

**DRAFT MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, SEPTEMBER 9, 2003 -- 6:30 P.M.
CITY COUNCIL CHAMBERS**

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

Mr. Kevin O'Halloran, Chair
Mr. Craig Barton, Vice-Chair
Mr. Jon Fink
Ms. Karen Firehock
Ms. Kathy Johnson Harris
Ms. Cheri Lewis
Mr. Eldon Wood

Ex-Officio:

Ms. Mary Hughes, UVa, Office of the Architect

Staff Present:

Mr. Jim Tolbert, AICP, Director
Mr. Ron Higgins, AICP, Planning Manager
Ms. Lisa Kelley, Deputy City Attorney
Ms. Missy Creasy, AICP, Neighborhood Planner
Ms. Mary Joy Scala, AICP, Neighborhood Planner
Ms. Ashley Cooper, Planning Intern

City Council Members Present:

Mr. Maurice Cox, Mayor
Ms. Meredith Richards, Vice Mayor
Mr. Kevin Lynch
Mr. Rob Schilling

I.REGULAR MEETING

Mr. O'Halloran called the meeting to order at 6:25 p.m.

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

Mr. O'Halloran called for matters to be presented by the public not on the formal agenda. There were none.

MINUTES

Mr. O'Halloran then called for approval of the 12 August 2003 meeting. Ms. Firehock stated that in the second sentence of the fourth paragraph from the bottom of page 6 which had the phrase "would add or detract from the value" did not make sense. Mr. Fink stated he thought the statement had been that the closing would add to the value. Ms. Firehock asked that the sentence be clarified. Ms. Lewis asked that "or detract" be removed and "to" added in its place. Ms. Lewis made a motion to approve the minutes as amended. Ms. Firehock seconded the motion which carried unanimously.

SUBDIVISIONS AND SITE PLANS APPROVED ADMINISTRATIVELY

Mr. Barton made a motion to approve the list of subdivisions approved administratively between the 1st of August and the 1st of September. Mr. Fink seconded the motion. The motion carried unanimously.

COMMISSIONERS' REPORTS

Ms. Firehock stated the McIntire Park Committee had not met due to a lack of quorum. The City Streams Task Force had its first meeting; representation from the development community was not possible for that meeting. She also stated the CDBG had met; letters of intent for grant projects are due by 5 p.m. 18 September at the Department of Neighborhood Development Services.

Ms. Johnson Harris stated the CIP Committee for Schools would be meeting 16 September. The Housing Committee had met earlier on 9 September. She also stated the Neighborhood Federation would not meet until later in September.

Mr. Wood reiterated that the McIntire Park Committee had not met. The Selection Committee for the Design Guidelines Committee had a meeting to set their calendar.

Mr. Barton stated the Board of Zoning Appeals had not met in August due to a lack of a quorum. The Jefferson School Task Force meets almost weekly with the intention of providing a report to Council on or about 6 October. The JSTF would be providing a preview of its recommendations on 20 September at the Carver Recreation Center.

Mr. Fink had attended the MPO Technical Committee meeting. Discussions had included the 29/250 Corridor, the UnJAM Plan, and the VDOT pre-allocation.

Ms. Lewis stated the BAR had met and approved The Corner Historic Overlay District. There had not been a PAC Tech meeting. Ms. Lewis had been unable to attend the Design District Survey Committee meeting. Ms. Lewis also stated that she had received the minutes of the May, 2001 CPC meeting and reviewed them. She stated that the Planning Commission at that time had done a thorough review of the Preston Court Townhouse issue. Ms. Lewis also stated there had been mention in the news about traffic issues over which Mr. Tolbert had taken some heat regarding the traffic light on 29 at the Best Buy. She reminded the Commission that they had been promised that a meeting would be set up between the CPC and Albemarle County.

Ms. Hughes stated the building projects were continuing at UVa. Meetings were being held with the neighborhoods affected by the construction. She also reported a public meeting was scheduled for 8 November for the Southern Area B Study.

CHAIR'S REPORT

Mr. O'Halloran stated he and the Chairman of the Albemarle County Planning Commission had been trying to set a meeting date. A meeting had been proposed for 14 October at 4 p.m. Mr. O'Halloran stated his hope for meetings on a regular basis. Mr. O'Halloran also stated he had been speaking with Mr. Barton about the possibility of scheduling a retreat for the CPC. The Commissioners decided on the evening of 5 October.

