise had to be mitigated. What is a reasonable noise level to restrict it down to? 65 is the legal limit. We have no idea how much putting it in that enclosure will help.

Commissioner d’Oronzio – Can I get some clarification on where you are going with the noise? Do you want to put the noise such that the decibel level at the nearest residential property line is X or less?

Motion – Commissioner Mitchell – I move that we recommend denial of application SP22-00007. Second by Commissioner Schwarz. The Motion does not pass 4-2.

Discussion following Second of Motion

Commissioner Habbab – The way I am looking at this is that I don’t like that it is going to be a carwash. Looking at the zoning itself in the highway corridor district and we are at the stage where our Comp Plan doesn’t match the zoning that we have. How do we review these applications? That is where we are all struggling. I wish it was more ambitious and would fit our Future Land Use Map designations. It does meet what is currently in the zoning to some extent even though it is not by right looking at what is there now and what the intent of that district is.

Commissioner d’Oronzio – We are in this limitable state where we have an existing set of rules that we should be applying in some consistent way. Because they are the existing set of rules even though we don’t like them and have all sorts of hopes and aspirations for the next set of rules that do not exist yet. Do we paralyze ourselves? That is a tension. Should it be a tension? Are those things that should be compartmentalized? We have something under the current rule that is being presented. We are going to evaluate it that way. When we have developed and crafted new ones, we are going to evaluate it that way. I don’t think we are being fair. We are far away from being transparent or clear on what the city will and won’t do and wants and won’t want. We have a set of rules. We should be applying them. Not that it is absolute either. It should not be our default. That is where we start. These are what the rules are. We have a car-centric zoning. We have something where it is a disused property. Any use of it is going to increase traffic.

Commissioner Stolzenberg – To bring it back to the mayor’s point about 34-157 (all discretionary zoning decisions and how to decide them), one of those things of public necessity, convenience, general welfare, or good zoning practice, informally saying something is a prohibited use without taking it out of the use matrix seems like bad zoning practice. We hear from developers building things that we would think are more beneficial for the city about how frustrating and unpredictable this process is. That is why we want to make a more predictable process. Do we plow through and keep doing it unpredictably until we make a new system? Do we try to do good zoning practice in the meantime even if the conditions are not ideal? We have the opportunity here to mitigate the adverse impacts. Things like having a crosswalk so kids can walk to school is a relatively small and cheap benefit. The city isn’t doing it. It is a meaningful benefit. We usually recommend conditions even if we recommend denial.

Ms. Creasy – Sometimes, yes but usually in a separate vote.

Commissioner Schwarz – At some point in the past, somebody decided that carwashes would be a special use permit. I am not sure that by denying this we are using bad zoning practice. We are conforming to what is currently in the code. I am not sure that I see a disconnect between applying that with the future Comprehensive Plan, which is about more intensive uses. I don’t think we are violating anything by denying this since it is not a by right use to begin with. At some point, someone determined that we need to review it and make sure that there is a reason it should be there.

Commissioner Stolzenberg – If you were to deny it to say that it is on the edge of highway and right across from residential, it is not the right place to do it. That is a reasonable reason to deny a special use permit within a zone that allows it even if it mitigates all the adverse impacts. If we should deny it because carwashes don’t make sense in Charlottesville anymore, that seems more arbitrary.

Motion – Commissioner Mitchell – I moved to recommend approval of this application SP22-00007 in the HW zone at 21B004400, 1113 5th Street Southwest to permit a Car Wash with the following listed conditions.

Second by Commissioner Stolzenberg. Motion passes 4-2.

- 1. Pedestrian crosswalk striping will be provided along with CG-12 detectable warning surfaces to the west of the Subject Property across the entrance road to the Willoughby Square Shopping Center.**
- 2. Operation of the Car Wash will be limited to Monday-Saturday from 7am -8pm and Sunday from 9am -6pm.**
- 3. The applicant will work with staff during final site plan review to ensure any noise produced by the vacuum compressors does not exceed 55dB(a) at the nearest residential property line. These solutions may include but are not limited to; construction of a small wall or physical barrier to reflect noise back on site, larger shrubs (at planting), relocation of the vacuum compressors to an enclosure within the site, reduction in the number of vacuums, and/or installation of low noise vacuums.**
- 4. The applicant will work with staff during final site plan review to ensure vehicular headlights do not spillover into residential units. Solutions may include but are not limited to; large evergreen shrubs at planting and physical barrier such as 36” to 42” masonry wall or fence (contingent to ERB guidelines and review).**
- 5. All outdoor lighting will be full cutoff (contingent to ERB guidelines and review).**
- 6. The applicant will provide additional traffic markings on Harris Road at the direction of the City’s Traffic Engineer.**

Discussion following Second of Motion

Ms. Long – We have the engineer who prepared the noise study. The experts say that they are very confident that the proposals we have made regarding relocating the vacuum producers to the center of the site and enclosing them within the dumpster will make a significant impact. We are comfortable with the condition that was written by staff, to work with staff to mitigate the noise. It says, ‘any noise.’ It is stricter. That is vaguer than I might be comfortable with. I wasn’t going to object to it because I wanted to convey the message. The applicant is willing and concerned about reducing and preventing any noise impacts on the neighbors. We thought that was the best way to handle it in addition to committing to the 2 new changes with relocating and enclosing the producers and adding the wall and extending the wall. To the extent, that is not sufficient, we are happy to work with more. With regards to a certain decibel level, I will note that Albemarle County has a noise ordinance that has a nighttime limit of 55 decibels and a daytime limit of 65 decibels. That is in the ‘residential receiving zone.’ That is what the limits are in the county. The county has many challenges with enforcing their ordinance. They do not have the technical equipment necessary to do it. I have handled noise ordinance violation matters in the county. They had to rely on our client’s technical experts. It is challenging. In your comment Commissioner Stolzenberg, I think it was table 1 in the noise study, where you noted levels of 78. I am going to ask the expert to confirm this. I believe that is the maximum limit. That is not the standard. That is one time over the average. You measure on an average.

Aaron Heustess, Applicant – Specific to table 1, the elmax values that are listed there are 1-minute max readings from when we took noise measurements on site. We were on site for an hour and collected noise measurements at 2 locations on the site. The 1-hour LEQ noise level that is presented there is the equivalent noise level for that 1-hour period. When we monitor noise levels and when we are looking at the application of noise ordinances across the country, that 1-hour LEQ equivalent noise level is typically what is used for enforcement and planning purposes and ensuring that a particular use is consistent with the adjacent environment. We like to capture both min and max levels while we are out there. We recognize that noise levels fluctuate, not only throughout the day, even in an hour or a few minutes. What we presented here is the data as we collected it.

