

**DRAFT MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, JUNE 8, 2004 -- 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. Craig Barton, Chair
Mr. Jon Fink
Ms. Karen Firehock
Ms. Kathy Johnson Harris
Ms. Cheri Lewis, V-Chair
Mr. Kevin O'Halloran
Mr. Eldon Wood

Staff Present:

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

Ex-officio:

Mr. David Neuman, UVa Architect

City Council Members Present:

Mr. Maurice Cox, Mayor
Mr. Blake Caravati
Mr. Kevin Lynch
Mr. Rob Schilling

Also Present

Mr. David Brown, City Council elect

I. REGULAR MEETING

Mr. Barton convened the meeting at 6:33 P.M.

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

Mr. Barton called for matters not on the agenda. There were none.

B. MINUTES -- May 11, 2004

Mr. Barton called for comments or suggestions about the May minutes. Ms. Lewis moved to approve the minutes as submitted. Mr. Fink seconded the motion which carried with Ms. Johnson Harris abstaining since she had not been present.

C. LIST OF SITE PLANS AND SUBDIVISIONS APPROVED ADMINISTRATIVELY

Mr. O'Halloran asked if the Monroe Hill housing had been seen several months previously. Mr. Tolbert stated this was a proposal for the addition of 50 apartments.

Mr. Wood moved that they give approval to the two items, which had been approved administratively. Ms. Johnson Harris seconded the motion. The motion carried unanimously.

List of Site Plans Approved Administratively
5/1/04 to 6/1/04

1. File No. Monticello Grill 1215 Monticello Road
T-03-000011 at Sonoma & Carlton

2. File No. Monroe Hill Housing 416-428 Monroe Lane
T-03-000023(53 Units) & 15th Street, SW

D. COMMISSIONERS' REPORTS

Ms. Johnson Harris had nothing to report.

Mr. Wood attended the May meeting of the McIntire Park Advisory Committee.

Ms. Lewis stated that the Board of Architectural Review continued to be very busy.

Mr. O'Halloran had been sworn in as a member of the Board of Zoning Appeals but the meeting had not gone forward due to a lack of a quorum.

Mr. Fink had attended the MPO Tech meeting. The intersection of 250 and 29 North has gone into the Phase III study.

Mr. Neuman gave the Commission copies of the route of the tour of the grounds for the alumni weekend highlighting seven projects. He invited the Commissioners to the Community Briefing scheduled for June 15th at 7 P.M.

E. CHAIR'S REPORT

Mr. Barton had had a preliminary conversation with one of the two newly elected members of City Council.

Mr. Barton had received a letter from the Willard Allen Moseley Neighborhood Association identifying those neighbors interested in working with the City to create a safe pedestrian environment. He asked that staff get back in touch with these people.

Mr. Barton advised the public that items 4 and H(1) had been pulled from the agenda at the request of the applicants.

J. DEPARTMENT OF NDS/STAFF REPORTS

At the request of the Chair, Mr. Tolbert gave the staff report.

Mr. Tolbert would not be at the July 13th meeting.

Mr. Tolbert stated that City Council had approved the Transit Center and Amphitheater project.

Mr. Barton called for a recess until a quorum of City Council could be present; the Commission stood in recess at 6:48 P.M.

Mr. Barton reconvened the Joint Public Hearing at 7:07 P.M. and stated he would be excusing himself from Item ZM-04-4-10. He then turned the meeting over to Ms. Lewis.

F. JOINT PUBLIC HEARINGS

2. ZM-04-4-10: A petition to rezone, with proffers, from R-2 Residential to PUD Planned Unit Development the property at 200 6th Street NW and 505 Commerce Street (the northeast corner of 5th and Commerce). This property is further identified on City Real Property Tax Map Number 32 as parcel 123, having 65.5 feet of frontage on 6th Street NW, 109 feet of frontage on Commerce Street and containing 7,194 square feet of land or .17 acres. The general uses allowed in the R-2 zoning are two-family residential. The general uses called for in the Land Use Plan of the Comprehensive Plan are two-family residential.

