

MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

MONDAY, APRIL 12, 2010 -- 5:30 P.M.

CITY COUNCIL CHAMBERS

**Commissioners present: Commissioners not present:**

Mr. Jason Pearson (Chairman) Mr. William Emory

Ms. Genevieve Keller (Vice-Chairman) Mr. David Neuman

Mr. Michael Osteen

Mr. Dan Rosensweig

Mr. Kurt Keesecker

Mr. John Santoski

**Staff Present:**

Ms. Missy Creasy, AICP, Planning Manager

Mr. Nick Rogers, Neighborhood Planner

Ms. Ebony Walden, AICP

Mr. Brian Haluska. AICP

**City Council Members Present:**

Mr. Dave Norris, Mayor

Mr. Satyendra Huja

Mr. David Brown

**Also Present:**

Mr. Richard Harris, Deputy City Attorney

**II. REGULAR MEETING**

Mr. Pearson convened the meeting at 5:30

**A. COMMISSIONERS' REPORTS**

Mr. Santoski reported that the PAC tech meeting scheduled for April had been cancelled until July. He will give an update at that time.

Mr. Osteen reported that the BAR met, but he has nothing to report.

Ms. Keller had nothing to report

Mr. Rosensweig reported that both the Housing Advisory Committee (HAC) and the Parks and Rec Advisory Committees met on March 17. The HAC discussed the work plan and started working to designate subcommittees to help further delineate and study housing issues in the area. Parks and Rec talked about designating parkland acquisitions. The idea behind the exercise is to provide generic guidance for the park staff as they investigate and pursue opportunities to acquire land to enhance the park system. At the next Parks and Rec meeting they will talk about the results and he will present at the next Planning Commission meeting so the public can be informed of the strategic direction of Parks and Rec. If any member of the public would like to comment there would be an opportunity to call Parks and Rec and have their voices heard. At the last meeting the Park staff released draft results of the Azalea Park master plan. They are still in the 30 day comment period, so if anyone would like to comment on what Azalea Park will look like after redevelopment they can contact the Parks and Rec staff through the website at [www.charlottesville.org](http://www.charlottesville.org) or by calling the office.

Mr. Keesecker reported that the MPO Technical Committee and the Community Mobility Committee met on March 16. Three items were discussed. The first item was an update on the Northtown Trail. There is an ongoing effort in the TJPDC to identify and study a bicycle trail from North Fork to Downtown. Some goals and objectives are being identified. The second item is a report from Johnny Han, the new demand model transportation staff member of the TJPDC. Mr. Han showed them a number of demand models for vehicular transportation with the affect of having an extension on Berkmar Drive. No resolutions were gained at this time, but the study is ongoing. The third item was an update on the acquisition of the Biscuit Run property through the state and where those funds came from. A letter from Mr. Williams, the executive director, previously sent to the Governor's office received an explanation letter from Shawn Connaughton, the transportation secretary. The response letter explained those were from the equity bonus funds and thus everything was on the table and over board in that acquisition.

## **B. UNIVERSITY REPORT**

Mr. Pearson reported that due to Mr. Neuman's absence there was no University report.

## **C. CHAIR'S REPORT (moved to end of meeting)**

## **D. DEPARTMENT OF NDS/STAFF REPORTS/WORK PLAN & CENSUS UPDATES**

Ms. Creasy reported that Mr. Neuman provided her with information on Earth Week which will take place at UVA from April 15-22. She advised that the best place to get information would be online at [www.earthweekuva.wordpress.com](http://www.earthweekuva.wordpress.com). Most, if not all, of the events are open to the public. We are past the April 1 census day to turn in the census forms. Ms. Creasy reminded everyone to turn the forms in. You should have received a postcard to remind you to turn in the form. If the forms were not returned after receiving the postcard, there will be another letter with another census form enclosed. If you have turned in the form, you will not receive any more mail. If you have not received a census form, you may call the 1-800-Go Census number to get another one.

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

There were no matters from the public.

## **F. CONSENT AGENDA**

1. Site Plan and Subdivision approval list

2. Minutes - March 9, 2010 – Regular meeting

Mr. Pearson asked that any changes to the minutes be handed in by writing to Ms. Creasy.

Mr. Rosensweig wanted to make two changes to the minutes. One, he will present to Ms. Creasy. The other change refers to an item on the current agenda and therefore he wanted it read into the record. In the minutes for Tuesday March 9's regular meeting on page 9 about half-way down the page, the fourth full paragraph begins with "Mr. Rosensweig stated" and ends with "surface on the site". He added, "Mr. Rosensweig also questioned why the affordable housing proffers were not in line with the expressed intent in the project narrative".

3. Minutes - March 9, 2010 – Pre meeting

4. Minutes – March 23, 2010 – Work session

5. Request for initiation of zoning text and map amendments - The purpose of initiating these amendments is to allow formal consideration of the applications. These items will be scheduled for future public hearings if initiated:

- a. Residential Zoning Matrix
- b. Street wall Adjustments

Mr. Santoski moved to approve the consent agenda. Mr. Keesecker seconded the motion. The motion carried unanimously.

## **G. Entrance Corridor Review Board**

### **1. ERB Recommendation for PetCo Special Use Permit**

Mr. Nick Rogers presented on behalf of Mary Joy Scala. The presentation on a recommendation for a special use permit at 1615 Emmet St. The commission is tasked with making a recommendation to City Council as to whether the proposed use would have an adverse impact on the entrance corridor district. They will also be tasked with recommending reasonable conditions which if imposed would mitigate such impacts. The applicant is proposing a new pet food and supply business, PetCo brand. This would also incorporate the special use permit which is for a grooming facility and veterinary services and clinic. The exterior changes would be for a front gable constructed of exterior insulation and finish system (E.I.F.S.). That extends approximately 8 feet higher than the existing flat roofline. There would be a façade change from the existing one. There would also be a new wall sign of red letters on the extension and new text on an existing monument sign that is at the site. The staff analysis was that there would be no additional adverse impact to this section of the entrance corridor district. Staff is prepared to

administratively approve the certificate of appropriateness for entrance corridor design following the City Council's approval of the special use permit.