Regarding specific decibel limits at property lines, this is one of the challenges with noise ordinances across the country. You have run into it through the discussion tonight. How do you set a noise level limit that is enforceable? How do you measure what that noise level is from one site because of the contribution of lots of different sources in the environment out there? What we have shown in our table is that during an hour period on a typical Thursday, noise levels are higher and lower than what is currently specified in the ordinance. We are looking to plan and mitigate noise on our site to be consistent with the existing ambient noise environment. The Inverse Square Law was mentioned earlier. Point sources of noise will typically degrade at about 6 decibels for every doubling of distance. We are predicting a noise level of 65 decibels at 25 feet for the vacuum pump producer. We would expect that to be 59 decibels at 50 feet and 53 decibels at 100. The concrete block wall that will surround the dumpster enclosure could have a 20- to 30-decibel sound transmission loss. You are looking at a 20- to 30-decibel reduction by putting those vacuum producers inside of an enclosure.

Commissioner Stolzenberg – That was helpful. I reject the idea that it matters that it was a momentary noise and not the 5-minute average. The noise ordinance doesn't say anything about a 5-minute average. I recognize that it is hard to enforce noise ordinances. Since this is a constant noise and ideally, I would think something that could be modeled in advance, it seems more doable. The numbers on how much we can expect a reduction from what you earlier proposed is helpful. Are you not confident enough in those numbers that we could take what your projections were and subtract 20 decibels from them and call that the limit? Is the problem more that it is too difficult or not possible to create a model that would say that this site plan in this configuration will be 45 decibels or less?

Mr. Heustess – We did not model and predict future noise levels for the site. We took measurements at the proposed location to measure the ambient background noise levels. We took measurements at another Green Clean facility and made a comparison and made some observations about how those 2 different sets noise measurements compare to the noise ordinance in Charlottesville. We can create a noise model that would give you predicted noise levels in and around the site based on anticipated usage and the sound levels of the various pieces of machinery and any potential abatement measures that would be introduced on site, whether it is the dumpster enclosure, the screen wall at the exit of the dryers. We haven't done the math of the computer modeling; not because it is not possible to do.

Commissioner Stolzenberg – I was assuming that in your current proposal it would be no more than 65 decibels at the nearest residential property line. Otherwise, it would be illegal.

Mr. Heustess – That is correct. Our intent is to comply with the letter and the intent of the noise ordinance, which is 65 decibels at the receiving line of the adjacent property.

Commissioner Stolzenberg – Perhaps a reasonable condition would be that the applicant does produce a noise model and that noise model reach a particular threshold.

Mr. Heustess – We are happy to pull that together. That would ultimately be up to the team to authorize us to do that.

Commissioner Stolzenberg – A possible consideration for the Commission would be making that a condition of the site plan as part of this granted SUP. Are we uncomfortable with approving anything until we have some idea of what is going on because we have insufficient information?

Commissioner d'Oronzio – We have a motion that we are crafting. Let's finish it and see what happens.

Commissioner Habbab – For the noise and sound condition, it is the vacuum equipment. That is what they are measuring and designing, how much noise it is emitting at the property line. When we say noise, are they going

to have to do a model with all the cars and the machinery for the carwash machinery? Are we looking at all that or are we looking at just focusing the design solution that they are going to have to provide to the vacuum? When they enclose it, is that what they are measuring?

Commissioner Stolzenberg – It is reasonable to restrict it to the vacuum. I am assuming that would also make your noise study model easier. I don't want to require a model if it is an exercise and pleasing us to meet some condition. It is going to tell us something we already knew. If you enclose it, it is not going to make much noise.

Commissioner d'Oronzio – I want to know what the thing is at proximity.

Mr. Heustess – There were 2 statements that I made that are getting joined together. They are 2 separate discussions. The first is that I would expect the enclosure around the vacuum producers and the dumpster enclosure to reduce noise levels at the source by 20 to 30 decibels. The second part of the conversation was an example of how point sources of noise reduce by 6 decibels in the ambient environment for each doubling of distance. The example I gave was if you have a 65-decibel noise source that is measured at 25 feet, that same point at 50 feet to be 59 decibels.

Commissioner d'Oronzio – Absent the wall and if you are standing 10 feet away from one of these producers, how loud is it?

Mr. Heustess – I would have to recheck the data and see what the measurements for that are.

Commissioner d'Oronzio – How loud are these things?

Commissioner Stolzenberg – It sounds like they go up to 80 decibels at the edge of the other property they are measuring at.

Ms. Long – I don't have the noise ordinance with me. I assume that it states how the measurement is to be taken. Is it over a 5-minute weighted average?

Mr. Heustess – It does not make a specification on how the measurement should be conducted.

Ms. Long – How would it be enforced when you have ambient noise at the same time as the use occurring? How does that work? If you have an ordinance, it does not say how you measure. Is it the loudest noise?

Mr. Heustess – It would be up to the enforcement bodies and up to a judicial body to determine how that would be enforced.

Commissioner d'Oronzio – The applicant can't tell us how loud their producers are in a static environment. You turn this thing on. You are standing in front of it. How loud is it?

Ms. Long – We could if we undertook a specific measurement with that focus. We can do that. There are plenty of examples to do that.

Councilor Pinkston – If you had the cut sheet on the piece of equipment, they would be able to say this is what the decibels are at 10 feet away. They should be able to tell you if you erect a wall.

Commissioner Stolzenberg – At the property line of this parcel, 45 decibels verified by a sound study in the site plan configuration. It is something to be enforced at site plan via you creating a study. That memorializes the 20-

decibel reduction we can get. For the neighbors, that would sound like a refrigerator running at the property line. Is that too much? Is that unreasonable? Is that too expensive of a demand for a noise study?

Ms. Long – I don't think it is an issue regarding the demand of a study. If the ordinance is 65 decibels in a residential zone to then require it to be no more than 45 decibels at the edge of the site or are you saying 45 on the far side of the street? We are trying to comply with the noise ordinance. What you are proposing is noise ordinance less 20 decibels.

Commissioner Stolzenberg – I was saying the closer lot line. It is not quite double.

Meeting was recessed for five minutes.