Ms. Scala gave the staff report. This would create a maximum of five units including three new townhouse units for sale and one bedroom addition to the existing dwelling. The current zoning allows a maximum of two single-family attached units, each with an accessory apartment unit or a total of four units on the existing parcel. The PUD zoning is necessary to allow increased density, townhouse-type units, reduced lot sizes and reduced setbacks. Staff recommends approval of the three townhouse units in addition to the existing house on the parcel, but staff does not recommend approval of the one bedroom unit attached to the house. The proposal is to divide the property into four lots. The three townhouse units for sale would be on lots fronting on Commerce Street. The proffers offered by the developer had been amended 2 June. The applicant is proffering: three single-family attached units for sale and a one bedroom addition to the existing dwelling; reduced setbacks; pedestrian access connecting Commerce Street to the interior of the block; landscaping; six off street parking spaces for the townhouses; a commitment to explore low impact development alternatives; and a cash contribution for improvements to Starr Hill public spaces. The new proffer is for design review of the units to be approved by Neighborhood Development Services.

Mr. Fink sought clarification why staff was not recommending the one bedroom addition. Ms. Scala stated neither the existing house nor the one bedroom unit have parking provided. She further stated eliminating that unit allows some open space on site.

Ms. Scala further stated that staff found that the R-2 zoning was appropriate. The proposed PUD zoning was also reasonable and appropriate; it would allow infill development consistent with the mixed use type of development found on Commerce Street. The neighbors attending the public review meeting had many concerns: setting a precedent for future development; traffic; lack of parking; impact on the operation of the funeral home; lack of open space; and lack of backyards. Staff recommends approval of the three townhouse units but not the one bedroom unit because the proposal encourages infill development of equal or higher quality than current zoning, the three additional units would result in a density equivalent to the current by-right zoning, and all three units would be served with parking.

Ms. Lewis called for questions for Ms. Scala from the Commission and Council.

Ms. Lewis recognized the applicant's representative, Ms. Giovanna Gancione of RBGC Architecture in Charlottesville. Ms. Gancione was grateful the neighbors shared their concerns. Townhouse units had been chosen because they can save costs and are more urban in scale and massing. The applicant was trying to propose the application of low impact development strategies.

Ms. Lewis called for comments from the public.

Ms. Patricia B. Edwards, of 212 Sixth Street Northwest, came as a representative of the Starr Hill Neighborhood Association. They did appreciate that the property was being developed; it had been vacant and an eyesore. They were concerned about the loss of parking for the funeral home. They were also concerned about the precedent set by changing the zoning. Ms. Edwards presented the Commission with a petition from the neighborhood asking that the zoning not be changed.

With no one else seeking to speak to the matter, Ms. Lewis closed the public hearing. Ms. Lewis then called for questions from City Council and then the Commissioners.

Ms. Lewis asked if the proffers would change if approval was not given for the whole plan as proposed. Ms. Gancione was not sure; she felt the applicant could answer that question.

Mr. O'Halloran felt the design looked better with the one bedroom unit.

Ms. Lewis asked Ms. Kelley what was contemplated by the proffer of Neighborhood Development Services design review since design review was not part of their purview. Ms. Scala explained that the purpose of the proffer was to ensure that the design in the packet had meaning.

Ms. Lewis asked if the proffer needed to be reworded so that it stated design review was needed by staff to ensure that the units as built are what the applicant has provided in the contract plan. Ms. Kelley stated the applicant could work with staff to prepare a final proffer statement to clarify language before it was presented to Council.

Mr. O'Halloran sought clarification whether they would have to approve or recommend a waiver of the 15 percent open space rule if the one bedroom unit was approved. Ms. Scala thought they would have to waive the 15 percent. Regarding the parking, Mr. Tolbert stated that technically, per zoning, more than enough parking was provided on site so no waiver would be required for that.

