

MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

TUESDAY, December 13, 2011 -- 5:30 P.M.

CITY COUNCIL CHAMBERS

Commissioners Present:

Ms. Genevieve Keller (Chairwoman)

Mr. Dan Rosensweig

Mr. Michael Osteen

Mr. Kurt Keesecker

Mr. John Santoski

Ms. Lisa Green

Ms. Natasha Sienitsky

Mr. David Neuman, Ex-Officio, UVA Office of the Architect

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy, AICP, Planning Manager

Ms. Ebony Walden, AICP, Neighborhood Planner

Mr. Michael Smith, Neighborhood Planner

Also Present:

Mr. Richard Harris, Deputy City Attorney

**II. REGULAR MEETING**

Ms. Keller convened the meeting.

#### **A. COMMISSIONERS' REPORT**

- Ms. Sienitsky had no report. The CDBG Task Force meeting had been postponed.
- Ms. Green had no report.
- Mr. Osteen provided highlights from the recent BAR meeting. He also discussed the initial meetings that have occurred for the Tree Commission. Currently, the Commission is establishing by-laws and receiving guidance from City staff. The Tree Commission will meet the 4<sup>th</sup> Thursday of every month in the Parks and Recreation office.
- Mr. Rosensweig mentioned that the HAC did not meet, however, he did attend the Parks and Recreation Advisory Board meeting. Mr. Rosensweig also mentioned the McIntire Park design charette that had occurred at Charlottesville High School the previous night.
- Mr. Keesecker mentioned that PACC Tech did not meet.
- Mr. Santoski commended the work of City staff during the CIP planning process.

#### **B. UNIVERSITY REPORT**

Mr. Neuman discussed the Master Planning Council meeting that was to occur this week. The meeting was going to include a tour of Grounds to allow members to see the status of ongoing projects. The University Sustainability Committee is also scheduled to meet to discuss the Nitrogen Footprint study occurring at the University. Mr. Neuman mentioned the joint City/UVA project occurring at the intersection of Emmet and Ivy.

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

Ms. Keller mentioned that she had attended numerous meetings at the TJPDC, notably the Legislative Session. She also noted that the Planning Awards were on the horizon and asked Michael Smith to provide additional information.

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

Mr. Smith discussed the upcoming Planning Awards and the timeframe staff will be working within to have the awards presented at the February Planning Commission meeting.

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

There were none.

## **F. CONSENT AGENDA**

Mr. Osteen moved for approval. Mr. Rosensweig seconded the motion.

All in favor. Consent agenda passed.

While waiting for Councilors to arrive, the Commission decided to introduce the critical slope memo slated for the Work Plan Discussion on the agenda.

## **G. JOINT PUBLIC HEARINGS**

1. ZT-11-04-05 Critical Slopes - An ordinance to amend and reordain Section 34-1120(b) (Critical Slopes) and 34-1200 (Definitions), of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, to revise regulations pertaining to critical slopes. **Report prepared by Jim Tolbert, NDS Director.**

**Ms. Keller noted that the Critical Slopes item would be heard first due to Mr. Tolbert's illness.**

**Mr. Tolbert provided his report.**

**Ms. Keller asked if Commissioners and Councilors had any questions.**

**Mr. Keesecker asked if other stakeholders in the community had reviewed the draft.**

**Mr. Tolbert replied that stakeholders had been involved with the new draft, and although many were not 100% supportive of the draft, most agreed the draft was a nice compromise and heading in the right direction.**

**Ms. Keller asked Mr. Tolbert to outline the reliability and availability of the information detailed on the critical slopes map and the notification process that would occur if the amendment is approved and the map potentially changed in the future.**

**Mr. Tolbert explained that the maps would be maintained digitally and would rarely undergo changes, unless a property owner provided a survey showing no slopes existed on their property.**

**Mr. Rosensweig asked if this new draft would eliminate the "silly" slopes.**

**Mr. Tolbert replied that the new draft wouldn't eliminate all "silly" slopes, however, this draft does remove a vast majority of them.**

**Mr. Keesecker asked if the entire parcel had to be over 6,000 sq. or if just the area of critical slope had to be over 6,000 square feet.**

**Mr. Tolbert replied that just the critical slope area.**

Without any other questions, Ms. Keller opened the public hearing.

Morgan Butler, representing Southern Environment Law Center, first wanted to thank everyone involved for the hard work required for completing the critical slopes draft. Mr. Butler believes the proposed

ordinance represents a compromise between expansion of development in the City and protection of natural features. Mr. Butler believes the new draft balances the interest of development and preservation far better than the draft produced earlier in the summer.