IV. COMMISSION'S ACTION ITEMS

Continuing: Until All Action Items Are Concluded

1. Critical Slope Waiver – Belmont Condominiums

i. Staff Report

Matt Alfele, City Planner – Belmont & Carlton Holdings, LLC has submitted a Critical Slope Waiver application prior to submitting a final site plan for a proposed mixed-use development near the intersection of Carlton Avenue and Garden Street. The proposed by-right mixed-use development would include one hundred and thirty (130) residential units, eight-thousand seven-hundred and fifty (8,750) square feet of commercial space, new private street, reconfiguration of Holly Street, new City streets, a connection to Spruce Street, and open space. It is also indicated in the application materials but not defined are 7 affordable dwelling units, accounting for 5 percent of the total. To construct the mixed-use development, as presented in the application, the developer will need to disturb 86.4% of the critical slopes on site. Of that 86.4%, 65.3% needs a waiver from City Council. The remaining percentage of critical slopes is exempt per Section 34-1120(b)(7)(c). You are doing a discussion on the critical slopes. The layout presented with this is a preliminary layout. It is not a site plan. Staff has not reviewed this layout to make sure it conforms to all regulations. Keep in mind that things like setbacks and entrances have not been reviewed by staff. They would be reviewed during site plan. The layout is a general layout, but not one that has been reviewed for site plan conformity. Most of the staff report and accompanying materials are technical in nature.

Commissioner Mitchell – **I may realize a direct or indirect benefit or detriment as a result of this application moving forward or not moving forward. The application would be P22-00039, a critical slope waiver for Belmont Condominiums. I live adjacent to this area. I live at 202 Douglas Avenue. This is one of two buildings in that complex. The complex has 42 condo units. I own 2 of those units. There are a host of other owners. There are a lot more owners in those units than me. I have no single benefit what from might happen here. In spite of my proximity to this, the City Attorney has indicated that I may participate in these deliberations if I let everyone know that I live adjacent to the property involved and that I am able to make a recommendation to Council that is fair, objective, and takes into account the greater public interest. I am able to do that. I have given Ms. Creasy and Chairman Solla-Yates a more detailed and signed disclosure that was drafted by the City Attorney.**

It is not unusual for a critical slope waiver to come before this body and be approved by this body before we have a good site plan. It is possible for critical slope waivers to be approved by this body, but the site plan not to be approved.

Mr. Alfele – It is just a recommendation from this body.

Commissioner Mitchell – It is not unusual that that happens.

Mr. Alfele – That is correct. Typically, this body, even if a site plan is happening at the same time as the critical slope waiver, when this body is reviewing the critical slope waiver, the site plan is typically not near a state of approval.

Commissioner Mitchell – The engineering department’s unwillingness or inability to endorse the application based on findings 1 and 2 is not unusual. I want to make sure that the public knows that. What we are dealing with here is not unusual. The current way that the water is being managed with the surfaces there are impervious as it exists today. How much more impervious will the surfaces be than they are today once this is implemented? I read in some place in either the applicant’s writeup or the staff writeup that the conditions might be handled better if the applicant is allowed to make some of the changes that they want to make. It may be handled better than they are handled today. I want to make sure that I read that correctly.

Jack Dawson, City Engineer – I need to check and see what the percent of impervious is. Looking at the map or the plans that were submitted, there is an increase of impervious. If you go out there, it is largely impervious or 60 percent impervious now. The stormwater regulations, while a little complex, speak primarily in quantity to where you release the water. No matter what project it is, whether it has critical slopes or not, requires a land disturbing permit in the city. Therefore, with a stormwater plan approval, you are not allowed in the one-year storm you must meet certain requirements. In a 10-year storm, you are not allowed to increase the amount of water you discharge downstream in most situations. That will occur with this project. To the best we can enforce it and the best it is constructed and inspected, regardless of if it goes forward regardless of any critical provisions. Regarding the recommendation, when I look at this thing, the way the application is written, it states that staff is supposed to make a recommendation based on the findings that are submitted. Those 2 findings are either hardship or the public benefit of the proposed project outweigh the existing public benefits. The way that the code is written, it references primarily environmental impacts when it discusses that. Finding #1 is that the public benefits of allowing disturbance of critical slope outweigh the public benefits of undisturbed slope. It talks about erosion control. Finding #2 is due to unusual size. Eventually an unreasonable restriction clause. Typically, the applicant doesn’t address those things. Response #2 is due to unusual size topography, shape, location, or other unusual physical conditions. The applicant’s description talks about most existing critical slopes being man-made slopes created with the grading for the existing business site improvements. It does not talk about hardships at all. If I read those, there is no reason that I would recommend based on either of the findings in as the applicant presented that this clearly falls under finding #1 or #2 be approved. There is no recommendation. What is the final condition that was in the report talks about the 125 percent water quality treatment. That is above and beyond what we can require, which would be 100 percent. We typically cannot require that. That is done on site. That is a benefit that is better than what we usually see on private development projects.

Commissioner Mitchell – One of the things that we must consider is whether the benefit of disturbing the slope outweighs the detriment of disturbing the slope. One of the benefits that we are talking about here is the affordability piece. I need to understand that a little bit better. I need to have the applicant help me understand a little bit better. I also need city staff the statement on pg. 8 about existing conditions survey submitted. The existing condition survey submitted with the application is not accurate. What wasn’t accurate and where was the survey? I must have missed it.

Mr. Alfele – What Community Solutions was talking about was on Attachment B, which is the layout plan. You have the existing conditions on pg. 3 now. What Community Solutions was pointing out is that it states on the northern end of the property that there are metal buildings on concrete pads. The concrete pads exist but the

buildings have been taken down. I reached out to Community Solutions after your questions to ask for clarification. That is what Community Solutions was talking about. The existing survey had some inaccuracies. That is an example where some of the buildings that are listed as existing are not existing.

Commissioner Mitchell – What confused me was what that has to do with affordability since he was commenting on affordability.

Commissioner Stolzenberg – One of the buildings that was demolished was a resident at some point prior to 2014. It has been gone for some time.

Commissioner Mitchell – With the by right developments that we have seen before, one of them was 2 buildings.

Mr. Alfele – This property has a long history. The previous by right proposal did not disturb critical slopes. It was rentals, not condos. It was 2 buildings on each side of that center critical slope. It is reminiscent of a suburban apartment complex.

Commissioner Mitchell – How many units were in those buildings?

Mr. Alfele – I believe it was the same by right density.

Commissioner Mitchell – If they do by right, they still can do the number of units they are trying to do now. They can do that without disturbing the slopes. There will still be as much traffic going up and down the roads as there are right now.

Mr. Alfele – I would need to double check and look back at those. I believe the site could fit the by right density in a configuration as previously seen in earlier iterations.

