

**MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION REGULAR MEETING
TUESDAY, OCTOBER 8, 2002 -- 7:30 P.M.
CITY COUNCIL CHAMBERS**

The Regular Meeting of the Planning Commission was held on this date with the following members present:

Mr. Craig Barton
Ms. Nancy Damon
Ms. Kathy Johnson-Harris
Mr. Herman Key, Chair
Ms. Cheri Lewis
Mr. Kevin O'Halloran
Mr. Eldon Wood

City Council Members Present

Mr. Blake Caravati
Mr. Maurice Cox
Mr. Kevin Lynch

Staff Present:

Mr. Jim Tolbert, AICP, Director
Mr. Ron Higgins, Planning Manager
Ms. Lisa R. Kelley, Deputy City Attorney

Mr. Key called the meeting to order at 7:27 p.m. He asked the public if anyone was there for the Burgess Lane matter, which had been deferred from the September meeting. The matter was deferred to the November 12th meeting.

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

Mr. Key called for matters not on the agenda. There being none, he closed that portion of the meeting.

B. MINUTES

Mr. Key called for approval of the minutes of the September 10, 2002 meeting.

Ms. Johnson Harris mentioned that her request that the applicant show a diagram to the people in the audience of what could be done by right had not been included in the minutes. Ms. Johnson Harris also mentioned that Rebecca Braddick had been

inaccurately listed as Rebecca Brown. Ms. Johnson Harris also brought forth the missing words "Commons Project" within the rezoning of the Burnet Commons Project.

Ms. Lewis made a motion to approve the minutes with the amendments. Mr. Barton seconded the motion, which carried unanimously.

C. JOINT PUBLIC HEARINGS

1. ZM--02-09-12: A petition to rezone from R-1A Residential and R-2 Residential to R-2 Planned Unit Development (PUD), the land off of Stribling Avenue, Sunset Road and Sunset Avenue known as the "Dymond

Property" and "Huntley Hall" (214 Stribling Avenue). The R-1A zoning allows single-family detached dwelling at 3-7 units/acre. The R-2 zoning allows single-family and two-family dwellings at 7-12 units/acre. The PUD designation would allow the subdivision of properties to include 110 single-family detached dwellings in phases 1 and 2 and restoration/renovation of Huntley Hall with residential and office uses around it in Phase 3. These properties are further identified as City Real Property Tax Map Number 18A as parcels 38-46 and 33, having 261 feet of frontage on Stribling Avenue, 480 feet of frontage on Dymond Road, 150 feet of frontage on Sunset Road, 1000 feet of frontage on Sunset Avenue and containing, collectively, approximately 22.8 acres of land. The general uses called for in the Land Use Plan of the Comprehensive Plan are for single-family detached residential at 3 to 7 units per acre for most of phases 1 and 2 and two-family residential at 7-12 units per acre for phase 3.

Mr. Higgins gave the staff report. The Dymond property had been purchased by a Limited Liability Corporation, which was really Tom Hickman and Rick Beyer, who have developed single-family homes in the City -- the Kellytown and Madison Place PUDs. This property has been discussed for over three years. Mr. Hickman, Mr. Beyer, and Mr. Hickman's architect have been meeting with the neighborhood for the past three years to discuss the possibilities for the property and the issues that may arise. Huntley Hall is a designated historic property in the City. The applicants have applied for a Planned Unit Development Overlay zone for the property. During the informal discussions, concern had been expressed about what the Planning

Commission's guidance might be relative to access. A brief concept plan had been presented at a previous meeting to which the Charlottesville Planning Commission had made it clear that two points of access would be critical. From that point, the applicants planned the project to have two points of access. Huntley Hall would be restored/renovated for residential use or possibly some neighborhood-related

commercial use. Phases one and two are firmed up in terms of the sizes and location of the road and the number of units. Phase three includes three different sizes of buildings which include houses and garages/outbuildings for those houses, and four units which would be possible community office space.

Mr. Wood sought clarification that the four office space units would be for the residents of the PUD.