DEPARTMENT/STAFF REPORT

Mr. Tolbert stated that Best Buy was a by-right development that did not come before the Commission for review. Best Buy had been asked to consider access to the site off the 250 Bypass. Traffic studies had been done which found it would be a way to handle the traffic which would not create any increase in the level of service. Ms. Lewis asked for a copy of the traffic study; Mr. Tolbert promised to give the CPC a copy of what had been presented to City Council.

Mr. Tolbert stated the Transit Forum would be 11 and 12 October.

Mr. Tolbert also stated training would be held 8 November from 9 a.m. to 1 p.m. for the BAR. Ms. Scala was putting together a joint training session with the Albemarle County ARB, the BAR, Rockbridge County, and the Planning Commission.

Mr. Tolbert presented the Commissioners with a copy of the zoning ordinance update that was sent to City Council.

There being a quorum of City Council present, the Chair opened the joint public hearing for the first item.

JOINT PUBLIC HEARINGS

SP--03-08-07 An application for a special use permit to use the property at 805 Albemarle Street for a dog grooming, training and boarding facility.

Ms. Creasy gave the staff report. The application is for two outdoor runs for dogs located at 805 Albemarle Street associated with a day boarding and training center located at 706 Henry Avenue. A sidewalk waiver has been requested for the site plan. The dog boarding and training center is a by-right use in the M1 Industrial Zone without the outdoor run/pen areas. Concerns about the outdoor areas were brought to the City by an adjacent property owner. The applicant proposes to change the drainage in the yard and provide landscaping and fence screening to mitigate the impact. The adjacent owner is satisfied with the actions of the applicant. In review of the special use ordinance, concerns arose due to parking, potential noise, odor and other quality of life issues. The applicant is requesting a sidewalk waiver citing the absence of sidewalk currently along Albemarle Street. Staff can't support the waiver at this time since the neighborhood chose to put a sidewalk on that block as a priority project during the Comprehensive Planning process. A ten dog limit was recommended as a condition; staff recommends deleting this condition due to the fact that it has potential to create more of an impact on surrounding neighbors. Staff has been meeting with the applicant to address parking concerns. Staff does not feel comfortable recommending approval at this time based on the information currently available regarding the parking. When, or if, it is determined off street parking can be met, staff will consider approval with the following conditions: off street parking requirements must be met, hours of operation are limited to daylight hours between 7:30 and 5 p.m., construction of a sidewalk as requested by the site plan regulations, inclusion of landscaping, moving of the fence backing up to the lot on 703 Charleton, and the site plan must be executed with the sidewalk improvement bonded prior to using the outdoor pen areas.

Mr. Fink asked if staff was satisfied with the proposed grading. Ms. Creasy stated engineering was working with the applicant on grading.

Mr. Wood sought clarification as to the location of parking. Ms. Creasy stated there was not enough room at 805 for the required six parking spaces nor was there enough parking for the businesses at the Henry Avenue site. Mr. Fink asked if the parking requirements could be met. Ms. Creasy stated there were some options.

Ms. Margaret Marsh, of 1236 Foxfield Lane, read a prepared statement in favor of the request.

Mr. Bruce Williamson, of 731 Locust Avenue, spoke in favor of the proposal. He asked that the CPC and Council find a way to approve it.

Ms. Roberta Williamson went on record as agreeing with her husband.

Dr. Tonya Nezzar, of 1290 Mountain Road, read a prepared statement in favor of the proposal.

Mr. David Hayslip, of 684 Victorian Court, spoke in favor of the proposal.

Mr. John Sutts, of 260 Albert Court, spoke in favor of the proposal.

Ms. Kendra Hamilton, president of the Rose Hill Neighborhood Association, of 620 Booker Street, asked that the Commission and Council not take the parking issue casually.

Mr. O'Halloran recognized one of the applicants, Mr. Phil Nichman, to speak. Mr. Nichman gave a brief history of the neighborhood which has changed greatly since 1986. He further stated that the drainage issues had become apparent due to the excessive amount of rain this year. The gutters were re-sloped and a back splash panel would be installed.

