

Minutes

**PLANNING COMMISSION REGULAR MEETING**  
**May 9, 2023 – 5:30 P.M.**  
**Hybrid Meeting**

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

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

***Location:*** City Space

**Members Present:** Commissioner Stolzenberg, Commissioner Schwarz, Chairman Solla-Yates, Commissioner D’Oronzio, Commissioner Mitchell

**Staff Present:** Patrick Cory, Remy Trail, Missy Creasy, Dannan O’Connell, James Freas, Sam Sanders

Chair Solla-Yates called the meeting to order at 5:00pm. He asked if there were any questions regarding the minutes on the consent agenda and asked Commissioner Stolzenberg to address the motion during the regular meeting. Chair Solla-Yates asked if there were any questions on the preliminary discussion. He also asked about the next steps for the Zoning Ordinance revision. Mr. Freas provided a review of the schedule and upcoming releases of materials.

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

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

***Location:*** City Space

**A. COMMISSIONER’S REPORT**

**Commissioner Stolzenberg** – The only meeting this month was the Downtown Mall Committee last Thursday. We covered two topics: the fountains and the trees. The tree situation was a little depressing; coming to terms with the nature of mortality. We need to figure out what to do next. We heard about the RFP out right now for a tree plan: a plan how to maintain the trees and what to replace them with in the future and how to replace them; whether taking out a block at once and planting new things or just replacing the trees that have to come down when they come down. Those would have to be trees capable of growing under a canopy of oaks. There is a host of problems with the trees at the moment, notably the grate situation eating into the base of their trunks. The fountains were an interesting conversation. Originally the fountains were intended to be more interactive than they are today. We had some interesting discussions on that situation.

**Commissioner Mitchell** – I attended the Parks and Recreation Advisory Board meeting. As always, they are very busy. There were a number of updates of the projects that they are working on. The skate park retaining wall is just about done. We talked about the Tonsler parking lot and the Maplewood Cemetery retaining wall that is moving along. The McIntire drainage project is still something that they’re working on. With the Riverview restroom restoration, there was a bid. The bid came back at \$600,000. They have to do a lot of boring and a lot of electrical work. That’s more than what we were expecting. They are going to rebid that. Most of the projects that are going out for bid are coming back significantly higher than what we expected. We are having difficulty in getting people to bid on some of the projects that we

are working on. We also talked about the Master Plan. The Master Plan update is now out for bid. The Grove is now open and available to visit. We need to do a bit of seeding and a little work on the grading. The objective is to make this a place to go and reflect and to think about city leaders. If you get a chance, I would encourage you to go and check it out. The LUPEC group (UVA, City of Charlottesville, and Albemarle County) met as well. There was a presentation from UVA; their thermal energy study. This study is there to support the goal of being carbon neutral by 2030 and fossil free by 2050.

**Commissioner Schwarz** – A couple of weeks ago, I met Genevieve Keller and Mary Joy Scala from Preservation Piedmont. They wanted to hear my thoughts on any conflicts with the code and the BAR. They met with Mr. Freas the next week. There was a short meeting of the BAR. There is going to be a new restaurant use in the Amtrak station. They were trying to get a COA for a rooftop patio. On BPAC, we do have a new Bike and Pedestrian Coordinator. I don't think they have started. May is bike month. Next week is bike to work week. If you go to [livableville.org](http://livableville.org), there is a calendar of the events. There will be food stations set up at certain locations.

**Commissioner D'Oronzio** – The HAC and HAC subcommittee met on the 19<sup>th</sup> and 26<sup>th</sup>. The subject was Module 2. The subcommittee pulled together some recommendations. I am not sure that the recommendations went to Council and Planning Commission. They certainly went to our Chair, the Mayor, and Mr. Freas. The general reception of that was that there were some technical concerns about state and federal guidelines in conflict and how that needs to be addressed specifically so we don't trip up 'over ourselves' in the middle of a project. There was a discussion over the term of 'affordability' and making sure there is some bifurcation between homeownership and rentals. There was a suggestion that we go back to some of the language in city housing policy about people based and project based; at least for now to have some kind of reference. There was a Ford Based Code matter; don't be so concerned about bedroom counts. Let the inside of the buildings be the inside of the buildings. On the bonus and density piece, there was a discussion on the practicality of this 100 percent bonus for 100 percent affordability and the math not adding up. In terms of the sensitive area matter, this is a complicated matter to discuss. If the Planning Commission and City Council want to refer that to the HAC, please do so. The CPT is meeting on the 24th