Mr. Higgins stated that his understanding was that it was for the residents.

Mr. Higgins continued the staff report. The property fronts on three streets, two of which are dead ends. The applicants had a traffic study done. The consultant found that morning peak would have, at its worst, 90 additional trips generated by this PUD. The p.m. peak should be 120 trips, incoming. All traffic will end up at either Sunset and JPA or Stribling and JPA. The proposed PUD follows the R-1A and R-2 zoning

guidelines with the exception of the slight mix that is proposed in the Huntley Hall phase which is all R-2 currently. The proposed density is approximately five and-a-half units per acre. Looking at the site as a conventional subdivision, staff estimated 20 percent fewer units on the proposed streets. The proposal includes Homeowner Covenants which list parking restrictions: limiting the number of individuals, three parking spaces in the unit, no parking on the street. The streets will be 26 feet wide. Standards of review criteria include the Comprehensive Plan and whether or not the current zoning is reasonable and whether or not the proposed zoning is reasonable. The applicants are following the zoning. Public benefit of the PUD includes getting more units, more homeowners, perpetual protection of the open space. Staff requests a more detailed plan of the recreation space and the plan for protecting the wooded areas. The preliminary plans show 30 percent of the land being open space and approximately 20 percent of each lot uncleared. A preliminary application meeting and site plan conference were held. Concerns expressed at those meetings dealt with traffic, tree protection, set backs, effects of the drought on the proposal.

Mr. Key recognized the applicant to see if he wanted to add to Mr. Higgins presentation. He did not. Mr. Key then opened the public hearing.

Mr. Craig Van de Castle lives on Meadow Street next to the Madison Place PUD. He spoke in opposition of the proposal. His concerns were about the lot size and the tree protection issue.

Ms. Ruth Stornetta, of 19 Elliewood Avenue, hopes to build a house in the proposed development and spoke in favor of the proposal.

Ms. Iris Clements, of 547 Stribling Avenue, expressed approval of the water being left in the plan but expressed concern over the plans regarding Huntley Hall. She wondered why a residential area needed business offices.

Mr. Eric Geilker, of 2421 JPA, expressed concern about trails and whatever open space would remain after development. He suggested permanent provision of easement to the City so the Homeowners Association did not control access to the green space areas and down to Moore's Creek and the greenbelt.

Ms. Alexandria Searls, of 1316 Chesapeake Street, expressed concern about the traffic study paid for by the applicant. She wondered if the study took into account other developments going on near this proposed development. She also expressed concern over the effects on the watershed.

Mr. Kevin Saunders, of 656 Sunset Avenue Extended, expressed concern about the density of the project and its effect on the flood plan.

There being no further questions or comments from the public, Mr. Key closed the public hearing and called for questions and comments from the Commissioners and Councilors.

Mr. Lynch sought clarification over the width of the street. Guidelines state 18 feet with no parking and the proposal shows 26 feet with no parking.

Mr. Hickman stated he felt they had been looking for parking on one side.

Ms. Damon sought clarification on comments by the public regarding the Homeowners Association and the greenways issue. Mr. Hickman stated they could possibly put some things regarding trails and easements in perpetuity in the HOA covenants.

Mr. Barton wanted clarification of the division between phases one and two of the project. Mr. Hickman explained that he was developing on one side of the cul-de-sac road off of Dymond; Mr. Beyer would be developing the other side.

Mr. Barton also asked if a survey had been done of the site regarding existing tree cover. The applicant stated there had not. Mr. Barton asked if one would be done. Mr. Hickman explained that they had known which specific, narrow section would lose trees but they did not feel a need to survey everything that would not be disturbed.

Mr. Barton expressed concern over the drawings not giving any detail about the description of where trees are or what the species are.

Mr. Barton also asked if the open spaces were the potential access points to the larger areas. Mr. Hickman concurred.

Ms. Johnson Harris wanted to know what the term "cove" meant on the drawings. Mr. Hickman explained that it was an engineering term to convey the way the sidewalk and home set back to avoid having a straightaway with a bunch of straight houses.