Ms. Lewis called for comments from the Commissioners.

Mr. O'Halloran stated he preferred the design including the one bedroom unit on the corner of Commerce Street.

Mr. Fink agreed with Mr. O'Halloran that the one bedroom unit added to the design but he was not willing to waive the 15 percent green space requirement in order to have that.

Ms. Johnson Harris supported Mr. O'Halloran's assessment.

Mr. Wood felt the one bedroom unit detracted from the design.

Mr. Schilling sought clarification regarding what the green space would be with the one bedroom unit included; it would be five percent.

Ms. Johnson Harris stated there was not very much green space in front of the houses bordering the street in that area.

Ms. Lewis stated she would support the project as submitted but expressed concerned about the proffer of design review.

Ms. Firehock entered the meeting at 7:51 P.M. and excused herself from the matter on the floor.

Mr. O'Halloran moved to recommend approval of this application to rezone property from R-2 to PUD with proffers as submitted on the basis that the proposal would serve the interests of the general public welfare and good zoning practice. The motion failed as there was no second.

Ms. Johnson Harris sought clarification that his motion had included the accessory unit. Mr. O'Halloran concurred that it had. Ms. Johnson Harris stated her attention had been elsewhere and she had not wanted to second something of which she was unsure.

Mr. O'Halloran restated his motion; Ms. Johnson Harris seconded the motion. The motion carried 4-1 with Mr. Fink voting against; Mr. Barton and Ms. Firehock had excused themselves from the matter.

Mr. Barton resumed his position as Chair at the completion of the item.

1. SP-04-4-7: An application for a Special Use Permit to use the building and property at 134 Burgess Lane (a.k.a. 1408 Burgess Lane) for residential occupancy. This property is further identified on City Real Property Tax Map Number 56 as a portion of parcel 42, having 253 feet of frontage on Burgess Lane and containing approximately 51,000 square feet of land or 1.17 acres. The general uses allowed in the M-1 Industrial Zoning are light industrial and commercial uses. The general uses called for in the Land Use Plan of the Comprehensive Plan are light industrial uses.

Ms. Grant gave the staff report. The site has a one-story office building and a two-story farmhouse that was recently converted to single-family residential use by Special Permit in December, 2003. Due to the saturation of vacant office space, the applicant has had difficulty renting the currently vacant office space. He seeks to convert the office building into four apartments for physically handicapped individuals.

This request is for 20,400 square feet of the property that does not already have a special use permit. The applicant has asked that the site plan requirement be waived because: the City is not recommending any changes to the ingress and egress of the site; there will not be any additional parking under the requirements; and there will not be any removal of trees that have a large caliber of 50 inches. The Zoning Ordinance allows situations like this to occur by allowing residential uses in an M-1 zone with a Special Use Permit. The surrounding neighborhood has a mix of uses. The neighborhood requests as much residential use as possible in the subject area.

No residents attended the preliminary public agenda meeting; some written notes received were in support of the request. Staff recommends approval.

Mr. Barton called for questions of Ms. Grant.

Ms. Lewis wanted to know why the parcel was not being completely rezoned rather than making use of two Special Use Permits. Ms. Grant did not know and thought the applicant may be able to answer.

With no further questions of Ms. Grant, Mr. Barton recognized the applicant, Mr. Preston Coiner of 411 Second Street Northeast.

Mr. Coiner stated in response to Ms. Lewis's question that the parcel was large and it would have to be subdivided. He stated he felt the Special Use Permit would be the course of least resistance. He also stated there was an existing handicap ramp from the parking lot to the middle of the building.

Mr. Barton asked if there were a physical boundary that would identify the parcel that would carry the revised zoning designation. Mr. Coiner stated there was no physical boundary but there was a designated area for the farmhouse section with a fence and screening.