**Commissioner Habbab** – Not Present

**Commissioner Russell** – Not Present

## **B. UNIVERSITY REPORT**

**Commissioner Palmer** – We have two big things for the month of May: Graduation and Final Exercises the weekend of May 20<sup>th</sup> and 21<sup>st</sup>. On the 22<sup>nd</sup>, there is going to be some major road closures on Grounds: the western portion of McCormick Road starting around the Physics Building and going around to the Alderman intersection. That is going to be closed for the summer to finish the streetscape that hadn't been completed with Gilmer Hall because there were other projects happening. Timing-wise we know that there was a second project of getting low temperature, hot water across Alderman Road to the dorms to improve their energy efficiency and help meet those goals that Commissioner Mitchell mentioned. The second part of that is the major closure of Alderman and McCormick intersection. There will only be one condition that you can get through there. If coming from Fontaine, you loop up O Hill, come around and down McCormick, and go east down McCormick. You can take a left on Alderman to go north.

## C. CHAIR'S REPORT

**Chairman Solla-Yates** – No Report – Tree Commission Report email from Commissioner Habbab – Tree planting has been completed. There were 162 trees planted, mostly around the schools. Grant funding is being sought to conduct an urban tree canopy study and an urban forestry plan. There was discussion on the new draft zoning. There was discussion about tree baits, which was an idea from public comments that we received. Incentivize tree planting by private owners through a possible stormwater tax credit. They had a presentation from Rivanna Conservation Alliance on their work. They had some information from the urban tree canopy using data from 2018 and planned out how to hit different targets. If we want to maintain a 38 percent canopy in 30 years, we have to plant 2500 trees every year. It would be expensive and difficult.

## D. DEPARTMENT OF NDS

**Ms. Creasy** – We're scheduled for a work session on May 23<sup>rd</sup>. We will be focused on Module 3 as well as zoning map change requests that we have received. The steering committee is getting ready to meet again in May to get ready for Module 3. We have a general plan about milestones going forward in the next couple of months.

**James Freas, NDS Director** – Next week, we will have Module 3 out. The comment period is through mid-June. We are focused on producing the consolidated draft zoning ordinance, which we're aiming to have released by the end of July. At that point, it is a 'baton handoff' to you guys. We open up a public hearing. Our recommendation would be that you devote an entire meeting to the public hearing and then move into your deliberations and decision making.

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

No Public Comments

## F. CONSENT AGENDA

1. Minutes – November 9, 2021 – Regular Meeting
2. Minutes – November 23, 2021 – Work Session.

**Commissioner Stolzenberg – Moved to Approve – Second by Commissioner Mitchell – Motion passes 3-0 with two abstentions.**

There was a discussion regarding Land Trusts and Land Banks started by Commissioner D'Oronzio and Commissioner Mitchell. It is a complex process to get land trusts in place. It will require help from the City Attorney. The Affordable Housing Plan calls for the use of Land Trusts. There are a couple around the city. Somebody, other than the homeowners, owns the dirt. The improvements are owned by the individual. If not paying for the land, you get a more affordable product. We need to get the land to start. Five years ago City Council was presented with a Land Bank ordinance. It was given to HAC to review. There was a Land Bank ordinance drafted. There is a language in the Land Bank that protected the land.

## 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

No Public Hearings scheduled for this meeting.