Ms. Keller expressed confusion about the "suggested motions" section where it states that the entrance corridor design would be approved administratively if the special use permit is approved by City Council. She would like to know if tonight they are considering the special use permit or also the design?

Mr. Rogers stated that the Commission is to make a recommendation as the entrance corridor review board on the special permit application. Also, as the planning commission they will be making a recommendation to City Council on the special use permit. There is no design review tonight.

Mr. Osteen asked if there were any color samples of the recommended colors.

Mr. Rogers passed out color samples for the sign and the EIFS.

Mr. Osteen asked how the proposed EIFS color compares to the existing colors of the World Market.

Mr. Rogers was not sure about the existing color, but stated that the applicant's submission showed a more starkly white proposal. Page 2 shows a color that is not in character with what is there. But, the sample submitted to staff matches more closely what they are seeing on the field.

Applicant had no comments

There were no questions for applicant from the commissioners.

Mr. Osteen stated that he was a little disappointed in the proposal. Looking at their guidelines he found equal amounts of support and criticism for the design. The canopy of the World Market is visually supported by columns at either end. The proposed gable addition is centered on a single column is strange architecturally. He feels they could build a design around that if every element was similar, but have a small building like that it needs to have a tight design intent that relates the two storefronts in some way. An angle is introduced on either side. After internet research he didn't see that the polygon is a part of the PetCo logo. The basic shape of the canopy is a concern. When he first looked at the graphics he thought the red on the building might be something that PetCo has proposed and was surprised to go see it in actuality. He would like to know that the bright red they would approve would be the same bright red being used.

Ms. Keller has the same concerns as Mr. Osteen. She also stated that the building will be turning into a sign with a doghouse motif. She stated that it doesn't reflect the kind of character and attitude and attention to detail for in the entrance corridor. It detracts from any harmony of composition that there might be in the 3 business strip center. She has problems with the design of it.

Mr. Rosensweig stated that he is compelled by Mr. Osteen's suggestions. The front of the building might be cacophonous. He is fine with the special use permit being handled administratively with the one caveat that he strongly suggest that colors be muted. He is concerned about the red and the amount of it.

Mr. Keesecker stated that the doghouse shape seemed to be in the same plane as the stucco materials around the glass openings. Changing the color and material on the angled lines would be well defined regardless of shape if the sign element were out of plane with the rest of the façade similar to the World Market's. It doesn't need to go out as far as World Market's.

Mr. Pearson stated that he finds this type of development disappointing generally that it is hard for him to care much what the front of the big boxes look like. From Rt 29, he doesn't think it matters what it looks like. Do you we want to provide comments now and do an administrative review with the benefit of their comments or do they ask to have an actual design review as entrance corridor review board of this item.

Mr. Osteen agreed with Mr. Pearson on the importance of this building. The building is not very visible from Rt 29. Going to the site from the 250 bypass the building is directly with this building as well as from the bypass, where it is quite prominent. This makes the building visibly important. From a conceptual standpoint, he would feel comfortable with it being handled administratively because he does not see it as a prominent, important building. Now that the process has been initiated, if they have concerns with the design, they need to see it. Staff shouldn't be the final authority.

Ms. Keller asked if it would be appropriate to ask the staff to review this in consultation with one or two members of the commission.

Ms. Creasy responded that this would be an option.

Ms. Keller stated that she would be comfortable with that in order not to hold up the applicant. She agrees that the building is prominent to motorists on Rt 29 and that it requires some better attention.

Mr. Rosensweig doesn't have a problem with the land use and would agree with Ms. Keller about keeping the process moving forward with a hybrid model on the design review. He would nominate Ms. Keller and Mr. Osteen to work on that.

Mr. Rosensweig made a motion to find the proposed special use permit to allow a grooming facility and veterinary clinic at 1615 Emmet St. in an existing building will not have an adverse impact on the Emmet St entrance corridor and he moved to find that the request for a certificate of appropriateness for the entrance corridor design may be approved administratively in consultation with Commissioners Osteen and Keller if the special use permit is approved by City Council. The motion was seconded by Mr. Osteen. Ms. Creasy called the roll. The motion carried unanimously.

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

Mr. Pearson reported on the Thomas Jefferson Planning District Commission. They had a presentation from Mike Harvey, the executive director of the Thomas Jefferson Partnership for Economic Development. He was discussing opportunities for coordination on regional economic development planning. He presented a draft comprehensive regional economic development plan. It included three main goals, five main strategies, ten key action items. He's been working on this collaboratively with the city and other localities. It's not in final form, but Mr. Pearson will circulate it with commissioners. The TJPDC is coordinating a regional application for a grant from the federal government's Housing and Urban Development (HUD) program's sustainable communities grant. HUD has announced that it will be giving away one-hundred million dollars for regional initiatives to sustainable communities. He'll report back once he knows more about those conversations. They are working on a revised mission for the TJPDC in consultation with the Executive Director, Steve Williams. Mr. Williams is just completing his first year as Executive Director. Mr. Williams shared a draft picture of how an ideal TJPDC might look like based on the retreat they conducted a few months ago. The mission is being developed in collaboration with staff, stakeholders, and the commissioners.