Commissioner Habbab – I had a question along the lines of what Commissioner Mitchell was asking about the public benefit. I was looking at pg. 5. It says that it appears as if the development in the proposed conditions will reduce drainage across the steep slopes from existing, helping to preserve onsite and immediately adjacent steep slopes. Most of the erosion of the sensitive features both onsite and downstream are affected during construction of the project. After the construction of the project, is it going to leave it better than it is now?

Mr. Dawson – Essentially, yes. That is typically the result of construction projects on the critical slopes. They are either not disturbing the critical slopes or they are removing the critical slopes. They are in a less erosive state when they are less steep in the built condition. The reference to the silt fence when you are working in those slopes, it rains, and you have disturbed slopes, you need to have things in place that they don't rapidly erode. That is the most important time to protect the slopes. You correctly understood that.

Commissioner Habbab – There is not a survey of existing mature trees in that area.

Mr. Alfele – I am not seeing that in this packet. I am not seeing anything.

Commissioner Habbab – Do we have any idea on the retaining wall heights?

Mr. Dawson – It is not specified on here. I think that they have broken up the retaining walls into terraces. In the last application, there was one big retaining wall. It is now 2 retaining walls pushed apart. I don't think the information is that specific here.

Commissioner Habbab – Is that because it will be part of the site plan?

Mr. Dawson – That is correct.

Commissioner Schwarz – Does the city have an ordinance as to retaining wall height? Is that something that we would require?

Mr. Alfele – We require more details and certification on retaining walls over 4 feet. There is no maximum height if they are engineered correctly.

Commissioner Stolzenberg – In reading the staff report, it seemed like there were 3 sections. Engineering saw that there was no justification for finding 1 or finding 2. OCS said that they didn't have a justification for finding 2. Does NDS have a recommendation for whether the findings are justified?

Mr. Alfele – Not finding 2. It is off. You could develop the site without disturbance for critical slopes.

Commissioner Stolzenberg – Does NDS have an opinion on finding 1?

Mr. Alfele – No. We deferred to engineering because of the environmental feature and nature of it.

Commissioner Stolzenberg – When we say nutrient reduction, what is that relative to? Is that a reduction over an unmitigated development? Is that over existing conditions?

Mr. Dawson – Generally, it is based on the calculation of the disturbance that you do and the conversion from pervious area to impervious area. The soil type is a large part, whether they infiltrate quickly or not. That 'spits' out the pounds per year phosphorus that you are supposed to reduce. When you design the facilities or you purchase nutrient credits to offset that, each facility has a runoff reduction efficiency either through infiltrating it into the ground or reducing it through natural means. Bio-retentions are good at that sort of thing. Each site is tabulated based on the limits of disturbance, the area, soil type, and where your impervious area is going to calculate what that load requirement is. It is a scaled equation. It is not necessarily this is returning it back to existing conditions. I would have to investigate how that works. It is a series of memographs that they go through that spits out all this information to a spreadsheet that the state requires. Everybody must use the same spreadsheet. Here is what you are required to reduce. I can investigate that.

Commissioner Stolzenberg – We heard a concern about an outfall to the property to the northwest. Is there concern that will have erosive impacts? Is it normal for a property to have outflow over another property?

Mr. Dawson – It is. Water always goes downstream. That is typical. This configuration is not an engineered site plan. Since we did get a site plan for this last time in a different configuration, we had some concerns about that. That is one of the more complicated areas of stormwater regulation, what you call an outfall and how you regulate that to where you apply given the flow in a given rain event. You must look at where it leaves the property now and where it leaves the property in the proposed condition and make sure you are not causing erosion or flooding to any of the conveyances downstream of that. I can't look at this plan and tell you this is going to solve that. That is one of the things that we look at for all projects, especially when it is a larger project like this that is diverting water and changing outfall locations to what is to a sensitive area.

Commissioner Stolzenberg – Is it safe to say at the time we get to a final plan, you are going to make sure that it isn't causing adverse erosive impacts on the neighboring property before you approve it?

Mr. Dawson – That is what we try to do.

Commissioner Palmer – One thing that piqued my interest was that by retaining water on site, the reports said it wasn't clear that could be infiltrated due to compaction. Is there anything that could be done design wise to promote that infiltration as they construct this?

Mr. Dawson – In their report, they say that they are perforating these detention systems. They are proposing 3 stormwater facilities. One is a biofilter or a bioretention facility. What we call underground retention facilities are just big pipes of at least 36 inches if not 48 inches or even 6 or 7 feet. That is store water. They put a plate at the end of the pipe. The full section of the pipe can't pass through it. They drill holes or cut out places for the water to spill out. That is where all the engineering to make sure the water, as it reaches different stages in response to different rain events leaves the site at a certain rate. What they are proposing is to perforate that and surround it with gravel. As the water is building up in there to be detained, it is also infiltrating some to the ground. That does something as does the biofilter they are proposing. The reason that I said that was unlikely to cause groundwater recharge is that those are not very effective. You are concentrating large areas, multiple acres into these facilities. When you get anything beyond a small rain event, there is not the time to infiltrate into the ground when you are focusing all the watersheds, runoff into one area of the ground. It is not going to infiltrate as fast if you distribute that across the site. All 3 of their facilities are concentrating large storage areas like that. One way to achieve that is to do a system of smaller facilities spread throughout the site. I didn't design the site. I can't say that it is easier to do that. That is a challenge as well. That is probably one of the easier ones. That wetland is something like, if this site is approved and built, that will be something like 16 feet underground. When you put that much natural fill into a natural environment or manipulate the ground that much, it is hard to predict what is going to happen to the groundwater. It is unlikely that there will be effective recharge.

Commissioner Schwarz – You said that there were previous by right site plans that were submitted for this. Were there any issues with those plans that would have made them unlikely to get a final approval?

Mr. Dawson – I don't think they were by right. I wouldn't say they would get approval. It takes a few rounds of submitting things to get approval. I don't think it was a preliminary plan. I think it was a final plan. It wouldn't have gotten approval. It was not a horrible plan. It was on the right track. This submittal includes a phased exhibit of how they intend to do it. This is a complicated site. When our staff look at it, we see things. It is rare that something this large is going to come through and be approved by the first time. It was a complex erosion sediment control plan. I know a lot of the concerns were more in the weeds of the outfall considerations.

Commissioner Schwarz – If you saw any red flags, a reason that they reconfigured this, that maybe you saw it.