Mr. O'Halloran asked for questions of the applicant.

Mr. Barton wanted to know how many parking spaces were at the Henry Avenue site. Mr. Nichman stated there were 21, but 29 were required. Mr. O'Halloran stated the CPC had very little latitude regarding parking. Ms. Creasy stated there may be some latitude in the new ordinance. Mr. O'Halloran stated it may be to the applicants' advantage to wait a month. Mr. Nichman explained that he was a businessman and the co-applicants were business people; the process was in its third month causing him to lose revenue.

Mr. O'Halloran called for comments from the public.

Ms. Elke Bryskin, of 4708 Bluejay Way, spoke in favor of the proposal. She stated she had never seen any parking problems.

Ms. Laura Sutherland, of 4852 Watts Passage, spoke in favor of the proposal. She felt the parking requirements did not meet the type of business and thought it should be comparable to child daycare.

Ms. Nicole Breeden, of 419 Valley View Road, Ruckersville, spoke in favor of the proposal.

Mr. Basler Swanney, of 58 Peony Road, Ruckersville, spoke in favor of the proposal. He asked if the regulations stated that a special use permit could not be given because there weren't enough spaces. Mr. O'Halloran stated there were things in the Code that said a development like this needs a certain number of parking spaces.

Mr. Shawn Gillian, co-owner of All Things Pawsible, of 156 Brandywine Court, stated that parking had been working for a year and-a-half. He also asked if they could be reclassified as something other than a service.

Mr. Bob Hodus, of 1309 Lester Drive, spoke in favor of the proposal.

With no other members of the public wishing to speak, Mr. O'Halloran closed that portion of the public hearing.

Mayor Cox sought clarification that the new spaces required by the site plan for the Albemarle Street property included in the 29 spaces that Mr. Nichman had. Mr. O'Halloran stated that Ms. Creasy said they were. Mayor Cox sought an explanation of the drop off procedure. Ms. Creasy stated that dogs coming for grooming and daycare enter at Henry Avenue; dogs coming just for grooming may enter at Albemarle Street.

Mr. Barton asked if there were an approved site plan. Mr. O'Halloran clarified that there was not an approved site plan showing all the required spaces for the special use permit. Mr. Barton felt a site plan identifying parking spaces would aid in discussion of the proposal. Mr. Tolbert stated staff had, in the past, tolerated inadequate site plans. Mr. Tolbert further stated Mr. Nichman's plans had been sent back since they did not meet the standard of the site plan required. Mr. Tolbert further stated the parking issue was not caused by All Things Pawsible.

Mr. Fink asked if the adjacent neighbors and staff were satisfied that the regrading would alleviate the drainage issue. Ms. Creasy stated they were.

Mr. Tolbert explained that the ordinance requires a specific amount of parking. Mr. Tolbert further stated they had essentially met all the requirements; they have not indicated they will meet the parking. He suggested conditional approval. The new zoning ordinance would be in effect within a week and would be flexible.

Mr. Schilling asked if there were a difference in the requirements as proposed and requirements for child daycare. Mr. Tolbert stated there was no standard in the current ordinance for child daycare.

Ms. Lewis moved for approval of special use permit on the basis that the proposal serves the interests of the general public welfare and good zoning practice with the conditions that off-street parking requirements must be met, hours of operation limited to daylight hours between 7:30a.m. and 5 p.m., construction of a sidewalk, inclusion of landscaping comments in Ms. Creasy's September 2nd, 2003 letter and approval of a final site plan within 30 days. Ms. Kelly asked if it was her recommendation that pending approval of the final site plan they may continue