Ms. Damon wanted to know how far the road coming off of Sunset Road was from the intersection with Sunset Avenue. The applicant estimated, center-to-center, approximately 150 feet.

Ms. Johnson Harris asked if there would be a sufficient amount of trees left in the topography if the Charlottesville Planning Commission did not make him mark trees. Mr. Higgins explained that there would be plenty of trees; however, the concern was over the amount of heritage trees that would be affected.

Ms. Damon asked when the Huntley Hall phase would be started. Mr. Hickman stated he would like to start work on the mansion next spring.

Ms. Damon inquired if, under a PUD, townhouses or smaller apartments could be put on the phase three area to be low-cost. Mr. Tolbert concurred.

Mr. Key asked if they were at the price range point. Mr. Hickman felt that phase one would be around 350,000 and phase two, being more custom designed, would be higher. Phase three would be under 200,000.

Mr. O'Halloran asked if the development of the Granger property on the county side would affect this PUD. Mr. Tolbert explained that there was a rezoning application before the County. Mr. Tolbert also stated that the County was dealing with access issues. Mr. Cox felt the Planning Commission should express their concern to the

University. Mr. Caravati also expressed concern over the traffic which may be caused by the Granger property.

Mr. Lynch asked if there were any plans for the piece of property between the Dymond property and the county line. Mr. Higgins explained that there were no known plans for that parcel. Mr. Hickman stated it could not be connected.

Mr. Cox asked if there was any way to lower the cost to a more affordable level. Mr. Hickman stated he had not found a solution yet. Mr. Cox felt other communities which had solved the affordability issue should be sought out. Mr. Caravati asked if the applicant would accept as a condition of the PUD that every twelfth house had to be in the 1500 square foot range. Mr. Hickman stated he did not have a problem with that, but he did not feel it would accomplish what the Councilors and Commissioners were saying.

Mr. Caravati asked if off-street parking would be provided. Mr. Hickman stated each unit would have two parking spaces off street.

Mr. Caravati sought clarification on the permanent easement access for the trail. Mr. Hickman stated he would concur under the right conditions such as no asphalt.

Mr. Barton sought clarification to Article 5, section 1, item F, in which the applicant

Identifies no more than three vehicles of any kind shall be kept on any lot considering Mr. Hickman's statement of two. Mr. Hickman explained that a driveway would be provided that would be long enough to park two cars.

Mr. Barton asked what the projected occupant load for the site would be. Mr. Hickman stated 2.1 times 110. Mr. Barton felt the dimensions could be changed to be more pedestrian friendly.

Mr. Caravati expressed concern regarding the financial elements of the HOAs. Mr. Hickman stated their fee on the HOA was the liability insurance on the common area and the maintenance of the white picket fences. The applicant stated he was unsure who would be responsible for maintenance of the trail easement.

Mr. Cox wanted to know where the curb cuts would be and where on-site parking would be. Mr. Hickman stated there were no curb cuts and that parking would be down the side of the property.

Mr. Barton stated his desire to see more detail. He also stated he would like the Charlottesville Planning Commission to defer this until more information was provided. Mr. Hickman stated he had no problem with that but wanted to know how best to present the information. Mr. Barton stated he wanted a more typical site plan showing the specificity of driveways and parking pads. He wanted to know which mature trees would be felled as a result of the development. Mr. Barton further stated his feeling that the CPC should be giving the applicant some guidance about affordable housing. Mr. Key concurred with Mr. Barton's statements.

Ms. Lewis sought clarification regarding an open space to access the creek or natural area in phase two. Mr. Hickman showed the area on a diagram. Ms. Lewis asked that that be presented in better detail.

Ms. Lewis echoed the comments about affordability expressed by Mr. Cox and Mr. Key. However, she felt the definition of affordability needed to be set forth by the Commission and Council. Ms. Johnson Harris added her support to Ms. Lewis'

statement and felt the Commission should not pick on Mr. Hickman who has actively planned communities.