Mr. Alfele – Because this has a long history, what Mr. Dawson and I are talking about it is the most recent site plan submittal. There was a submittal before that that was a by right that didn't disturb critical slopes. It came within a foot of critical slopes. From the layout standpoint, they weren't. The last site plan submittal was all residential development. In this zoning district, to get the density, you had to be mixed-use. I would not say it killed the project. They would have had to add a commercial element to the last submittal. There were several sheets of comments they would have had to address. It was a lot of comments from different departments.

Councilor Payne – There is a 2018 site plan conference where there was a proposal for 130 units, 2 apartment buildings, and a commercial use on the street. This one is condo with no commercial space. Are you referring to that 2018 proposal with 2 apartments and 130 units? Was it that one that did not disturb critical slopes?

Mr. Alfele – That is correct. It came close. They went as close as they could without disturbing it. There was concern from staff that you couldn't construct it without disturbing it. The conversation never went that far. They went back to the drawing board.

Councilor Payne – There are comments and the reporting at the time from councilors and the community that they didn't like that it was all apartments. They thought it was too tall. I like that site plan more. Apartments like City Walk are good and make sense there.

ii. Applicant Presentation

Ashley Davies, Applicant – Tonight is 16 years in the making. It is how long the company has had the property. We have looked at this property and just about every permutation possible over those years.

Next Slide

I am going to start off with some of the background and more planning related comments.

Next Slide

This is an aerial view looking down on the site. Carlton Avenue is towards the bottom. For those of you that haven't had the opportunity to come and look at the site firsthand, it is quite impervious, very industrial. When it was created into the commercial pads that you see now, that did change any of the natural topography that would have existed on this site. What you have now down the middle of it is this ravine that is full of trash, some kudzu, and a fair amount of existing erosion issues. This area handles a lot of the water that is coming through the neighborhood and is flowing in this direction. We feel like this development does have the opportunity to improve and correct some of a past mistake with how they previously handled this project. We think we are going to leave it in better condition than it is today.

Next Slide

This shows the zoning designation (Neighborhood Commercial Corridor). It is also a neighborhood commercial node in the Comprehensive Plan. As the staff report says, the vision for this area is how we get some mixture of uses, housing types, and how we create forms that will begin to blend in with the rest of the neighborhood. This is a 6-acre site. There are no easy sites left. Anything that we are looking at, especially when we are creating housing, there is going to be some challenges and complexities. We understand that. We have done our best to work with the neighborhood throughout the years. We have had to run through many concepts with them. The benefit of that is that we have gotten so much feedback along the way. It has served this final iteration that we are going to talk about tonight.

Next Slide

I have tried to orient these with Carlton Avenue on the left. One of the first concepts for the site was over 300 units. This was a larger apartment complex that would have required a parking deck. It was a dense development of the site. It would have been a special use permit in this case. There would have been impacts to the critical slope. This was looking at how we maximize the density onsite. It is a lovely concept. We got a lot of feedback about the apartments being too large, overbearing, not transitioning well to the neighborhood, and not a lot of support in the community meetings we held with this type of concept.

Next Slide

From there, we looked at how we could still do apartments but potentially looking at more by right options, how we avoid the critical slopes on the site. As you can see in the shaded areas, the critical slopes form these fingers that pull up into the middle of it. It does impact the ways that you can create connectivity on the site and use and zoning requirements with setbacks. You end up with these strange shapes. This was more of a by right look at it. I don't think we heard from anyone that they liked this concept. There was a lot of pushback from staff and neighbors on this one.

Next Slide

This was another look the following year. This one would have required a special use permit. We felt the layout felt better and not quite so odd. We did a traffic study on this one for the 230 apartments that was accepted and approved by the city. Looking at the traffic issues, it is always a concern. That was cleared for this number of units. All our other iterations have been the by right number of units, which is 100 fewer residents. The traffic is covered by the previous study and conversation. We are below what we had previously discussed.

Next Slide

This is another slide with 230 apartments. Looking at it from every direction, we received a lot of feedback from people who thought apartments were not a good fit being so close to all the street networks with single-family homes.

Next Slide

This is the overhead image of the initial site plan that we submitted for a different concept. With what we are generally talking about now, we thought it would be a good idea. We heard that people didn't want that many rentals in the area. This is now more of a 'for sale' product. It gives you a couple of different unit types, townhouses, 2-over-2, more of a network. The feedback we received this time was that it was too much pavement. We did not have that necessary commercial element. City staff wanted us to complete the street grid network so we would have more connections from our property out into the various directions and wanting more meaningful green space.

Next Slide

This is the concept that we are discussing this evening. Over the years, we have been looking at this and working on it. I am pleased with how things are landing here because we can add 130 new residences within walking distance to the Downtown Mall and other amenities. We get quite a variety of different housing types. On Carlton, there is an apartment building with 20 apartments and some commercial up on the street. We have the 2-over-2-unit styles and the 2-over-1s in the back of the property. We can include built affordable units on site. We have reduced the amount of pavement on site while adding this great central green open space amenity that is about 0.5 acres. It has been a good process for us. We have had the ability to listen and learn over all the years. The project benefits greatly because of it.

Scott Collins, Applicant –

Next Slide

I am going to talk more about the engineering aspects about it. I want to talk about the existing conditions. This map shows the amount of impervious area out there. About 3.41 of the 6 acres is impervious with the existing conditions.

Next Slide

Our proposed development does increase the overall impervious area up to 3.96 acres. It is about 24,000 square feet of an additional impervious area. When we talk about overall treating, that was talked about a lot in some of the discussions before our presentation. With Virginia code, when you look at a site that has a lot of existing impervious area, what they ask you to do is to treat what you are proposing to increase. That is what we are doing. The second thing is to treat a percentage of the existing impervious area (about 10 to 15 percent). What we are doing is we are treating what is above the existing impervious area out there now. We are also treating 30 percent. When we talked about roughly 25 percent more, that is what it lands at. That is what we are looking at. When we say that we are treating above what is required by state code, that is where we are at. We would have to treat between 10 and 15 percent per state code and we are about 25 or 30 percent above that. That is where we are with what we are proposing on site. That is the other key thing that the city engineer was noting. We are not buying nutrient credits for this site. Because it is 6 acres, we can do it on site and that is what we are doing. Water quantity is the amount of drainage going from our site and going through our site. Our site is about

6.2 acres. We have about 8 or 9 acres draining through the site to the stream that outfalls toward the Douglas Avenue area and ultimately to the city right-of-way. All that right now is being undetained. It is flowing to the streams, straight to the critical slopes, and straight to everything when it rains. We are going to capture about 8 acres of it. We are taking those 8 acres and putting it into 2 underground retention facilities detaining that, slowing it down, and releasing it at rates that is less than the requirements because we are centralizing most of our drainage to one location where the stream is. We are greatly reducing that runoff rate with our overall drainage pattern, which was draining straight through the existing critical slopes, straight through everything. We are taking that water and capturing it and outfalling it to one location. The outfall that everybody is talking about as far as Douglas is an overflow outfall. The main drainage from that system goes from our underground retention facility to the biofilter. Only does it outfall over the existing stream where it is already going now where 100 percent is going to it now. We are taking the low flow storm events to the biofilter and letting the outfall from the larger storm events go back to where it is going now. We are reducing that. That gets flushed out during the site plan process.