Mr. Pearson read comments that were his reflections on the context of some of the work that they have been doing and will be doing over the coming months. To put the work of the commission in context, hopefully as a contribution to their ongoing collective conversation as a commission and as a community about how to plan a Charlottesville that they will be proud to bequeath to future generations. Last month they had a spirited conversation about the intent and language of their critical slopes ordinance. This conversation will be reviewed in future meetings. This evening they will review an application for a waiver of critical slopes provisions. Also this evening they will have a workshop session on the zoning matrix. In the coming months they will also be discussing an update to the comprehensive plan. It's important for the commission and the public to understand the capacity in which the commission undertakes these different conversations and understand how they fit together. According to the city website, the commission is to advise council in three areas: promoting orderly development for the community, development of the comprehensive plan, and other planning activities which could include zoning, subdivision, and capital programming. They are advisors. They are appointed by Council to provide advice and recommendations. While the topics on which they typically advise council tends to center on the physical design, development, and growth of the city, they are asked advise on these issues in the context of the broader community objectives such as economic and workforce development, housing availability, education priorities, and even the demographic composition of the city. Mr. Pearson finds this a tall order since none of them are professional commissioners. They are citizen planners; citizens who have been asked by council to become as expert as they can in two areas. First, is to become expert in the aspirations of this community. They accomplish this by studying the comprehensive plan which they use as their reference point for the aspirations for the community. Secondly, they are asked to become expert in those parts of the city regulations that are the most effective tools for achieving those aspirations. For most of their work, those regulations are contained in the zoning code, but they familiarize themselves with other city regulations that might be effective tools for meeting the community aspirations outlined in the comprehensive plan. Mr. Pearson is describing this because he thinks it is important for the public to understand, for him to remember, and for the commission to remember that there is a hierarchy in the recommendations that they make to city council. He feels that they do work on roughly three scales and on three correspondingly different timelines. On a big scale, on the scale of the comprehensive plan, there is a relatively long timeline of 5-10 years. They make recommendations to city council about how the comprehensive plan should be changed to more accurately reflect the ambitions and aspirations of Charlottesville as a community. Then they are on the scale of the zoning code and other regulations. On a shorter timeline of roughly the year they use to complete an annual work plan, they make recommendations to city council about appropriate changes to the zoning code and other regulations that will better align these regulations with the comprehensive plan and with the aspirations of the community. On a small scale, they consider individual applications on the relatively short time frame of their monthly meetings. They make recommendations on whether individual development projects are consistent with the zoning code and the aspirations of the comprehensive plan. The issue of critical slopes is an example of how these scales related to one another. They've been challenged by individual applicant's requests and small scaled applications for waivers to the critical slopes provisions. They've been challenged because the intent of those provisions is not clearly stated and the waiver criteria are somewhere ambiguous. They included revision of the critical slopes language in their annual work plan and are seeking to improve that language. This hasn't proven easy. He found the discussion of critical slopes challenging because he did not feel confident about the aspirations of the community with respect to critical slopes. He kept asking

himself and his colleagues, if we as a community one that wants to protect critical slopes at all cost or are we a community that wants to protect critical slopes in order to avoid the possibility of erosion and run off that could damage the integrity of our streams? He was challenged because he felt like he couldn't find straight forward guidance in the comprehensive plan about the community's ambitions and aspirations on that topic. He feared he was veering towards personal opinion and not basing his perspective on the reference point of the comprehensive plan. On a careful review of the comprehensive plan, he found some useful guidance in the 1995 comprehensive plan vision which was reaffirmed in 2000 and included in the 2007 update. It states on the subject of land use and environmental balance, "We visualize our community as one that balances the natural and built environments and has a vital urban core surrounded by a rural area that remains predominantly green and open." He found this helpful as a commissioner because it offers a clear statement of how the community thinks about the balance between intensifying land usage and conservation of natural assets in terms of where we put those. He looks forward to their future discussions on the topic where he can share his thoughts on the language in the comprehensive plan and provide guidance for revising the critical slopes language. When they express opinions as commissioners about how the code should be written, they are not expressing personal opinions. They are seeking to interpret what language will be most consistent with the ambitions of the community as stated in the comprehensive plan. This reveals two aspects of the work of the commission worth highlighting. First, from his perspective, the only reason the commission undertakes changes to regulations such as the zoning matrix or critical slopes is to align these regulations with the comprehensive plan and the ambitions of the community. The comprehensive plan is their only reliable, long-term reference point for the ambitions and aspirations of the community. The reason for making changes to the regulations is to improve the city's ability to achieve those aspirations. The second conclusion he has drawn is that the conversations can highlight weaknesses in the comprehensive plan itself in places where it fails to provide a clear reference point for decision making. As they look forward to the next update of the comprehensive plan, he hopes they can use what they learned from these conversations to inform how we approach that revision. They state clearly in the comprehensive plan, in their city vision, and regional vision, a commitment to sustainability, which they define as meeting the needs of present generations without compromising the ability of future generations to meet their needs. He applauds their use of sustainability as a framework for their ambitions. The language of sustainability can obscure the fact that they sometimes have to make tough decisions in an imperfect world. When that happens and they have to choose between competing priorities they need a comprehensive plan that gives them as a commission, as a community, as council, a reference point not only for the community's ambitions and aspirations, but also a reference point for its priorities or at least a reference point for how our community approaches challenges of prioritization when they have to prioritize among competing priorities. This is where the comprehensive plan has its greatest value. He hopes that they can find a way as they not only talk about issues tonight, but also when thinking about revisions of the comprehensive plan how they might think about revisions to the comprehensive plan that might help it to become a document that not only shares the picture of everything they want but also how to make tough choices and how they prioritize those choices.