Mr. Barton called for questions of Mr. Coiner from the Commissioners and Councilors. There being none, he then opened the public hearing.

Mr. Bill Lankford, of 1404 East Market Street, spoke in favor of the proposal.

With no one else wishing to speak to the matter, Mr. Barton read into the record an E-mail from Mr. Bill Emory, a nearby neighbor. "Dear Planning Commission members; My name is Bill Emory. I've resided at 1604 East Market Street since 1987. I'm delighted with Preston Coiner's proposed use of the property at 134 Burgess Lane to help with Burgess Lane. The balance between industrial and residential use is an issue you have addressed before. I hope, once you have reviewed the particulars of this project, you will support Mr. Coiner's application for a special use permit.

Thanks for your service, Bill Emory, 1604 Market Street." Mr. Barton stated for the record that Mr. Emory was in support of Mr. Coiner's project.

Mr. Barton closed the public hearing and called for questions and comments from the Commissioners.

Mayor Cox entered the meeting at 8:07 P.M.

Ms. Lewis noted that she had received a lot of positive comments from the neighborhood on this.

Mr. Fink moved to recommend the approval of this application for a Special Use Permit for the property located at 134 (1408) Burgess Lane zoning from M-1 to Special Use Permit on the basis that the proposal would serve the interests of general public welfare and good zoning practice. Ms. Lewis seconded the motion which carried unanimously.

3. SP-04-5-11: An application for a Special Use Permit, with waivers, to use the building and property at Number 3 University Circle as an institutional use under the "college or universities" use category. This property is further identified on City Real Property Tax Map Number 5 as parcel 39, having 142.25 feet of frontage on University Circle and containing approximately 24,000 square feet of land or .55 acres. The general uses allowed in the R-1U zoning are single-family detached residential. The general uses called for in the Land Use Plan of the Comprehensive Plan are for single-family residential.

Ms. Scala gave the staff report. Turner Enterprises, Limited, proposes to build a large addition onto the existing older, historic building for the Institute for Advanced Studies in Culture to accommodate offices and one accessory residential unit located on the basement level. Staff recommends approval with conditions subject to staff approval of the final site plan. Most of the 15 parking spaces proposed on site are located to the rear of the property; two spaces are shown in the front yard. A new driveway from University Circle is proposed to access the site. The current zoning is reasonable and appropriate. The proposed request could be reasonable and appropriate on the site. Offices would provide an intermediate use between apartments on the Rugby Road side of the property and the single family dwellings on University Circle. The applicant has requested three exceptions and modifications: a reduction in nonresidential building setbacks for side yards -- down to 15 feet -- and the rear yard -- zero feet; a reduction in the required parking setback and permission to park in the front yard -- staff recommends maintaining a minimum ten foot side yard for the sunken parking area. The neighborhood has strong objections to the two parking spaces in the front yard. Staff feels parking is not appropriate in the front yard. The third request for waiver is reduction in the total number of off street parking spaces provided from 23 to 15. Points in favor of this reduction are the location and proximity to the University and to public transportation; however, the future occupants should not be allowed to apply for permit parking on University Circle. Staff recommends approval subject to the following conditions: staff approval of the final site plan, and no occupant of the building may apply for permit parking.

Mr. Barton called for questions of Ms. Scala.

Mr. Fink asked if there were a staff recommendation on the zero rear yard setback. Ms. Scala stated the rear setback waiver was necessary in order for this to be built.

Mr. Barton recognized the applicants.

Mr. David Turner, of 1 Boar's Head Point, stated the property had been acquired about a year and-a-half ago. The house was a historic property, which had fallen into significant disrepair. The intention was to restore the former Manor House to something of its original splendor.

Mr. Turner then introduced Mr. James Davidson Hunter, Director of the Institute for Advanced Studies in Culture. Mr. Hunter stated the hope was to provide a place for quiet study and research on the questions, which concern the Institute.