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

*Continuing:* until all action items are concluded

##### **1. Preliminary Discussion – 626 and 630 Cabell Avenue**

#### **Staff Presentation and Introduction**

**Dannan O'Connell, City Planner** – This is a preliminary discussion for 626 and 630 Cabell Avenue. These are two lots. One is developed with apartments and one is currently vacant. They are zoned R-3 and R-2u. If you have looked these up on GIS, our GIS is not accurate. The property lines are correct. The zoning is not correct. The property lines have been changed/amended. The current property is split-zoned R-3 (multifamily) and R-2 (two family). The request being contemplated is a rezoning of the R-2u portion of this lot and to change both lots to R-3 (multifamily residential). This is to accommodate a by right multifamily development; adding more apartments to the existing two lots. Two questions to consider:

1. Is R-3 zoning appropriate for this location?
2. Is there anything the applicant should consider as they move forward with their rezoning application?

**Commissioner Mitchell** – It looks like they have moved a lot of trees. Did they have to get approval to remove those trees or did they just take them down?

**Mr. O'Connell** – I don't believe there was any approval required for that. That might have been part of the demolition of the single family home.

**Commissioner Mitchell** – It is on a slope. Is it a critical slope?

**Mr. O'Connell** – Yes.

**Commissioner Mitchell** – Is there a waterway at the base of that slope?

**Mr. O'Connell** – I don't believe so.

#### **Applicant Presentation**

**Kevin Riddle, Applicant** –

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It can be confusing on the numbering and the address of the parcel right now. The city GIS calls it 630 Cabell now. What were two parcels have been combined.

**Next Slide**

Here is the site. This aerial is a little old. On the lower part of the site, there is a small house that was demolished years ago. What remains is the larger apartment building that has 8 apartments in it on the north part of the site.

**Next Slide**

Here it is with current zoning. It is an R-3. You can start to see the little sliver in this illustration that is R-2u. It is worth noting that if you overlay the proposed new zoning, what are R-3s would go to R-3x. All of the R-2us that extend to the east on Cabell Avenue are proposed to change to R-3x as well. The rezoning of this little sliver makes sense. It is compatible with the vision for the neighborhood.

**Next Slide**

We have zoomed in on the site with a survey. North is to the right. Cabell Avenue is to the top. You can see running down the middle of the site on the left side is the property line that had been abandoned. The small square slot on the left was 626. It has been combined with the larger lot.

**Next Slide**

Here is the site with the zoning overlay. You can see where the R-2U comes in a little bit on the site.

**Next Slide**

It is called out here. It's only about 1200 square feet. Changing it to R-3 makes sense because the zoning is consistent. Density and calculations can now be consistently applied. It will allow the owner flexibility to have one additional dwelling on the property than he can have without this portion included.

**Next Slide**

Here is the site plan with the proposed building. It is still very much in a concept phase. We're still working through it. Basically, the new building proposal is intended to be by right. It is going to honor the height limits of an R-3. We had been considering proposing that the front façade of the new building might align with the existing building. We thought that made sense. As it turns out, there might be some complication in simply aligning it. The current ordinance calculation would be set by another method. That might be something that if we wanted to do it, we would have to get an SUP. We're still weighing whether it would be worth it to bring it up a little closer. The intention is to do it by right. If we were to get it aligned with the existing building, we believe right now as the ordinance is written, after the rezoning, have to get an SUP.

**Ms. Creasy** – If you are requesting an SUP, there is also the opportunity to request changes to the setbacks. You have to have a principle purpose for the SUP first.

**Mr. Riddle** – What we're asking for here is simply a rezoning. It was our understanding rezoning the sliver wouldn't carry with it an option to also ask for exceptions that you normally have to get with an SUP.

**Ms. Creasy** – Rezoning and SUPs have different paths.

**Commissioner Stolzenberg** – If you request an SUP for density because you can't build 5 units, then you could ask for the front yard change. If you get a rezoning and you build 5 units by right, you will need another reason for an SUP to get the change.

**Mr. Riddle** – To avoid getting into that conversation tonight, we're going to go with the assumption that the face of the building on Cabell Avenue will be where it is supposed to be by the current front yard calculations. There will also be a proposed extension of the surface parking to satisfy current requirements if the 5 dwellings are constructed there.

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This is the entry to the parking around the back of the existing apartment building. To the left is the sliver of land that is currently R-2.

**Next Slide(s)**

This is roughly the location where the new building would be constructed. You can see the existing building there on the left.

**Next Slide**

There would be one apartment at the base level that would be accessible for disabled tenants. There would be a stair that would come up along the south side. To access from that level, there are townhouses built above.