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There are several things that came from the connectivity from over at Spruce Street with this proposed iteration of this project. We are now able to tie into the sanitary sewer system that comes down Spruce Street down to Douglas. Because of that, we can tie it in at a lower elevation, which allowed us to lower the amount of fill on our site to get positive gravity from our site to the existing sanitary system along Carlton Avenue. We have been able to lower walls considerably from what a lot of the residents might have been talking about earlier today. I believe some of the iterations did have some higher walls. Most of these walls are about 6 to 8 feet high. If they get above 8 feet, we have staggered them. You might have two 8-foot walls together at 16 feet high. The only place to get up to about 20 feet is at the biofilter area that is on our property there next to the road that goes over to Spruce Street. That is the only spot where it gets high. Those are double walls. We can look at breaking that up to have two 8s and a 4-foot wall. We will look at that during the site plan process to keep them lower if we can. That is where we are with the grading. With this iteration, we have substantially reduced the amount of overall fill on the site. It has reduced the number of walls. Within the underground retention facility within the green park area, we were proposing that to be more of a pervious system to allow some of the water to infiltrate into the ground as much as possible. We know that Virginia soil doesn't allow for whole lot of infiltration. We never rely on that in our stormwater calcs. Anytime you can set up a pervious system that might allow a little infiltration.

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Talking about erosion and sediment control, any E & S plan in the city can be very complex especially because it is all infill. What we are trying to do in this simple exhibit is highlight the fact that we are going to install a sediment basin right there in the low spot of the site and direct all the drainage to the sediment basin during the construction process. We are going to be directing water to that area. What we are proposing to do is to develop the exterior part of the site first (retaining walls, roads, all the improvements highlighted in blue). Before we start bringing in any fill into the site to fill the rest of the site up, we are proposing to get the rest of the improvements around the exterior edge of the site constructed and permanently directing water to our sediment basin. We will come in and fill the rest of the site while everything is going to the sediment basin. That is our goal. That is what allows us to protect the downstream properties, critical slopes, and streams.

Commissioner Mitchell – If we recommend that we grant the waiver, one of the reasons we will do this is because the community benefit of granting the waiver outweighs the protection of the critical slope. One of the things that makes this interesting is the affordability piece. I wonder if you could talk about that. Everything I read is silent. I don't understand what the level of affordability is. I don't understand what the tenure of affordability is. I am not sure what type of units are going to be affordable units. These are going to be mostly 'for sale.' Is there a rental component? What is the rental configuration of this?

Ms. Davies – It is unusual to include affordability in a by right project and as a part of a critical slope waiver. We know the value and benefit that is to the city. That is why we wanted to include it. What we are thinking now is that we have the 7 units. We would like the flexibility. Most of what we are offering on the site is going to be a ‘for sale’ product. We have the apartment building up front. I imagine that those 20 units will be rental. With the way the 2-over-2s and 2-over-1s work, they will be condos. You can either sell each individual unit or you can sell the vertical 2 units. One of the homeowners could rent out the lower unit or upper unit if they wish. At this point, there is a lot of flexibility in how the affordability can be offered. We are proposing that it is up to the 80 percent AMI level. Because we do a lot of apartments in the area, we see a lot of natural affordability within the apartment style unit. That is one of the additional benefits of the type of residential we are doing on the site because you get a variety of sizes and rental and for sale. The 80 percent AMI for 10 years is what we were imagining we would do here.

Commissioner Mitchell – These would be rental units. The ‘for sale’ units would be more complicated.

Ms. Davies – It is not that complicated. We could do ‘for sale’ units and you could deed restrict it for the affordability period. For now, it is nice if we can have that flexibility because we have so many different alternatives that we can offer there. That is the general idea.

Commissioner Mitchell – What type of units is it going to be?

Ms. Davies – Typically, it will be 1-bedroom. There is a design with the 2-over-1 units. I believe that there is a design where you can get that bottom unit as a 2-bedroom unit.

Commissioner Mitchell – For staff, how are we going to do this? This is not a proffer. We don’t have anything in writing from the applicant. It is a critical slope waiver that happens to mention on the sidebar affordability. How do we get this structured in a way that is codified and enforceable?

Ms. Creasy – I am not sure that we can. That is not the application that we are working with. It is a wonderful additive to their project. It is not something that we have a way to enforce given the applications that are required to move forward.

Commissioner Mitchell – We can approve the waiver. They can elect not to build any affordable units.

Ms. Creasy – That is an option.

Ms. Davies – We have it written on our plan. If we are approving the documentation with the waiver, if there is something additional that needs to be written on the plan. It is certainly our intention we build in affordable units to pretty much everything we work on nowadays. Whatever makes sense to you, we are happy to do that.

Commissioner Mitchell – The applicant is offering to include affordable housing units in the construction. This is a critical slope waiver application. It is not an SUP where you typically can accept a proffer to embrace the affordability components that they are offering. Is there a way to codify/make enforceable their commitment to provide 7 affordable units? Is there a way to get them to document that it will be at 80 percent AMI over 10 years and the units will be 1-bedroom units?

Javi Gomez Jacome, City Attorney – There is a way that we can codify this. It shouldn’t be in conjunction with the critical slope waiver. Any approval that you guys give today should be on the materials that were put in front of you.

Commissioner Mitchell – It is in the waiver request. They outline these offers. It is not an SUP. It is a critical slope waiver.

Ms. Davies – We would be happy for that to be a specific condition of the critical slope waiver approval just as staff has offered other conditions. That gives a slightly greater level of specificity as to the questions that you were asking about what we mean by the 7 affordable units if that is acceptable to the Commission.

Ms. Creasy – It is not something that is linked specifically to the critical slope waiver itself. It is a wonderful opportunity for the project. With the critical slope waiver specifically, the linkage isn't there.

Commissioner Mitchell – I understand that. One of the things that makes this interesting and one of the things that suggests that the community will benefit by waiving the waiver is the fact that we get affordable housing. If you read the ordinance, the ordinance says you can wave the critical slope or you can recommend the critical slope waiver if in fact the benefits of the waiver outweigh the damage done by disturbing the slope.