Mr. Turner stated there had been meetings with the neighborhood.

Mr. John Matthews, of Mitchell Matthews Architects, explained that parking in the front would not be seen easily due to a four to five foot high retaining wall.

Mr. Fink sought clarification regarding the proposed exterior materials. Mr. Turner stated the addition would use the same materials as the existing building.

Ms. Firehock asked if it would be possible to give up the two front parking spaces. Mr. Turner stated the parking sets up a sense of arrival for visitors. Ms. Firehock also asked if paving for parking would affect any trees. Mr. Turner stated there was one ash tree was in jeopardy but they were trying to preserve it.

Mr. Barton opened the public hearing.

Mr. John Titus, of 1817 University Circle, expressed concern about the parking which may isolate three homes and about the noise and night use. He felt the lack of a setback would affect the area.

Mr. Dan Friedman, of 1835 University Circle, spoke in opposition of the proposal's front yard parking. He presented the Commission with a letter from September 2003, from the president of the Neighborhood Association, Ms. Karen Dougal, to Mr. Turner.

Mr. Barton called for any other members of the public who wished to speak to the matter. Mr. Higgins reminded the Commissioners they had a letter from a resident, Sally Nelson, who could not be present; she had expressed concerns about the front yard parking.

Ms. Cynthia Walters, of 1836 University Circle, spoke in opposition of the proposal. As the mother of two small children, she was concerned about traffic on the street.

Ms. Dahven White Doctor, of 1831 University Circle, expressed concerns about the traffic.

Mr. Barton closed the public hearing.

Mr. Caravati asked if the house were sprinkled. He also felt some type of architectural guidelines might be appropriate.

Mr. Barton stated the trees set a scale for the property and were critical in masking the existing size of the building. He would not be in favor of the two front parking spaces. He felt the arborist should provide a preservation plan for the tree. He felt the parking load should be reduced by using the practices of the rest of the University. He also felt architectural review was warranted.

Ms. Lewis supported the application and the setbacks. However, she concurred with Mr. Barton that the parking spaces should be reduced by the two front spaces.

Mayor Cox asked if the proposal could go before the BAR for review due to the historic nature of the building. Ms. Kelley stated they should be concerned with the Special Use Permit; she would not encourage them to impose conditions relating to materials and design review when the building is not already subject to BAR review.

Ms. Lewis agreed they should discuss the Special Use Permit. She noted for the record that there was higher density housing on the Circle and some other uses that are similar. She found it to be appropriate for the Special Use Permit.

Mr. O'Halloran could not support parking in the front but could support the rest of the project.

Mr. Fink thought the design was well crafted. He felt the front parking and wide driveway were not compatible with the future historic fabric of the neighborhood. He expressed a preference for compatible exterior materials which would make the juxtaposition much more diminished.

Ms. Firehock concurred with Mr. Fink as did Ms. Johnson Harris.

Mr. Wood was pleased to see the restoration of the exterior materials and the continued use of historic materials.

Mr. Fink moved to recommend approval of the application to allow a Special Use Permit in the R-1U residential University district for education facilities at 3 University Circle subject to the following conditions and exceptions or modifications: a, staff approval of the final site plan; b, no occupant of this building may apply for permit parking; c, no parking in front of building; d, preservation plan for the specimen beech tree; e, compatible exterior materials. Ms. Firehock offered a friendly amendment to add that the parking space exception be reduced from 23 to 13 as opposed to 23 to 15. Mr. Fink accepted the friendly amendment. Ms. Lewis offered a friendly amendment that the site plan be brought back for Planning Commission approval in lieu of staff approval. Mr. Fink accepted that amendment as well. Ms. Firehock seconded the motion. Ms. Kelley sought clarification regarding setback approval. Mr. Fink amended his motion to allow the side setbacks from 50 to 15 feet and the rear setback to zero feet from 50 feet. Ms. Firehock seconded the amended motion. Mr. Barton clarified that the motion applied staff recommendations for setbacks, asked for Charlottesville Planning Commission approval of the final site plan,

review of materials, a preservation plan for the specimen beech tree as part of the site plan review and reduction of parking from the requested 15 to 13. Mr. Higgins called the question. The motion carried unanimously.