the existing operations. Ms. Lewis stated that was what was contained in her motion. Mr. Wood stated he would second the motion, but 30 days was a bit unreasonable; he offered a friendly amendment of 60 days. Ms. Lewis accepted the friendly amendment. Mr. Wood seconded the motion. Mr. Barton made a friendly amendment that in addition to the 60 day clock, the applicant regrade the site as soon as possible or immediately. Mr. Tolbert stated the applicant could grade by right. However, if it caused issues in the site plan, they would have to be changed. Mr. Schilling asked if staff would be willing to sit down with the applicant and help him. Mr. Tolbert explained they could show the applicant the regulations, but they could not do the drainage plan for him. Ms. Lewis clarified that the motion included that the site plan come back before the CPC. Mr. O'Halloran sought clarification if Mr. Barton's friendly amendment had been accepted; Mr. Wood stated it had not. Mr. Wood stated he would prefer staff approval of the site plan. Mr. Barton made a friendly amendment that staff inspect the temporary mitigating measures and approve them. Mr. Fink seconded the amendment. Mr. O'Halloran sought a restating of the motion. Ms. Lewis stated she moved approval of the special use permit on the basis the proposal would serve the interests of the general public welfare and good zoning practice with the conditions that are cited on page 7 including all the conditions of the letter from Ms. Creasy, and that the site plan be approved administratively within 60 days and that staff also do a walk-through and make sure that the temporary storm water drainage issues are satisfactory. Ms. Creasy asked if Ms. Lewis was including the condition limiting the number of dogs. Ms. Lewis stated she was not. Mr. Higgins called the question. The motion carried unanimously.

Mr. O'Halloran opened the joint public hearing for the closing of a portion of an alley off Elliewood Avenue.

Ms. Scala gave the staff report. The original request had been from Art Conroy, the owner of parcel 88. Gas utilities, sanitary sewer in the rear and two power poles are in the alley. Some of the property owners, represented by Larry McElwain, Esquire, are in favor of the closing.

Mr. O'Halloran called for the applicant to speak. The applicant stated he had a contract to purchase 17 Elliewood Avenue. His plan was to remove 12 and 17 Elliewood and build a new three-story building for mixed use retail/restaurant/office.

Mr. O'Halloran called for comments and questions from the public.

Ms. Ann Albright, of 301 A Second Street, NW, and an owner of six buildings on Elliewood, spoke in favor of the proposal.

With no other members of the public wishing to speak, Mr. O'Halloran closed that portion of the public hearing.

Mr. Barton made a motion to recommend to City Council that the requested vacation by ordinance of a 12 foot alley that runs between Tax Map 9 Parcels 88, 89 and behind Parcel 88 off Elliewood Avenue be approved subject to the utility easements being retained as needed. Ms. Firehock seconded the motion. Mr. O'Halloran asked if they wished to include the properties owned by Ms. Albright which were mentioned in Ms. Scala's staff report. Ms. Kelly stated they could only consider this application. Mr. Higgins called the question. The motion carried unanimously.

Mr. Schilling left the meeting at 9:39 p.m.

Mr. Tolbert stated the next two items on the agenda would be an unofficial public hearing and another meeting would have to be held. Whereupon the City Councilors left the meeting at 9:40 p.m.

Mr. O'Halloran called ZT--03-08-08 and ZM--03-08-09, an ordinance to amend and reordain the zoning district text and the zoning district map.

Ms. Scala gave the staff report. The CPC is being asked for a recommendation to add The Corner District as the sixth major historic and architectural design control overlay district in the City. Section 34-568 states that City Council shall consider the recommendation of Planning Commission and the Board of Architectural Review regarding the proposed addition. The Corner District is listed on state and national registers. The City is seeking to include the district as a local district. Properties in local districts are better protected. The CPC had been given a list of contributing and non-contributing buildings. Staff recommends approval to City Council.

Mr. O'Halloran called for comments from the public.

Ms. Ann Albright, of 301 A Second Street, NW, spoke in favor of the proposal and hoped it passes.

Mr. Tolbert explained that approval of an ordinance could not be recommended to Council at this time because the current ordinance should no longer be in effect after six days.

With no other members of the public wishing to speak, Mr. O'Halloran closed that portion of the hearing.

Ms. Lewis clarified that the BAR questioned the status of the Biltmore Grill due to the renovations of the building.

Ms. Johnson Harris asked if the Commission should defer the matter. Mr. Tolbert stated they did not need to defer because it needed to be advertised again.

OTHER BUSINESS

Mr. O'Halloran called for other business.

Mr. Tolbert stated the Commission was to name citizen members to the two steering committees; he suggested deferring that to the October meeting.

Mr. Barton made a motion to adjourn and reconvene on October 14 at 6:30 p.m. Ms. Lewis seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 9:55 p.m.