Mr. Rosensweig asked about the passage Mr. Pearson found in the comprehensive plan that expressed clarity of vision regarding critical slopes or clarity of how and where they would like to develop. In the passage where it foresaw a vital, dense, urban core surrounded by open space, did that passage imagine

municipal boundaries? Was the urban core considered the Charlottesville urban core surrounded by open space in the county? Or, was it contemplating open space in the city as well?

Mr. Pearson replied to Mr. Rosensweig's inquiry by stating that the comprehensive plan is not precise on that point. He also hopes that he was clear that they will be taking up the topic of critical slopes provisions and the ongoing conversation on that topic in a future meeting.

Ms. Keller asked if Mr. Pearson could share his comments with them in writing.

Mr. Pearson confirmed that Ms. Creasy would share his comments in writing.

### **III. JOINT PUBLIC HEARINGS (Beginning at 6:00 P.M.)**

#### **H. JOINT PUBLIC HEARINGS**

1. SP-10-02-03 - (1615 Emmett Street) An application for a special use permit for the property at 1615 Emmett Street. This request is for a veterinary and grooming business in the Highway Corridor. This property is further identified on Tax Map 40C, Parcel 1 having 48 feet of frontage Emmett Street and containing approximately 147,973 square feet of land or 3.397 acres. The property is zoned Highway Corridor with Entrance Corridor Overlay and the Land Use Plan generally calls for Commercial. Report prepared by Nick Rogers, Neighborhood Planner.

Mr. Rogers stated that the applicant is requesting approval for a pet grooming and veterinary facility. When the applicant first approached staff, these uses were not permitted in the highway corridor zone. City Council amended the zoning ordinance by special use permit. The applicant has submitted the special use permit. At the December 2009 meeting, the Commission unanimously approved the amendment. The analysis performed included traffic, parking, noise levels, and pollution. The existing commercial space has had no commercial tenant. Any use of that space will create an increase in traffic. There will be minimal impacts on the surrounding neighborhoods. Parking on site more than exceeds the zoning code minimum requirements. The grooming services will be confined during normal business hours and by appointment. Staff had some concerns with the zoning code due to the broad definition of a boarding, grooming facility would be. This should go forward to City Council with a condition to restrict overnight boarding. Use is harmonious and appropriate and they recommend its approval.

Mr. Osteen stated that the application listed adjacent property owners addresses. It has four commercial addresses. Were the residential properties on the back of this property notified?

Ms. Creasy stated that they notify up to within 500 feet of every application regardless of what the applicants submit.

Mr. Osteen stated that in the definition of animal boarding and grooming facility it stipulates that the animals must be over 6 months of age. Is there a definition for a facility that would handle animals under 6 months of age?

Mr. Rogers stated that he was not sure about the age requirement.

Mr. Osteen stated that the applicant is not interested in any overnight boarding. Would anything they do tonight complicate things for the applicant in the future or another applicant to request over night boarding?



Mr. Rogers stated that if an applicant wished to locate a boarding and grooming facility that incorporated overnight stays of pets or animals at the site, a different special use permit would need to come forward. An applicant that wanted to do that would have to come forward with a robust application.

Ms. Creasy says the definition may be contemplating that they didn't want to penalize individuals who may have an animal who may just have had kittens or puppies.

Mr. Huja asked what the nearest distance the facility is to Angus Rd.

Mr. Rogers stated that Wayne St is the closest.

Ms. Creasy stated that a fence is placed behind the center to buffer.

Mr. Huja asked about the noise.

Mr. Rogers stated that as staff members they did not focus on the noise because the applicant's proposed use will have minimal noise impacts or concerns.

Mr. Huja asked what the decibel levels were for the evenings.

Mr. Rogers stated that decibel levels in the noise ordinance are generated within a residential area. Noise is originating from mixed use or commercial property the noise ordinance will not be handled the same way.

Mr. Stu Rifkin, the applicant, pointed out that all of the things they are asking for in the special use permit will take place inside of the facility. It is all internal to an existing building that has already been there.

Mr. Santoski asked the applicant how many animals could be serviced at any one time.

Ms. Salina Fisher-Guy, district manager for PetCo, advised that there is the capacity for 10-12 pets, but that they are rarely booked. Most pets will be there for no more than 4 hours. The grooming business is a 7 A.M. - 5 P.M. business.

No Councilors had questions.

No members of the public spoke.

Mr. Osteen feels that the project is an appropriate use and an appropriate place. He advised that from a previous project on Preston Ave. that dogs make very little noise.

Mr. Osteen moved to recommend approval of the application for the special use permit to operate a grooming facility and veterinary clinic at 1615 Emmet St. otherwise known as Tax map 40 C, Parcel 1 to permit grooming, pet training, and veterinary services with the following condition that no overnight boarding of animals is allowed. The motion was seconded by Mr. Rosensweig. Ms. Creasy called the roll. The motion passed unanimously.

2. ZM-10-02-04 – (Timberlake Place PUD) A petition to rezone from R-1S with Historic Overlay and R-1S Residential to Planned Unit Development (PUD) with Historic Overlay, the properties located at 1512 East Market Street, and Tax Map 56 Parcel 109. The application is to allow for a

residential cluster development (approximately 9 dwelling units per acre) with the intent of providing affordable housing for seniors. Proffers include design review by the Board of Architectural Review for the entire development, affordable housing and resident age restrictions, the use of universal design standards, establishment of a conservation area, and buildings designed to meet "Earthcraft" certification standards. This property is further identified on City Real Property Tax Map #56 as parcels 40.4 and 109 having approximately 155 feet of frontage on East Market Street and containing approximately 136,490 square feet of land (3.13 acres). The general uses called for in the Land Use Plan of the Comprehensive Plan are for Single Family Residential and Industrial. Report prepared by Brian Haluska, Neighborhood Planner.