Mayor Cox suggested the architect meet with the Planning Director and the Fire Department to consider the reduction of the driveway to a residential minimum before coming to Council. Mr. Barton reiterated Ms. Kelley's suggestion that Mr.

Taliaferro put his recommendations in writing. Mr. Barton suggested that the dimension be reviewed for modification by reduction only. Ms. Lewis noted for the record that these were comments only by a member of Council and a member of the

Commission and were not formal action taken as part of the motion. Mayor Cox accepted Ms. Lewis's point; however, his comment was in an effort to help the applicant expedite the process when the matter came before Council.

4. Closing of Old Fifth Street SW: A petition to close the Old Fifth Street SW a distance of approximately 480 feet between Harris Road and new Fifth Street SW. This item had been removed from the agenda at the request of the applicant.

5. Closing of Alley off of Tenth Street, NE: A petition to close the 15 foot wide alley running east 180 feet from Tenth Street NE behind 100 Tenth Street NE.

Ms. Creasy gave the staff report. The applicant is seeking to close a portion of the alley which covers three lots, one of which he has under contract and two others he is in the process of purchasing. The remainder of the alley continues to Eleventh Street. Three additional development rights could come from closing this portion of the alley. No parcels would be landlocked. After public notice went out, a petition and letter were received from the neighbors. Many neighbors access their properties from the rear and emergency vehicles do reach the properties from the rear due to a grade difference on East Market Street. Staff is also concerned about Emergency

Response times and hopes the applicant can address the matter.

Ms. Lewis sought clarification of the comments from the letter regarding the notification of approximately one week given to the neighbors. Ms. Creasy stated notice had been sent out as typically done. Mr. Higgins stated notices were usually sent out ten days before; the requirement was that they be mailed out no less than five days before the hearing.

Mr. Barton recognized the applicant, Mr. Joe Milby, of 120 Woodstock Drive. Mr. Milby stated that closure of that alley was necessary to offer the most attractive streetscape on Tenth Street and to make the most efficient use of parking for the combined mixed use development. Sufficient parking could not be provided if the alley was left open. Mr. Milby had spoken with all but one adjoining residents. He was asking to eliminate the throughway access of the alley.

Mr. Fink noted the grade of the alley was significantly steeper than shown on the elevation. He wondered what the massing would look like if the elevation was pictured more accurately. Mr. Milby stated the elevation was a hand sketched rendering by the architect done earlier that day. Mr. Barton felt it was inaccurately represented.

Mr. Fink asked if keeping the alley would surrender a few parking spaces. Mr. Milby stated the desired density could not be achieved without the spaces.

Ms. Firehock asked Ms. Kelley to clarify closing the easement to allow the density calculations if the applicant would then give the City an easement to the closed alley. Ms. Kelley stated when it was created, the alley was intended, as part of the subdivision plat, to be dedicated for public use so the City was asked to vacate an easement of right of way that it has. However, Ms. Kelley was concerned because the staff report stated the alley was mentioned in a deed dated 1906 and shown in a subdivision plat. Ms. Kelly stated confirmation was needed as to whether this was an alley created by deed or by agreement of property owners. Mr. Schilling sought clarification

of Ms. Kelley's statement. She explained that if it were a private alley created by deed, this process could not be used to close the alley. Mr.

Schilling wanted to know why that had not been determined. Ms. Kelley explained that old land records were hard to research. Mr. Schilling asked, for procedural reasons, that in the future the research would be done in advance.

Ms. Lewis asked the applicant if a title search had been done and an opinion given. No opinion had been received.