Bill Emory, 1604 East Market Street, provided comments that are attached to the minutes.

Robin Haynes, 1709 East Market Street, provided comments that are attached to the minutes.

Colette Hall, 101 Roberson Lane, provided comments that are attached to the minutes.

Kay Slaughter, 1503 Short 18<sup>th</sup> Street, was primarily concerned about the definition. She believes the size of 6,000 feet is fairly large and should be smaller. She supported Mr. Butler's comments and SELC's position on the new draft. She thinks "public benefit" needs to be clarified.

With no one else wishing to speak, Ms. Keller closed the public hearing.

Mr. Tolbert addressed the Commission to provide points of clarification. He noted that a property owner will not be able to subdivide his property in order to eliminate slopes and that the definition of "public benefit" will solely apply to the features of the site.

Ms. Keller asked if Mr. Neuman had any insight into the proposed ordinance.

Mr. Neuman provided his opinion on the matter. He believes the critical slopes map is very informative, but understands no ordinance is a perfect ordinance. He thinks the proposed ordinance is a notable improvement to what the previous draft proposed.

***Mr. Santoski moved to recommend approval of this zoning text amendment to amend and re-ordain Section 34-389 of the Code of The City of Charlottesville, 1990, as amended, to amend the critical slope regulations and associated definitions on the basis that the changes would serve the interests of (public necessity, convenience, general public welfare and/or good zoning practice) with the following additions and modifications:"***

***a. To include the phrase, "and other characteristics" to follow grade and before its established in the first paragraph of purpose and intent.***

Ms. Green seconded the motion.

Mr. Rosensweig urged City Council to further study the proposed ordinance prior to hearing the item. Mr. Rosensweig highlighted that there have been four times more building permits in the outlying counties than in the City which is unsustainable. He believes that this amendment could potentially discourage developers to build within the City, an impact Mr. Rosensweig believes the City cannot afford. He believes the ordinance should be limited to stream protection and provided goals stated within the Comprehensive Plan that defended that claim. Mr. Rosensweig did, however, think the ordinance had come a long way and commended staff on their work. He preferred deferring the item to further study the ordinance.

Mr. Keesecker provided opinion on some of the language within the ordinance. He particularly thought item (f) under "purpose and intent" was unbalanced with stormwater protection and leaned more on aesthetics. He thinks with more edits, the ordinance could provide more balance towards future debates.

Mr. Osteen thinks improvements have been made and the ordinance represents compromise.

Ms. Sienitsky prefers an ordinance where development and disturbance of slope would be permitted, but where certain criteria were met. She would have felt more comfortable with staff having ministerial approval of slope waivers to depoliticize the Commission's role in granting slope waivers.

Ms. Keller asked Mr. Harris to clarify why the ordinance does not start with the conditioning of a waiver, but instead starts with protection.

Mr. Harris stated that with the passing of the original critical slope ordinance, Council decided that the City wanted to protect development on critical slopes.

Ms. Keller wanted to clarify that this ordinance can be interpreted as a two-part ordinance. The first part of the ordinance provides language on how to identify what a critical slope is, while the second part provides guidance on how to grant a waiver of identified slopes.

Mr. Rosensweig asked Mr. Harris to quote the enabling legislation in the state code that grants localities the authority to grant slope waivers.

Mr. Harris responded that an ordinance passed by a City may have a provision to stabilize critical slopes.

Mr. Keesecker asked if staff would tell applicants applying for waiver that using certain arguments for a public benefit (affordable housing) would not be acceptable.

Mr. Tolbert responded that applicants can attempt to utilize any argument they feel will improve their chances at a waiver. Staff does not restrict applicants from submitting applications.

Ms. Keller expressed support of the ordinance and thought the proposed ordinance reflected more clarity and flexibility than the previous draft.

Ms. Keller called the question:

Sienitzky Yes

Green Yes

Osteen Yes

Rosensweig No

Keesecker No

Santoski Yes

Keller Yes

Motion passed.

2. Charlottesville Capital Improvement Program FY 2013-2017: Consideration of the proposed 5-year Capital Improvement Program totaling \$64,239,732 in the areas of Education, Economic Development, Neighborhood Improvements, Safety & Justice, Facilities Management, Transportation & Access, Parks & Recreation, Technology and General Government Infrastructure. **Report prepared by Ryan Davidson, Office of Budget and Performance Management.**

Mr. Davidson provided the staff report.

Mr. Rosensweig had a question about YMCA funding.

Mr. Huja asked how much was in place for bicycle funding.

Mr. Davidson mentioned that for FY2013, bicycle funding is \$103,000.

Ms. Green asked about the “unknowns” Mr. Davidson had mentioned during his report.