Mr. Haluska stated that he needed to make a few clarifications to the report they had received. There are two lots in the request: Lot 40.4 which is the Mary Williams Senior Center. Lot 109 is the vacant land behind the senior center. Lot 40.4 is an individually protected property and goes to the BAR whenever a change is in review. It is also covered by a special use permit. A portion of lot 109 is also covered by the same special use permit that covers lot 40.4, but it is not an individually protected property. It is zoned R-1S. The density calculation in the staff report is on page 2 and the maximum By- Right is low. He figured how many new dwellings could be located on the property and didn't take into account the division of the land between the previously developed piece of property and the vacant piece of property. Based on the 9 dwelling units he mentioned, the vacant property which could be 9 dwelling units on the vacant parcel. If one divided the Mary Williams Senior Center they could get about 6 units on that. There could be roughly 10 units per acre over the entire piece of property. This is what should have been on page 2 instead of 6.16. Maximum BY-Right is about 10. On page 5, under "the effect of surrounding properties and public facilities" strike the second paragraph. The impact of the development would make some impacts to the pedestrian and traffic infrastructures by virtue of building residential units.

Mr. Pearson stated that Mr. Haluska stated to strike the entire second paragraph, but the last sentence in that paragraph reads, "Also of concern is whether or not the design of the PUD would create an enclave that isolates the residents of the PUD from the surrounding neighborhood." Mr. Haluska stated that this sentence is a fair topic to discuss on this application. He was going to mention that in his comments because Mr. Emory had mentioned it and called it the "fortress effect". This enclave effect presents questions as to how this impacts the neighborhood. When we talk about segregation of populations in an area, that is a concern. Due to the size there may not be such a concern.

Proffer 1, BAR will review the development. The applicant's intent for the proffer is the initial construction of the buildings on the property would be reviewed by the BAR. Subsequent changes would not need BAR approval. Proffers 2 and 3, the wording is focused on the VHDA and regulations those programs put on the development. That is how they are achieving the age restriction and affordability in those developments. It ties the development to the use of those funds. Proffer 4 is the conservation area. The area is designated open space in the concept plan, but they cannot be developed if they are designated open space. The site plan must reflect what the concept plan shows at this stage. It is a further check against development in the conservation area. If the applicant or someone else, at a later date, wanted to make an alteration to that site they would have to submit a site plan amendment. That would then have to go to the planning commission for review. They would then go through a rezoning process and restart the zoning process again. Proffer 5, is that all new buildings shall be certified

Earthcraft Building rating System. He is confident that they can enforce that proffer as the project goes to the building phase and review. At the writing of the report they had not received any public comment, but since have. The staff recommendation hinges on trying to conceptualize a By-Right development of the vacant portion. He cannot conceive of anything better than what they have been given today. The staff recommends approval of the application.

Mr. Pearson stated that the structure of proffers 2 and 3 are saying that 80% of the residential units will be constructed using public sources of funding and by structuring the proffer that way that's enforceable and they are pushing enforcement of the details onto the enforcing agency rather than the commission having to worry about the detailed enforcement of who's in the units and how old they are.

Mr. Haluska agreed.

Ms. Keller asked if this was the exact language of the proffers as given by the developer or is it paraphrased by NDS?

Mr. Haluska stated that it depends on which she was referring to. Page 2 is a brief summary. Page 6, the bolded sections are the actual language of each proffer.

Ms. Keller stated that in the future if there were no need for this as housing for seniors, what would be the process to modify the proffer?

Mr. Haluska stated that it would require a rezoning process to remove the proffers. It would be reversible using the same process.

Mr. Keesecker wondered how closely do the VHDA affordability guidelines mentioned in the proffer align with the city's affordability goals?

Ms. Creasy stated that the applicant would know that percentage.

Mr. Huja asked how many units?

Mr. Haluska stated that the conceptual plan shows 28 multi-family units, 22 of those are new construction on parcel 109. The remaining 6 are designated for the Mary Williams Senior Center.

Mr. Chris Murray, who is the business development director for JABA (the applicant for this process) spoke. He introduced Charles Hendricks (architect), Ron Mittelman (tax credit consultant), and Bruce Desimone (from VHDA). They would like a PUD granted for Timberlake Place. They are trying to level the playing field for those who provide affordable housing. The Housing Advisory Committee submitted a report to city council and it was approved this year. For the 26 affordable units there are 344 qualified renters based on income and age. There are 8.1 units for every 100 residents that qualify. There is no competition to build affordable housing. Non profits get some help. They meet three of the housing goals from the comprehensive plan. They meet three of the land use goals and the preservation goal. They meet the Woolen Mills goals as well. They would like to not just meet with but partner with the Woolen Mills neighborhood. The effect of the surrounding properties and facilities was mentioned. Seniors own fewer cars and use them in off-peak hours. The impact is positive. The impact on surrounding properties with the 3 building clusters, the BAR will mitigate that. Preserving open space and making pervious surfaces so that 100% of the run off will remain on the property. They do not want to isolate the residents from the surrounding people. They are proffering 80% of the units as senior and

20% can be others as workforce housing. In the senior center they are proposing 4 apartments in the existing center and 2 in the historic house. Two units would be market rate. The units in the senior center would be designated for workforce housing. The tax credits are aimed at the elderly and families. They will be working with the neighborhood association to get them to interact with the seniors on-site and use the community gardens. The proffers minimize the impact. The entire property is being subjected to BAR review. The individually protected historic site remains. The rest of the site is not an IPP. They would prefer to have BAR review only for the new construction. They are proffering a conservation area and not an easement at this time. Is there a need for justification for the change? Is it harmonious?

Mr. David Norris stated that given the history of the property and the IPP designation, he is puzzled by the BAR review on the front end but not the part in perpetuity. Asked there were restriction from VHDA.