Ms. Lewis moved to defer this application to the next meeting to resolve the title issues that have been raised, propriety and ability of the City to even close this alley and give some notice to the neighbors and the applicant -- if it is able to be closed -- to work together to resolve differences or perhaps come up with an alternative under 10 of the closing policy to provide for continued public use of this. Mr. O'Halloran seconded the motion. Mr. Schilling clarified for the benefit of the neighbors who were present and concerned that the petition holds a lot of weight; the neighbors should not leave thinking there was some great chance the alley would be closed and they would have no other way to continue their access. Mr. Schilling stated his appreciation for their attendance and concern for taking their time to put it together since it was important information. Ms. Lewis stated that Mr. Schilling was out of order but she agreed with him since the Commission had rarely closed an alley if there were neighbors that opposed it. Mr. Barton apologized on behalf of the Planning Commission for the time spent without the ability to provide comments for the Commission's consideration. Mr. Higgins called the question. The motion carried unanimously.

6. Closing a portion of Castalia Street: A petition to close the 50 foot wide Castalia Street right-of-way running 267 feet between Elliott Avenue and Altavista Avenue.

Mr. Schilling and Mr. Caravati left the meeting at 9:51 P.M.

Ms. Grant gave the staff report. An adjoining property owner petitioned to allow the closure of the right-of-way to extend property lines of all adjacent properties to the center of the closed right-of-way. This is a paper street.

Mr. Caravati returned to the meeting at 9:52 P.M.

Ms. Grant continued the staff report. The applicant and adjacent owners have explained that maintenance by the City has not been great and they wish to take it over for maintenance purposes. The area is zoned R-1S. Although all property owners will gain a little more property, there will not be any additional development rights. There are no utility lines or storm drainage facilities in the proposed area. Vacation would not landlock any parcel. Staff recommends approval since the vacation would be consistent with the City Council policy on street closings and with the City's Comprehensive Plan. A letter had been received the day before from a resident asking that a pedestrian and bicycle access easement be maintained.

Mr. Fink asked if there had been any negative feedback from the neighbors. Ms. Grant had not received any; all neighbors had submitted letters for the vacation.

Mr. Barton called for the applicant.

Mr. Brent Gafton had talked to the neighbors who had no problem with closing the alley. He had not been aware of anyone wanting pedestrian or bicycle access; he had no problem with that access.

Ms. Firehock asked how access would be limited to vehicular access. Mr. Gafton stated landscaping would be done similar to the other side of Elliot and Castalia.

Mr. Barton called for questions or comments from the Councilors. There being none, he called for public comment and he closed the public hearing since no one came forward to speak to the matter. He then asked for discussion from the Commissioners.

Mr. Fink, Ms. Lewis and Mr. O'Halloran had no objection to closing the alley.

Mr. Wood had no objection but thought they should stipulate that access be granted for pedestrians and bicycles.

Ms. Lewis asked if fair market value should be assessed since one of the properties would be improved by the additional square footage. Mr. O'Halloran cited the staff report which said there would be no development rights given.

Mr. Fink moved to certify the proposed vacation of the property located on Castalia Street between Tax Map 60 parcels 55 and 56 and Tax Map 60 parcels 141 and 142 would be consistent with the Comprehensive Plan and recommend to City Council that the street or alley be vacated by ordinance with the exception of maintaining a pedestrian and bicycle access easement in the Castalia Street right-of-way. Mr. Wood seconded the motion. Ms. Lewis made a friendly amendment that Council consider that fair market value be added to these four lots. Mr. Fink accepted the friendly amendment; Mr. Wood did not. Ms. Lewis withdrew her friendly amendment; however, Ms. Johnson Harris seconded the friendly amendment. Mr. Higgins called the question. The motion carried unanimously.

