

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	June 2, 2008
Action Required:	Motion to Initiate Rezoning
Presenter:	Craig Brown, City Attorney
Staff Contacts:	James E. Tolbert; Craig Brown
Title:	Rezoning of property associated with Branham Timberlake House- TMP 56-109, 56-42.3, 56-40.4A

Background: On December 22, 2006, Burgess Lane Property submitted an application to NDS to have a portion of TMP 56-109 containing 0.278 acres rezoned to remove the historic overlay designation on this R-1S property. As staff began to process this application, they realized that parcel 56-109 was in fact a separate parcel in 1993, when tax map/parcel 56-40.4 was designated as an individually protected parcel. As NDS staff researched those parcels more deeply, they discovered that TMP 56-40.4 was subdivided and recorded in 1989 to create parcel 56-109. However the tax maps were not updated to include this change because both the parcels were owned by the same property owner. The tax map at the time continued to show that parcel 56-40.4 stretched from East Market Street to the railroad tracks even though it was in fact two parcels.

In 1993, the Planning Commission voted to designate the dwelling located at 1512 East Market Street located on parcel 56-40.4 as an individually protected property. Planning Staff reviewed the minutes of this meeting and also talked to former Planning Commissioners about the decision. The record is not clear on the exact acreage that was designated.

In 2001, parcel 56-109 was divided to create two more parcels, 56-42.3 and 56-40.4A, by the current owner of the property who bought it in 1996. This subdivision was recorded by the City Assessor's Office in 2001. The City Assessor's Office changed their tax maps in 2001 to reflect the subdivision, including the 1989 subdivision of parcel 56-40.4. Some of

the earlier digital maps show the original parcel as one due to the fact that the City was in the process of transitioning from paper to digital tax map.

Based on the all the information above, staff made a determination that only the current parcel 56-40.4 and all structures contained within this parcel are designated as historic and subject to review by the Board of Architectural Review. Adjacent land owner, Mr. Bill Emory appealed the staff determination to the Board of Zoning Appeals. His appeal was denied by the BZA. He subsequently appealed to the Circuit Court where his case was dismissed by the judge.

Discussion: A member of City Council has asked that Council consider a rezoning of the property to include the entire parcel as an individually protected parcel. To make this happen, City Council must initiate the rezoning and refer it to the Board of Architectural Review for recommendation. The Planning Commission will then hold a public hearing jointly with City Council and make a recommendation to City Council. Once all that is done, you will be able to determine if you desire to designate this vacant land as an individually newly protected property.

Budget Impact: None.

Alternatives: Leave things as they are.

Recommendations: Staff recommends that City Council not take the action being considered for several reasons. The primary concern of staff is that it is not appropriate to designate vacant property for historic designation. Historically, the City has not designated vacant land as having historical value and we are not aware of anything unique to this land that would warrant that designation. Staff also has concerns about the legality of rezoning this property at this time, but will defer on that item to the City Attorney.

Attachment: Zoning Map