Mr. Murray stated that there were not.

Ms Creasy stated that property 109 is not designated and that is not what is being brought forth at this time. That would have to go through an IPP process and would be difficult because it is not historic.

Mr. Murray said that it is subject to review in perpetuity. It will be built to BAR standards.

Mr. Rosensweig stated that they were not at liberty to ask for additional proffers tonight. He also asked if the applicant could answer the question about the correlation between VHDA affordable guidelines and the city's guidelines and goals.

Mr. Murray stated that the city's goals are noted in the 2005 affordable housing report. The VHDA guidelines are the vehicle to get there. They mesh perfectly. The public funding sources are the vehicles used to create affordability.

Ms. Creasy stated that the percentage of income of households between the VHDA and the city are the same.

Mr. Murray said that the affordable housing criteria is set by HUD. Ten units are at 40% median income, 10 are at 50% and 100% will meet the affordable housing criteria because the proposed rent for the units is \$1289. Market rate is \$1620.

Mr. Osteen asked if the architect would be speaking about the grading easement along the back of the property.

Mr. Bruce Desimone stated that he would build diversity along bank of cypress. The owner of the adjacent property has granted the easement he needs. He wants to move the chain fence and save as many trees as possible.

MS. Keller asked if all of the units will be rental.

Mr. Murray advised that they would.

Mr. Pearson opened the public hearing.

Dr. Dick Lindsey, the chair of the JABA long range planning committee, stated that this project meets guidelines for affordable senior housing. The project marries a facility with services within proximity to walking, park, and grocery.

Ms. Betty Amos stated that she supports it because of the provision it makes for public servants where a lifetime income doesn't allow them to live like others. She looks forward to it being there.

Mr. Nick Holland is concerned that the 55 and older residents may not all be retired and therefore create traffic. There may also be traffic from services such as Meals on Wheels and home healthcare. He mentioned Franklin Street becoming one-way.

Ms. Robin Haynes thinks that both the vehicular and pedestrian traffic will be bad. Woolen Mills has older walkers. Consider making traffic on Franklin Street one-way.

Ms. Victoria Dunham supports the proposal if the proffers are met as listed. She would like to see that the site plan isn't changed administratively without the community input. She wonders what would happen if the property is sold in the future. JABA has been respectful with the neighborhood. She is worried about traffic. He would like to see Franklin St be one-way.

Mr. Pearson stated that on page 9 of the staff recommendation, the third paragraph suggests that the rezoning be approved with all proffers.

Mr. Rosensweig asked Mr. Haluska to come back up to address some of the questions the public had about impacts.

Mr. Haluska stated that the impact of the increase is a rezoning issue. Based on the density calculations, the impact is equivalent or smaller for the proposed because senior facilities do not generally have the traffic. Possibly 10 trips per day for a single family detached home; 28 trips in the peak hour based on whether they are working or not.

Ms. Keller asked what the source is for the number of trips generated by those over 55.

Mr. Haluska stated that the information came from the applicant. You could possibly see an increase in traffic. Look at the quantitative impact.

Mr. Keesecker asked what the correlation is between the planned development and the future site plans and how much deviation could be included. He was concerned with the sidewalks to the ground floor units. Some have semi-private porches and there is no way for neighbors to visit.

Mr. Haluska stated that the details can be left to the site planning process. The adjacent property owners will get notice of the site plan conference.

Ms. Keller stated that residents have a desire for one-way traffic. Was it considered?

Mr. Haluska said that item could be deferred to the traffic engineer.

Ms. Keller asked if there was any discussion about it during the review.

Mr. Haluska said no.

Ms. Creasy stated that the application could take into account a separate analysis. The application is not contingent on it because it is off site.

Mr. Pearson stated to talk to the traffic engineer.

Ms. Keller stated that the Woolen Mills traffic has come up often and suggested a traffic study.

Mr. Haluska stated that the traffic engineer does look at the site plans and how it impacts the public infrastructure during the site plan process. Rezoning doesn't mean it is being built right away.

Mr. Pearson said that they could get an initial status report from the traffic engineer.

Mr. Santoski stated that at peak times there are a number of people cutting through there.

Ms. Creasy provided clarity on the BAR involvement process.

Mr. Pearson stated that the type of property reviewed by the BAR would be a special or historic property. They've heard a request from the neighborhood that the applicant would proffer something that hasn't been proffered.

Mr. Harris stated that they can't request a proffer. The impact of the development that can be mitigated by a proffer is an appropriate conversation. If there is a negative impact, that can be discussed and application denied on that basis.

Mr. Pearson assumed the proffer was part of the IPP; the new buildings are compromising the IPP.

Mr. Harris understands that this proffer was to ensure a cohesive development.

Ms. Keller stated that there has been another discussion tonight about design review and what should be reviewed. Design review for structures that are not historic is appropriate.

Mr. Pearson stated the impacts of modification of new structures.

Ms. Keller stated that design review should be done for the life of the project.

Mr. Pearson wants to stay legal. In Virginia, design review can be done where it is enabled by the state.

Mr. Harris stated that for an IPP, the state gives authority for design review.

Mr. Pearson asked if there are negative impacts that might affect this site?

Mr. Keesecker advised that there weren't.

Mr. Rosensweig advised that there weren't.

Mr. Osteen said he felt there were in the future.

Mr. Murray stated that the tax credit application process is competitive. This project will stay as a low income housing project for 50 years.

Mr. Osteen said that the maintenance code will be looked at if needed for a change.

Mr. Murray stated that they will need to amend the proffers in order to replace what is there.

Mr. Osteen stated that design control guidelines will dictate.

Mr. Harris felt that the applicant was now having to defend himself for something that has not been proffered.