**Next Slide**

This is a section through the building. This is how it would be working. If you're approaching the property from Cabell Avenue on the left, you could enter one of the lower townhouses into the living and dining level and go downstairs to your bedrooms. Or you can go up a level to what would be the first level of the upper townhouses. At the topmost level are the bedrooms for those townhouses.

**Next Slide**

This is birdseye view. Material choices are still up in the air. This is the direction that we are pursuing. Plantings have not been decided yet. We would be satisfying canopy requirements. We look forward to finding room for at a least couple of large trees to be planted in the front along with understory plantings and some trees down there at the lower level, especially close to the open courtyard of the bottommost unit.

**Next Slide**

This is a street view of the building. We imagine there being porches on the front and at the entry levels of each of those townhouses.

**Commissioner Mitchell** – Will these be for UVA students?

**Mr. Riddle** – That's pretty likely. It is not certain. They are pretty generously sized apartments. I don't know if the owners consider them possibly becoming condos. There is the room there and the way that the living and dining levels are operating. It is not super-tight in the apartments.

One thing that I wanted to clarify is that I did get a determination from city staff that while the slopes are quite steep, because it is not within 250 feet of a waterway, they are technically not critical slopes. As I understand it, we would not have to seek waiver to build on this property.

**Ms. Creasy** – I believe this is the site where Engineering did the review on?

**Mr. Riddle** – I received some emails. They told me that the way I was reading the ordinance was correct. It stipulates that they are 25 percent or greater and they are within 250 feet of a waterway.

**Commissioner Stolzenberg** – There are critical slopes. Where was the waterway?

**Mr. Riddle** – I believe that the color fill that you see on the GIS map just identifies any contours that indicate 25 percent.

**Mr. Freas** – This was reviewed with engineering. They have confirmed that there wasn't a waterway within 250 feet of the area. The wording is more convoluted than that. The slopes have to be continuous. Even if it is more than 250 feet away and it is continuous with a slope that is more than 250 feet away, it gets picked up. My understanding was that it was demonstrated is that the slopes on this property are not continuous with the slopes that are within 250 feet. That detail may not be something that was picked up on when that map was produced at the time. As I understand it, that map is subject to revision based on an applicant providing specific evidence of lack of continuity.

### **Commission Discussion, Questions, and Recommendations**

**Chairman Solla-Yates** – We did have a question that was shared with us. It was whether R-3 zoning was appropriate for this location.

**Commissioner Mitchell** – I will say that the R-3 zoning is consistent with our vision of that area and it is ideal for students.

**Commissioner Stolzenberg** – What is the rush? Why now?

**Mr. Riddle** – We have talked to the owner. We have looked at the R-X3. The possibility is there whether it comes to perhaps reducing parking, getting more dwellings on the site. The owner feels that at this time that he would like to get all of it zoned R-3. He may want to go quickly on this. Just not being really sure when the zoning can take effect. We're hopeful that it will soon.

**Commissioner Stolzenberg** – In looking at the site, it seems reasonable to me that you could have more units there and/or even more height, less parking. All of which you can get through an SUP in R-3. You can also get that front setback changed. There is value in the new building lining up with the old building and not being set back further. The process for an SUP is about the same as the process for a rezoning. It seems like that would be the more logical path.

**Mr. Riddle** – I am unclear if we could request an SUP.

**Commissioner Stolzenberg** – If you want to get a rezoning and SUP for more than 5 units, you can.

**Mr. Riddle** – What you are saying brings up an interesting question regarding the draft zoning. I believe that the height limit is listed as 3 stories. In general, is everyone on the Commission feeling like that height limit could be pushed. Can R-X3 go to 4 stories? Is that something it could accommodate? I am thinking what R-3 currently is. That's 45 feet. With 45 feet, you can typically get 4 stories. I know there is

a bonus level that is potentially achievable. That provides one avenue. I am wondering if so many of these properties that would be converted from R-3 to RX-3 wouldn't benefit from having one more story allowed than what is currently drafted. That's one way this owner might actually have a harder time getting the flexibility that he might want to develop more housing. He can spread out more. It is nice there are those potential yard reductions coming for the proportions of the building and the allowance for more open space. It seems sensible to me that you might be able to go up higher. He is not going to have to construct as many footings. For people who have a budget and sticking with it, building higher can have some cost advantages. I wonder if RA couldn't be 3.5 stories instead of 2.5 stories.