Commissioner Habbab – If we theoretically approve it as presented with this statement by the applicant, would that bind it to that recommendation?

Ms. Creasy – It is not part of the technical review of a critical slope waiver. That was one of the things as part of our discussions. It is a wonderful opportunity. It doesn't fit this application specifically. We can't connect it to this.

Commissioner Stolzenberg – It seems like the problem is we are saying that is our reasoning for finding #1 is true that the benefits outweigh the harms. For conditions, conditions shall clearly specify the negative impacts that they will mitigate; not conditions that will make sure that your finding #1 benefits still are true.

Commissioner d'Oronzio – Could I suggest that hanging the hat on the benefit of affordable housing on this project at 6 or 7 units is what we are talking about in the present environment is to make the math. You are talking about the apartments. I say this because, in the current environment, you would have to sell a unit to a family of 5 or 6 at under \$300,000 to fit at 80 percent AMI. You can start moving a lot of money around in terms of percentage and getting subsidies from outside forces. It doesn't help that much. We are really looking at the apartments because, unless something changes in the cost of funds, we are back to 'normal' cost of funds. We are not looking at a housing thing unless we are talking about some strong subsidy from outside. We are talking about a 10-year affordability. How much enthusiasm is there for outside subsidy at 10 years of affordability going to come? This is a suggestion not to hang too much of a hat. We are talking about likely that it is going to be apartments. Construction costs are not going down.

Commissioner Habbab – Is that central green space open to the public? Will that be a public amenity for the rest of the neighborhood?

Ms. Davies – It is described in the application as a civic amenity.

Commissioner Habbab – With the tree canopy and the existing mature trees, do you have any information on what mature trees exist on the site, if we are looking at replacing them? I was looking at a previous point on this on a report that there was an option to condition a 3-to-1 ratio for replanting.

Ms. Davies – We will be much greater than that. There aren't a lot of wonderful mature trees on this site unfortunately because of the previous development that happened. Even around the critical slopes area, while there is this wild kudzu habitat, it is not the nice beautiful, mature, forested area. Given the size of this site and the extensive landscape plan we are providing, there will be a lot more mature trees.

Commissioner Habbab – On the sediment basin at the low point, it seems like it is near the creek. Is staff confident that the super silt fence in the conditions will mitigate that potential issue?

Mr. Dawson – The trap is near the creek because that is the downhill end of it where you want to collect all the disturbed water. We review this in the site plan phase. The silt fence is constructed first at the perimeter to control the activities as the engineer that did the presentation discussed to convey the rest of the water to the trap. You can then work in that area and bring in all that fill. It is controlled by the trap, which is for a larger drainage area the necessary tool. That is typical.

Commissioner Habbab – With the groundwater recharge, will those conditions be figured out later during the site plan? What happens in a storm that is not the low storm event? What happens to the adjacent properties? How does that compare to what happens now?

Mr. Dawson – When the stormwater regulations apply to certain frequency events, it is not something that is simulated over some broad range of storm events. What happens in between those events, it is interpolated to be similar to what was in existing. Part of the application lists some of the environmental impacts or natural benefits. Groundwater is on there. The applicant stated that this would achieve groundwater recharge. I don't think this is going to effectively replenish the groundwater or recharge the groundwater. That is different from the application of the regulations to how quantity of the stormwaters released to downstream properties. I am curious to see these plans. I know Mr. Collins was talking about how there is a bypass overflow and things like that. That is getting technical. There are different ways to address the code. It is almost always addressed in that whenever you discharge water from the property to a downstream receiving property. It is the same as it was before the project in the 10-year storm. There is a more complicated equation for the 1-year storm. It depends on the site and the system in place what happens in a 50-year storm, a 100-year storm downstream. That is complicated. The larger the storms get, it is less relevant what smaller scale stormwater things are in place. The water is running off that point. It is presumably similar to what is there now.

Commissioner Stolzenberg – With the changes to this plan in the last 5 years, what happened to the pedestrian bridge?

Ms. Davies – With the railroad, it didn't go anywhere unfortunately. I loved that idea.

Commissioner Stolzenberg – In terms of what changes we have seen since the 2017 plan, there are 183 fewer homes. There is no more bridge. The neighbors said that they didn't want renters. Everything has been turned into condos except for the 20 units in the front in this neighborhood of 44 percent renters. These are now townhouse style 2-over-1s.

Ms. Davies – There are 2-over-2s, 2-over-1s, and apartments being offered.

Commissioner Stolzenberg – Because the neighborhood said that apartments were not an appropriate transition near the other neighbors.

Ms. Davies – They said that they didn't want 100 percent rental. That is a lot of the feedback we received.

Commissioner Stolzenberg – Is Riverbend's opinion that all those changes were good things?

Ms. Davies – We love doing density. We do some high-density projects. Where it has landed is in a good spot given the years of feedback that we have received and the way that it compliments the rest of the neighborhood.

Commissioner Palmer – I was looking at the property line. It is weird how there is an alley going on. There is a lot of the tree cover that you see on the aerial pictures. Will there be any clearing off beyond the property line for this so that some of the canopy that acts as a buffer may remain?

Ms. Davies – That is correct. We maybe didn't describe it well. By making the changes to the stormwater systems on site, it provides some greater protection to those natural areas below. They are not being pounded with every storm event.

Commissioner Palmer – As you go through the site plan, will you be looking at things smaller rain gardens or curb gardens, permeable pavement to get some of that water before it gets into your big stormwater retention?

Mr. Collins – We are looking at other ideas. The problem with some of the things is that we may not get credit for it. We are still looking at potentially doing them. For instance, there is a larger open flat area along the back alleyway or along the roadway here. We talked about maybe doing a linear swale before it gets in the storm system. That is something we are looking at too for additional potential mitigations. We are looking at the idea of possibly doing some pervious parking areas behind the apartment building. We are looking at some of the areas that don't have the high traffic.

Chairman Solla-Yates – I have a statement of excitement. I like the idea of increasing the efficacy of impervious pavement. This is an ineffective use of impervious areas on the property currently. It will be more efficient in terms of homes per impervious acre. That is exciting to see.

Councilor Payne – What is the net impact on the tree canopy for this site that you plan for?

Ms. Davies – It is hard to say without the landscape plan.

Councilor Payne – Could you say that there is not guaranteed to be a overall loss of tree canopy given how many you will plant to replace them?