Mr. Pearson stated that there are negative impacts that can be identified that would be reason to deny the application.

Ms. Keller said that the review was only for a portion of the property. The proffer doesn't speak to any new construction in the future.

Mr. Rosensweig asked if adding to structure would be allowed.

Ms. Keller agreed. There is no guarantee that it would be rebuilt as is.

Mr. Santoski said that a major change will have to come back to the commission.

Ms. Creasy stated that if it burned to a certain degree or if they wanted to change it by 10% it will have to go forward through the processes.

Ms. Keller said that the development of the entire property is subject to review by the BAR. This would be the initial development. The landscaping is frozen in time but the development structure is not.

Mr. Harris stated that the first part regarding architectural design review for the non IPP property is a proffer.

Ms. Keller said it comes down to the definition of development.

Mr. Harris said that it is dependent on the applicant's intention.

Mr. Pearson said the applicant's intention is to proffer for BAR review but not for future minor changes, only for new construction.

Mr. Keesecker thinks it is fine as presented

Mr. Rosensweig thinks that there is enough negative impact and therefore it is not fine as presented.

Ms. Keller thinks it is fine as presented.

Mr. Osteen thinks that it is fine as presented.

Mr. Santoski thinks that it is fine, but would like to see more.

Ms. Keller noted that people are often critical of design review because of the cost, but the BAR can also help them save money.

Mr. Keesecker praised the summary of the comments, JABA's response, and the staff report.

Mr. Rosensweig supports the project and commended the addition to affordable housing in the community.

Mr. Rosensweig moved to recommend approval of this application for rezoning of the property from R-1S to PUD with proffers on the basis that the proposal will serve the interests of the general public welfare and good zoning practice. Ms. Keller seconded the motion.

Ms. Keller added that despite the earlier discussion, she thinks that it is a commendable project.

Mr. Osteen supports the application, but has issues with the tree lines on the left of the drive and he would like to see the raw edge cutting through the woods relandscaped.

Ms. Creasy called the roll. The motion passed unanimously.

3. ZT-10-03-05 - (Site Plan and Special Permit Validity) An ordinance to amend and reordain Section 34-164 and 34-822 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, to revise the validity period(s) for approved special use permits, outline procedures for special permit extensions, outline provisions to revoke a special permit, and provide timeframe requirements for the submission and processing of site plans. Report prepared by Ebony Walden, Neighborhood Planner

Ms. Walden spoke about the zoning text amendment to change the validity requirements on a SUP. Currently, special use permits expire 18 months from the date approved. It is difficult to stay within the timeframes. It may take a year to get through a site plan process. The SUP is the first thing to get approved. Staff looked to other localities and discussed language with the city attorney to propose changes to section 34-164. The title of the section would be changed, and the section would include a provision to make the validity of SUP permits consistent with that of preliminary and final site plans. A preliminary site plan would be good for 5 years. Other than new construction a SUP would expire in 12 months. Staff changed the existing language in order to clarify that a building permit clearly establishes the intent to utilize the building in the manner approved by the SUP. A provision was also added that makes SUPs void if you haven't used it in 2 years. Finally, a provision was added to allow the director to extend the SUP period and to allow council to revoke a SUP.

Mr. Rosensweig supports the direction of this. Questioned how the 12 month extension was decided.

Ms. Walden said the 12 months was currently in the code staff provided for clarifications. The 3 and 5 year timeframes came from the state code.

Mr. Rosensweig asked if the 12 months could be extended even further or is 12 months it?

Ms. Walden says that is a good amount of time.

Mr. Pearson stated that Clause D provided for an extension.

Mr. Osteen asked what the concern is about going over 18 months.

Ms. Walden said two years is sufficient.

Mr. Osteen said that people aren't just going after SUPs. Would the city be hurt in some way.

Ms. Creasy said that it will run out and they will have to come back to the commission again for revalidation.

Mr. Pearson asked why it is not indefinite.

Ms Creasy stated that if ordinances change or the direction of the city changes the SUP would still have to be honored if vested.

Ms Keller said there could be political and staff changes.

Mr. Pearson said that it will not hurt the city but a potential opportunity is lost.

Ms Creasy says it is fair to applicants and it streamlines and makes for better schedules.



Mr. Harris said that there is a broad authority to regulate SUPs. It helps others know how they want to progress.

Mr. Santoski wonders how long a normal application takes to go through the process. Is 12 months enough time?

Ms. Walden says it depends on the use. New construction usually takes one year for the site plan process.

Mr. Osteen proposed extending the provision for the director to 14 days.

Mr. Rosensweig noted that there are two issues being presented. One is the whether to allow 12 months or 18 months.

Mr. Rosensweig made a motion to recommend the approval of the zoning text amendment request to amend and reordain section 34-164 and 34-822 of the code of the city of Charlottesville 1990, as amended zoning ordinance related to the expiration of a SUP with the following modifications, additions to the staff recommendation under proposed code section 34-164 C1 I would strike 12 months and replace it with 18 months. Similarly under 34-164 C2 I would strike 12 months and replace it with 18 months. Further under 34-164 D I would replace the language in which to read "prior to the expiration of the special use permit upon written request by the applicant to the director. If the director finds that the SUP is still in compliance with all applicable ordinance policies may grant an extension of up to 12 months. A request for an extension must be submitted prior to expiration. Notification will be given by the director within 14 business days. The motion was seconded by Mr. Osteen. Ms. Creasy called the roll. Mr. Santoski was not in favor. All other commissioners were in favor. The motion passed.

Mr. Pearson called a recess at 8:34 P.M.

The meeting reconvened at 8:45 P.M.