**Commissioner Stolzenberg** – We have had the RA discussion. It is interesting because the Fifeville neighborhood has asked about something between RX-3 and RX-5. There isn't that much RX-3 in the city. I have been thinking that this kind of student area/lower Venable between 14<sup>th</sup> and Rugby should probably be RX-5 instead of CX-3. There is some vacant land in various places.

**Commissioner D'Oronzio** – I believe in feet, not stories.

**Commissioner Palmer** – This seems like an appropriate use of site. Beyond that, I don't have much to add.

**Chairman Solla-Yates** – I find the idea of having some space for faculty or staff very exciting. That's what I keep hearing from faculty and staff. They would love the opportunity live close to work. I would say that student housing is an appropriate use in an area with predominantly student housing. That seems reasonable to me. My general understanding from the Comprehensive Plan is that we want more student housing in student housing areas. I don't find height troubling in student housing areas. Aesthetically, there will be some differences, some design challenges. There is a lot of grade. I think it would make those more manageable. I can't commit to say that all RX-3 should be RX-5. Broadly, I see strong advantages to allowing more housing near the University. It makes a lot of sense.

**Commissioner Stolzenberg** – This is not a site that is fronting on non-student housing on any border or across any street. It seems reasonable to me to have more housing.

**Mr. Riddle** – Is it fair to say that I can take from the conversation that the possibility of rezoning this sliver seems appropriate to most people here? There might also be the option of using an SUP to potentially consider greater density as an alternative.

**Commissioner Stolzenberg** – I would say that even if you're going for the 5 unit plan you're talking about here, the SUP makes more sense. You can get that front setback change. It is the same process.

## 2. Discussion – Zoning Ordinance Update

**Commissioner Schwarz** – I know that we have been submitting a lot of comments. During our work sessions, we don't come to a lot of consensus. I feel that we're going to get the draft and it is going to be a bit of a surprise. It seems like Code Studio has very strong opinions about how they want this to be done. Am I making that up?



**Commissioner Mitchell** – It goes back to my worry when you (staff) pass us the baton. I have been here before. That's why it is going to be so important that we have a very good step-by-step process once you pass this baton and go through that thing and incrementally approve it instead of approving it all at once. Either reach consensus or reach 4 votes with a recommendation to take to Council.

**Commissioner D'Oronzio** – Would it make sense, once we're coming down the 'homestretch' to getting a draft to have a work session that is specifically about process and scoping and how we're going to review the whole thing.

**Commissioner Mitchell** – There is value in that so we don't try to put this thing together by committee. I would recommend that staff and Chairman Solla-Yates get together.

**Commissioner Stolzenberg** – It would be useful for each of us to submit to the Chair what areas we want to discuss. If all of the comments we made did get picked up, they are all in there and we all feel good about them, there isn't anything to discuss on those things. If something that we felt strongly about didn't get picked up and isn't in there, we should discuss it.

**Mr. Freas** – There is a lot in there. It covers a lot. The more that we can highlight that these are the things that we need to be able to discuss, the more we're going to be able to organize ourselves to that end and push aside the things that we collectively don't need to discuss.

**Chairman Solla-Yates** – I would like to raise an issue. I have heard a great deal about R-C zoning on Rugby Avenue. I have looked through the use table on R-C. There is a potential issue. In my reading of R-C zoning, we're not going to get a Super Walmart on Rugby Avenue. There is an item where commercial uses over 4000 square feet are permitted by right in the current draft. Can you talk about some options that we have there?

**Mr. Freas** – I think you read that as an error. I identified it as an error and sent it on. I don't think there is any reason why we're encouraging commercial uses of greater than 4000 square feet in the R-C zoning. The R-C is not an appropriate location for that. Our team is working to meet the deadline that is upcoming.

The meeting was adjourned at 6:32 PM.