Ms. Davies – Yes.

iii. Commission Discussion and Motion

Commissioner Mitchell – There are a lot of things about this that I like. I like the fact that you are not going to be buying nutrient credits. You are going to be doing the work on site. I always like it when you guys do that. I like that, based on the feedback that I am getting from Mr. Alfele, this is going to make the streets in that area more walkable as opposed to the 2 big institutional buildings. I like the compact neighborhood center that this creates and these smaller scale buildings. It makes me sad that we can't figure out a way to tie our hands on the affordability piece. If we knew how to do that, I would be all for it. I am told by the legal team and staff that we are not quite able to add a condition in a critical slope waiver.

Mr. Collins – The condition references material that was submitted.

Ms. Creasy – It is not specifically related to the critical slope waiver.

Commissioner Mitchell – Can it be included in the site plan in some way?

Ms. Creasy – They can provide information on the site plan that denotes that. We won't have any way to enforce it because there is not an application that would have the ability to do so. They could outline how they plan to program things there. That would not be a part that we could enforce.

Commissioner d’Oronzio – Up until yesterday, I had not been on this site. I did go down there. This site is farther from my house than it is from Commissioner Mitchell’s. I like this civic nature of it. I like density. Like Councilor Payne, I prefer more density. This property has gone from lying fallow to deteriorating. We need forward motion here. I am excited that the proposal is to improve what we have on the ground. The affordability piece does not seem to be that large of a piece of this in the classic definability of affordability or our standard fallback to 80 percent or less. Increased density takes pressure off the housing.

Commissioner Habbab – I agree with all that has been said. Looking at it as a public benefit, there is that civic amenity that we are getting, which is that little pocket park. It increases network connectivity. We did hear from the public on the issue of the sidewalk on Spruce and how it used to be a dead-end street. From the plans we have looked at, there are sidewalks throughout the development that could maybe mitigate that if you are crossing down through the new development to get to your destination. That is not something under the purview of our critical slope recommendation. I am happy to recently discover that there is no net loss of tree canopy. With the affordable housing, it is only 10 years at 80 percent. It does not hurt.

Commissioner Schwarz – I am looking at this from a technical perspective. There are a lot of good things being offered. Even we have gotten a ‘fuzzy’ answer from staff, it sounds like stormwater is going to be better than existing. That is the whole point of a critical slope. I support this on that simple fact.

Commissioner Stolzenberg – That is spot on from the consideration of a critical slope waiver. The negative impacts of affecting critical slopes are adequately mitigated by the 125 percent nutrient reduction and the other mitigations we have discussed. The fact that this creates a nice bridge structure and a public amenity of a park in the middle are both nice things that are public benefits. I can’t help but comment on the development. Every change you have made, aside from the grid format since 2017, has been a real shame. It almost seems like you guys are resigned to it because you want to go the by right route to not drum up any opposition. I remind you that there is a new owner of that railroad. It is no longer a Class One. This is a prime site, prime brownfield site right in the middle of the city that is so close to everything. 21.99 units per acre is practically a waste. The critical slope waiver is a no-brainer.

Chairman Solla-Yates – I have been thinking about ways to establish clarity, especially as this goes to Council. It occurs to me that contract law is a thing. I know something about contract law. Could we buy a promise for \$1?

Mr. Jacome – It is an intriguing idea. There is probably a variety of things that I want to read up on before advising you to proceed.

Councilor Payne – I would agree with Commission Schwarz on the technical points. More broadly, I agree that every change that has been made in recent years has made this project worse. I might be alone in people who showed up to speak up at those meetings. I don’t think I am alone in the community in agreeing with that. Both the 2018 and 2020 project were preferable to this both in unit type (2020), the number of units and the fact that they were less spread out and more compact and had less impervious surfaces. I don’t think it is the majority sentiment that rentals are a negative thing. I feel somewhat confident even speaking on behalf of City Council that our inclination for a project like 2020 requiring an SUP would be to how to work together to get to ‘yes’ on that rather than wanting to shoot it down and not get there. That might be irrelevant to you all given the path dependency and how much work has gone into this. That is important to say and repeat at every opportunity in terms of how Council is currently thinking. I think staff has worked on things related to the new owners and this bridge. It might be worth re-engaging there. With similar projects in Albemarle County, if you are going to do affordable units and they are homeownership, they have partnered with community land trust to manage those affordable proffers and they have found that to be successful to beneficial both to the developer and have those

affordable units be affordable into perpetuity and offer up a wealth building opportunity across multiple generations that that did not impact the bottom line of the developer and was feasible.

Motion to Approve – Commissioner Mitchell – I move to recommend approval of the critical slope waiver application P22-0039 with the following conditions:

- 1. Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of ESC controls. The first phase shall include “Initial/Preliminary Controls”. Outfalls from any proposed traps shall be established with rigorous independent ESC controls, early in the sequence, prior to the establishment of a sediment trap and associated conveyances.**
- 2. Any channels/diversions that convey ‘clear’ water shall be stabilized with sod on the ‘clear water’ side immediately after installation.**
- 3. “Super Silt Fence” (chain linked backing) shall be installed where perimeter silt fence is specified.**
- 4. Any disturbance occurring outside of conveyances to the trap, in either sequence or space, planned or unforeseen, shall be immediately stabilized with sod (for pervious areas, utilities should have other “same day stabilization”).**
- 5. At no time shall concentrated water be directed toward the critical slopes without adequate conveyance down and beyond the slopes to an acceptable outfall.**
- 6. To document the landowner's representation regarding onsite water quality measures, the Final Plan will include a Virginia Stormwater Management Plan that includes a design for onsite water quality provided by a facility, OR facilities that are either 1) designed in accordance with the BMP Clearinghouse “2013 Draft Design Specifications for Practices 1-15”, or 2) proprietary Manufactured Treatment Device(s) approved by DEQ as of the date the Final Plan is submitted. The facility or facilities should provide 125 percent of the onsite Phosphorus removal required by the Virginia Water Quality requirements for the development. Compliance with the 125 percent will be demonstrated by accurate project data set forth within a completed VRRM spreadsheet for the project.**
 - The public benefits of allowing the disturbance outweigh the benefits afforded by the existing undisturbed critical slope, per Section 34-1120(b)(6)(d)(i)**
 - Due to unusual physical conditions, or the existing development of the property, compliance with the City’s critical slopes regulations would prohibit or unreasonably restrict the use or development of the property, per Section 34-1120(b)(6)(d)(ii) Second by Commissioner d’Oronzio. Motion passes 6-0.**

The meeting was adjourned at 10:09 PM.