Ms. Lewis sought clarification if the Commission could approve the rezoning but defer the site plan approval. Mr. Tolbert felt that because it was a complex PUD, it would be appropriate to defer recommendation to allow the issues to be addressed more specifically and deal with the zoning ordinance and the site plan as a whole.

Ms. Damon applauded Mr. Hickman for speaking and working with the neighbors over this project.

Ms. Damon made a motion to defer the rezoning and the site plan until the November meeting because there had been some important issues raised that they would like to get some more information on. Mr. O'Halloran seconded the motion.

Mr. Key called for discussion. Mr. Wood stated he felt there needed to be a general solution to the affordability problem before the next meeting.

Mr. Key felt that as a PUD it had some flexibility and they could work at it from that specific situation. Mr. Barton stated they were asked to evaluate it in terms of public necessity, convenience, general welfare and under those provisions they could ask questions about affordability. He further stated his agreement with Ms. Lewis that they were asking the applicant to hit a moving target. He felt they should separate the issues; there were issues that dealt with that site plan. The issue of affordability ought to be incorporated into the PUD.

Ms. Johnson Harris asked if they should include in the motion those items which needed more detail. Ms. Lewis asked if the advice of the City Attorney should be sought regarding the declaration of public easements.

Mr. Barton felt phases one, two and three should be shown as one continuous drawing. Mr. Key requested a mixture of square footage as it would relate to affordability.

Ms. Damon made an amended motion recommending that they defer their recommendation to City Council until the November meeting and that they ask Mr.

Hickman and Mr. Beyer to come back to the Charlottesville Planning Commission at the next meeting with more information on access points to the open space, curb cuts to the driveways, more information on what trees would be removed and tree preservation, how public easements to trails would be handled, and the possibility of affordable units, specifically looking at mixture of square footage of the units, to try to present the plan in one continuous drawing, and the location of parking pads, and to calculate the number of on street parking spaces.

Mr. O'Halloran seconded the amended motion. Mr. Key called for further discussion. The motion carried six to one with Mr. Wood voting against.

2. Closing of Alley between Rialto and Meridian Streets: A petition to close the 12 foot alley in the 800 block of Stonehenge and Rockland Avenues ("Belmont" block 62) between Rialto and Meridian Streets a distance of approximately 480 feet.

Mr. Higgins gave the staff report. The applicants want to maintain the alley. Staff used the policy on closing streets, right-of-way and alley. There were no utility easements in the alley. The street has grass, trees and tree roots in the eastern half. The western half is open with grass. Closing the alley would not landlock any parcels. Of the 14 property owners, three owners, representing four properties, did not sign the petition to close. Without complete agreement of all property owners, staff did not recommend closing.

Pasquale DeDonato, of 2652 Lake Albemarle Road, owns property at 802 Stonehenge Avenue spoke on his behalf as well as on behalf of the property owners who signed the petition requesting the Alley be closed. Having owned

the Stonehenge property for 14 years, he had never seen the alley being used and thought it had been abandoned by the City.

One property owner had told him the alley had not been used for 47 years. Vehicles and delivery trucks are causing privacy problems and erosion, which will cause high maintenance. Strangers using the alley are a security concern.

Mr. Key called for questions and comments from the public.

Ms. Grace Fischer, of 810 Stonehenge Avenue, spoke in opposition of the proposal. She stated she had been using the alleyway for the last six years to get in and out to her residence. She further stated she has been maintaining the alleyway at her expense.

Mr. Christian Debaun, of 816 Stonehenge Avenue, concurred with Mr. DeDonato. He has never thought of the area as an alley. He considers it a rustic no man's land.

Ms. Betty McClanahan, of 3595 Jumpers Ridge Road, Keswick, had provided a house on Rialto for her mother for 20 years. She stated she had never seen anyone use the alley.

Ms. Pat Bingler, of 813 Rockland Avenue, concurred with Mr. Debaun and Mr. DeDonato. She does not want the alley opened. Currently the area is a nice sanctuary for birds.