#### **IV. REGULAR MEETING ITEMS (Cont.)**

##### **I. Entrance Corridor**

###### **1. 1600 Monticello Avenue**

Mr. Keesecker had a personal conflict and excused himself from the discussion.

Mr. Haluska was presenting on behalf of Mary Joy Scala. Two commissioners had met with the applicant. One of the most important aspects was the visual impact as one enters the city. Ms. Scala feel that although it is a tall building, it is hidden by the fact that people actually see the side of the building and it is shielded by the trees. People coming over the hill are seeing over the building. Staff recommends approval as submitted.

Mr. Rosensweig stated that he met with the applicant, but can review impartially.

Mr. Osteen also met with the applicant and can review impartially.

Mr. Fred Wolf, with Wolf Ackerman Design (the architects on the project), stated that they revised the entry plan. It improves the accessibility of the site, the relationship of the site to the streetscape and the pedestrian experience. There will be a garden. The traffic goes from a 2 lane city street at the edge of a

Belmont neighborhood to highway corridor and 4 lane traffic. Mr. Wolf presented color renderings. The stucco finish will be burnt orange. Siding and cement board panel were presented as well.

Ms. Keller asked if the communications tower would stay as is. Also, what is the view from Carter's Mountain.

Mr. Wolf advised that he did not look from Carter's Mountain and that the tower will remain.

Ms. Keller asked would the rooftop equipment will be reflective.

Mr. Wolf advised that the rooftop equipment is not visible from the street level

Mr. Rosensweig stated that in the staff report it referenced the meeting that he was a part of on March 31 where they recommended instead of using a guardrail on top of the two retaining walls that the walls should be raised by approximately 3 feet in order to screen headlights from cars parking under the building. Also discussed was improving the front entry. Are they voting on a revision to the plan?

Mr. Haluska advised that they were.

Mr. Wolf said that there will be a continuous wall in the site plan.

Mr. Haluska said that the applicant had agreed to the wall and that the commission just needed to look at the entry way.

Mr. Osteen wondered if the applicant could take down all of the cypress and replace with some other material.

Mr. Haluska said that they can work with the city on that.

Mr. Robby Noll, owner and general contractor, said that he would gladly extend the maples and get rid of the cypress trees.

Mr. Harris stated that the view from Carter's Mountain is not an issue from up above or below; only street view may be considered.

Mr. Rosensweig supports the project.

Ms. Keller thinks that the project is interesting.

Mr. Rosensweig moved to approve the entrance corridor certificate of appropriateness application for 1600 Monticello Ave. as submitted with the following 2 conditions. One, that the rear retaining wall shall be raised in height approximately three feet in order to screen the headlights from cars parking under the building, And, two, the front entry should be improved according to the exhibit presented with the application. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion passed unanimously.

#### Critical slope waiver request

Mr. Haluska stated that one of the four conditions for waivers have to be met. In this case criteria 1 and 2 are met. The slope is between the existing parking lot and Monticello Overlook Apartments. This manmade slope can be relandscaped easily. Criteria 3 does not apply. Criteria 4 would be for a public use and this project is not a public use. He recommends using criteria 1.

Ms. Keller moved to approve the request for waiver requirements of critical slope provisions listed in 34-112 of the Charlottesville City code for the proposed mixed use building located at 1600 Monticello Ave. based on a finding that strict application of the requirements would not forward the purposes and intent of these critical slope provisions. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion passed unanimously.

#### Preliminary site plan

Mr. Haluska stated that the main reason this site plan is coming before the commission is because of the special use permit. This SUP was grandfathered by the General Assembly. It is good until 2014. The staff found no reason to reject the preliminary site plan. The only condition staff has is that they work with public utilities and engineering to iron out some utility issues.

Mr. Rosensweig asked if it is advisable to waive the requirement to build a sidewalk that leads to nowhere.

Mr. Haluska said that normally this would be handled administratively. It is at the discretion of the director whether it would come before the commission or not. That request can be made by the applicant. A member of the public was concerned about the pedestrian experience. It would be costly and up to the city to build.

Mr. Noll stated that he could extend the landscaping so there are more trees than concrete.

Mr. Osteen moved to approve the preliminary site plan for tax map 60, parcel 252.1 property located at 1600 Monticello Ave. with the following conditions: all remaining staff comments from the preliminary site plan review must be satisfied during the final site plan review. Mr. Santoski seconded the motion. Ms. Creasy called the roll. The motion passed unanimously.

Mr. Keesecker returned to the meeting at 9:19

#### J. Work Plan

##### 1. Zoning Matrix Workshop

Mr. Rogers wanted to comment on the workshop format, but there were no attendees. He focused on the memo before the commission.

Mr. Pearson stated that he had received feedback about the lateness of this meeting. A portion of the next work session would be dedicated to the zoning matrix workshop.

Mr. Rogers stated that the workshop would be similar to what they were going to do tonight. It would be similar to a public hearing except people would not be limited to 3 minutes. It would be a fluid conversation. The speaker would also be welcome to come back and speak on their item. The January and February meetings intended for the workshop to be an open forum for public comment.

Ms. Keller stated that changes taken as a group are significant revisions to the ordinance and changes in attitudes about uses. People are welcome to attend the work session.

Ms. Creasy advised that the workshop will be on April 27 in the NDS conference room. Word will get out via the email database. There are close to 1000 stakeholders on the email list.

Mr. Pearson stated that Mr. Rogers had prepared a zoning matrix 101 presentation. It is on the city website. They consistently hear from members of the public about their concerns on preserving the character of their residential neighborhoods. The matrix determines what uses are allowed and what level of review is required.

Ms. Creasy stated that these comments from the public are online at a special zoning matrix website. She encourages input.

Ms. Keller made a motion to adjourn until the second Tuesday in May.

The meeting adjourned at 9:26 P.M.