Mr. Davidson mentioned that operating budget continues to be an unknown with potential cuts to highway funding and constitutional officers.

Ms. Keller opened the public hearing.

Brandon Collins, 536 Meade Ave, spoke in favor of the Commission recommending an increase in funding for affordable housing.

Colette Hall, 101 Roberson Ln, spoke and her comments are attached to the minutes.

Bill Emory, 1604 East Market St, encouraged the Commission to recommend funding for a water resources protection plan.

With no one else wishing to speak, Ms. Keller closed the public hearing.

The Commissioners discussed the idea of having Mr. Davidson return to the Commission to discuss potential projects that could absorb the rededicated YMCA funds.

Mr. Davidson and Ms. Beauregard mentioned that coming back in January to discuss alternative funding sources would be difficult due to the tight timeframe they were working under.

***Mr. Rosensweig moved to approve the CIP as presented with the following amendment:***

***1. That Commission direct staff to not fund the second half of the YMCA City share this year and utilize a portion of that as they see fit to recommend to Council to inaugurate a strategic housing fund.***

Mr. Keesecker seconded the motion.

Ms. Keller called the question:

Sienitzky Yes

Green Yes

Osteen Yes

Rosensweig Yes

Keesecker Yes

Santoski Yes

Keller Yes

Motion passed.

**3. SP-11-10-14 (98 Midmont Lane)** - An application for a special use permit for the establishment of an indoor cemetery. The Dominican Fathers, the applicants, have requested to convert a portion of the existing basement in their monastery into a crypt to house up to 300 niches for cremation urns and 9 burial vaults. The property is further identified on City Real Property Tax Map 13 Parcel 9 having frontage on Midmont Lane and Kent Road. The site is zoned R-1U Residential and is approximately 0.855

acres or 37,244 square feet. The Land Use Plan generally calls for Single Family. **Report prepared by Ebony Walden, Neighborhood Planner.**

Mr. Keesecker stated his family attends the neighboring church and the Dominican Fathers serve their church, however, he does not believe this relationship will affect his review.

Ms. Keller also stated her association with the Dominican Order and her ability to participate in an impartial review of this item.

Ms. Walden provided her staff report.

Ms. Keller asked if the applicant wished to speak.

Father Luke Clark, 308 Alderman Rd, Pastor of St. Thomas Aquinas and John Gorman, 100 10<sup>th</sup> Street NE, of Gorman Architects approached the Commission. Father Clark provided a brief explanation of the request, while Mr. Gorman provided detail into the construction of the urns and vaults.

The Commission had no questions for Mr. Gorman.

Ms. Keller opened the public hearing.

Paul Humphreys, 323 Kent Rd, wanted reassurance from the applicant that his household would have recourse in the wake of any odors that may emit from the crypt.



Jamie Ballinger, 1962 Lewis Mountain Road Apt #1, spoke in favor of the application.

With no else wishing to speak, Ms. Keller closed the public hearing.

Dr. Brown had a question regarding potential noise impacts.

Mr. Gorman replied that the fan is maintained in a mechanical room within the priory that will restrict noise pollution into the neighborhood.

Mr. Rosensweig asked if a performance standard could be conditioned to the SUP regarding recourse for adjacent properties if an odor did arise into the neighborhood.

Ms. Walden thought this condition would be appropriate, however, enforcement of the condition would be difficult. Mr. Harris responded that an issuance of a violation by the zoning administrator, instead of revocation of the SUP, would be more appropriate.

Ms. Green believed that to enforce an odor violation, the zoning administrator would need measurable criteria to know the odor in question.

Mr. Harris mentioned that a possible alternative to the odor condition would be that the ventilation system operate appropriately at all times, to ensure there is measurable criteria for zoning inspections.

Mr. Rosensweig asked if the ventilation system will operate at all times.

Mr. Gorman responded in the affirmative.

***Mr. Rosensweig moved to recommend denial of this Special Use Permit application for an indoor cemetery at 98 Midmont Lane on the basis that the proposal would serve the interests of general public welfare and good zoning practice with the following conditions:***

***a) Information for the proposed ventilation system be submitted to staff for review.***

***b) The ventilation system be fully operational at all times.***

Mr. Osteen seconded.

Ms. Keller called the question:

Sienitzky Yes

Green Yes

Osteen Yes

Rosensweig Yes

Keesecker Yes

Santoski Yes

Keller Yes

Motion passed.

Ms. Keller expressed gratitude for Councilor Brown and Councilor Edwards for the time spent at Commission meetings.

Ms. Green motioned to adjourn until the second Tuesday in January 2012.