Ms. Jean Cooper, of 1406 Rialto, spoke in favor of the closing.

Mr. Key closed the public hearing.

Ms. Lewis sought clarification from Mr. Debaun that he wanted the alley closed. He affirmed that.

Ms. Lewis stated she had driven around the alley. Because of a willow tree in the middle of the alley, she felt the alleyway was impassible. She felt closing the alley would add value to each lot.

Mr. O'Halloran agreed with Ms. Lewis. He also stated there was a strong majority of property owners that would like to see it closed.

Ms. Damon asked if closing the alley would make it impossible for police to access the area. Ms. Kelly stated that alleyways created many years ago don't become a real city street unless and until the City approves it and accepts it. Unless and until it is accepted, it is treated as private property.

Mr. O'Halloran asked if people were paying taxes on the property. Ms. Kelly stated if it was being shown on the tax map as an alley, they were not paying taxes on it.

Ms. Damon asked what difference would be made by closing the alley versus not closing it. Ms. Kelly stated the main difference would be that what is currently the alley would become part of the lots and they would start paying taxes on that portion of it. Also, a property owner at one end could not bring a private action against someone at the other end. Ms. Kelly further stated that there was a possibility that depending on whether this was considered to have been dedicated for the private use of the adjacent owners or whether it was clearly dedicated for possible future public use someone who has adjacent property could argue over bringing a private action to prevent someone further down the alleyway from obstructing it.

Ms. Damon sought clarification that, if it were closed, someone in the middle of the block could not drive through it. Ms. Kelly affirmed that.

Mr. Wood stated that he felt some of the public felt that an alley would be physically created if the Charlottesville Planning Commission denied the request. He stated there would be no difference to the area. Ms. Damon stated that if approved, access would not be possible to the back of the houses unless permission was sought from each other.

Ms. Johnson Harris asked if the City was responsible for cleaning the alley if requested to by one of the residents. She was told the City would not have to. Mr. O'Halloran felt the majority of the neighbors wanted it closed.

Mr. Key asked why the City could not enforce the issues the property owners felt was problematic: loitering, drinking, negative activity. Ms. Kelly stated that unless and until the City decided it wanted to put an approved alley there, it doesn't become the City's property. Mr. Key sought further clarification as to police enforcement if someone calls in loitering. Ms. Kelly stated as long as someone was inviting the police onto their private property, there was no issue. She further stated that police could come for enforcement of criminal activity.

Mr. Barton asked if the alley is access and it is partially blocked due to debris, can someone require that the property owners remove the debris to make the way clear. Mr. Higgins stated the City does not have the authority to do that; the property owner has every right to work a civil case to force the neighbor to take the obstructions out.

Mr. Barton asked who would be liable if someone was injured in the alley. Ms. Kelly stated the City was not liable.

Mr. O'Halloran asked if one resident could claim right of passage and cut down everything in the way to get from one end to the other. Ms. Kelly was not sure she could answer that without looking at the deed or the subdivision plat.

Mr. Wood made a motion that they accept the recommendation of staff and deny the request for closing the alley. Mr. Key seconded the motion. The motion failed by a vote of two in favor, five against, with Mr. Wood and Mr. Key voting in favor.

Ms. Lewis made a motion that they grant the petition to close the alley because a public benefit will accrue as a result of closing and because it is in accordance with the Comprehensive Plan. Mr. O'Halloran seconded the motion. The motion carried with a vote of six to one with Mr. Key voting against.

D. SITE PLANS

1. "Huntley" PUD (Planned Unit Development)
214 Stribling Avenue, Sunset Road, and Sunset Avenue
(Considered with ZM--02-09-12, above)

E. LIST OF SUBDIVISIONS AND SITE PLANS APPROVED ADMINISTRATIVELY

Ms. Lewis made a motion to approve the subdivisions and site plans approved administratively from September 1st to October 1st. Mr. O'Halloran seconded the motion which carried unanimously.

LIST OF SUBDIVISIONS APPROVED ADMINISTRATIVELY

9/1/02 to 10/1/02

1. Boundary Line adjustment between TM 10, No new lots
Parcels 42 & 37 Wertland Street & 10½ Street, NW
Tenth & Main, LLC & Keith O. Woodard
File No. 1292 Preliminary & Final Final Signed: 9/3/02
2. Line adjustment, lots 3 & 18, Block F
No new lots
"Albemarle Golf Club"
1405 Chesapeake Street & Short 18th St.
Drew & Pia Adler
File No. 1284-A

Preliminary & Final
Final Signed: 9/10/02

3. Subdivision of Lot 7, "Locust Grove"

Two new s.f. lots
(Lots 7A , 7B, 7C)
1014 Locust Ave., 1013-1015 St. Clair Ave.
Arc of the Piedmont
File No. 1291
Preliminary & Final
Final Signed: 9/17/02

LIST OF SITE PLANS APPROVED ADMINISTRATIVELY

9/1/02 TO 10/1/02

1. File No.230
Addition to Automotive Parts
1242 Harris Street
2. File No. 1144
Downtown Chevron Additions
Corner of 9th & E. Market
and Re-use
3. File No. 1000
Vehicle Testing Lab – Temporary
1011 Linden Street
Offices

F. COMMISSIONERS' REPORTS

Ms. Damon presented Ms. Kelly with a copy of the tenth edition of Robert's Rules of Order to use as a reference work in times of stress.

Ms. Damon reported that the McIntire Park Planning Committee met and discussed trying to have some Sunday Afternoons in the Park in October. She said that PAC C Tech Committee would be meeting.

Mr. Barton stated the Jefferson School Task Force had met on 30 September. All appointed members were present as well as members of the public. Mary Means is the facilitator and she made a brief presentation of navigating the process.

Ms. Johnson Harris reported that the Court Studies Committee met and completed its study which has been passed on to the County Board of Supervisors and to City Council. She attended the ribbon cutting ceremony for the Burnet Commons property.

She stated the CIP Committee had not met but was awaiting Governor Warner's cuts to see if any projects would be affected. She had not heard from the Neighborhood Federation.

Ms. Johnson Harris stated that the Charlottesville Planning Commission did need to sit down and talk about affordability. Ms. Lewis agreed with Ms. Johnson Harris. Mr. Tolbert suggested the Charlottesville Planning Commission appoint a committee that would have some Commissioners, Councilors, and some developers which would be chaired by Mr. Key to try to work through the issue. Mr. O'Halloran so moved. Ms. Lewis seconded the motion. Ms. Lewis asked that Mr. Beyer and Mr. Hickman be asked to serve on the committee. Ms. Johnson Harris stated they needed to get statistics comparing housing projects with developments that would bring up the tax base. Mr. Barton stated that due to the flexibility of PUDs, the Charlottesville Planning Commission asks the

developers to work on the basis of altruism and there is no reason that they should have to. Developers should have clear standards to shoot for. Mr. Tolbert stated it was a complex issue that needed to be dealt with.

Ms. Lewis reported that the Board of Architectural Review was busy and had two matters that were appealed to City Council, which upheld the Board of Architectural Review decisions.

Mr. Wood stated the Urban Design Committee had not met.

G. CHAIR'S REPORT

Mr. Key had no report to give.

H. DEPARTMENT/STAFF REPORT

Mr. Tolbert stated that the lighting, institutional, flood plain, historic and corridor items would be finished and sent out to the Commissioners.

He asked if everyone would change the scheduled Saturday meeting for December 7th to December 14th so Mr. Key could be present.

Ms. Damon made a motion to adjourn until the next public hearing on November 12, 2002. Ms. Johnson Harris seconded the motion which carried unanimously. The meeting stood adjourned at 10:49 p.m.

Respectfully submitted,

James E. Tolbert, Secretary

APPROVED:

Herman Key, Chair