7.ZT-04-5-12: An ordinance to amend and re-ordain the following sections of the City Code, Chapter 34 (Zoning Ordinance), as amended (a copy of the full text of the proposed amendments can be obtained at the Department of Neighborhood Development Services, City Hall):

- a. Sec. 34-82(b)(6) requiring permits for any land disturbing activity or other work initiated on a site.
- b. Sec.34-112 outlining the requirements for certificates of occupancy prior to use of buildings or property.
- c. Sec.34-273(b)making reference corrections to the list of minor historic district properties and removing 1403-1427 University Avenue since they
are now in the Corner ADC District.
- d. Sec.34-275(a) correcting the section reference from 34-284 to 34-283.
- e. Sec.34-309A(1)clarifying that a review is required for additions or modifications of at least 25% of the gross area of a building or structure.
- f. Sec.34-353A to correct a typographical error in the setbacks chart.
- g. Sec.34-353(7)(e) allowing two single-family detached houses on one R-2 lot.
- h. Sec.34-367(3) allowing for mixture of bedroom limits above 64 units/acre.
- i. Division 7 correcting typos in the use matrix.
- j. Division 4 correcting typos in the use matrix.
- k. Division 4 adding taxi stand as an allowed use in B-2,B-3,M-1 and IC.
- l. Sec.34-493(c)requiring designated open space to be improved.
- m. Sec.34-493(c)removing the term "floodway fringe".
- n. Sec.503 removing the term "floodway fringe".
- o. Sec.34-517adds language to require proffers, if applicable.
- p. Sec.34-517,3(c)allowing the delineation of trees 8" in caliper to be delayed until the site plan stage.
- q. Sec.34-518(b)(1)requiring a final site plan to be submitted but not approved prior to recording a plat.

- r. Division 13 correcting typos in the use matrix.
- s. Division 13 adding taxi stand as a permitted use in certain mixed use districts.
- t. Sec.34-827,(d)(5)requiring the at trees of 8" caliper or greater be shown on plan.
- u. Sec.34-827,(d)(7) requiring that the Floodway be designated on the site plan.
- v. Sec.34-828(b) adjusting the number and type of site plan submittal drawings.
- w. Sec.34-932(a) requiring the screening of dumpsters by an opaque fence at least 6 feet in height.
- x. Sec.34-972(b) clarifying how close parking can be to a property line (3’).
- y. Sec.34-975 restoring a provision that prevents commercial access through residentially zoned property.
- z. Sec.34-975(j) preventing non single-family parking from backing into a street.
- aa. Sec. 34-1101(d) clarifying that unenclosed porches and decks can encroach into a required rear yard.
- bb. Sec.34-1123 correcting a typo in the R-2 minimum area.
- cc. Sec.34-984 adding a requirement for ambulance services parking.
- dd. Sec.34-1200 adding a definition to clarify that any bedroom that is more than 20% larger than the average size of other bedrooms or has more than 1 door per ingress/egress shall be counted as two bedrooms.
- ee. Sec.34-520(beginning) this adds a new district for "Infill Residential PUD" that allows on three acres or less a small residential PUD that does not require open space dedication.
- ff. Sec.34-583(b) increasing the parking lot size from 20 to 50 when the 50% limit on surface parking open to the sky becomes applicable.
- gg. Sec.34-603(a) same as ff.
- hh. Sec.34-642(c) same as ff.

Mr. Tolbert gave the staff report. No one was present who had signed up to speak on this. Some issues had been raised since this was advertised. Given the late hour and the fact that a new Council would be seated in July, he asked permission to defer this.

Mr. O'Halloran moved to defer the issue. Ms. Lewis seconded the motion which carried unanimously.

8. ZT-04-5-13:An ordinance to amend and reordain the following section of the City Code, Chapter 34 (Zoning Ordinance) as amended:

- a. Section 34-558(a) Street wall regulations. This is to reduce the required step back after four stories from 15 feet to ten feet for at least 30 percent of the length of the street wall instead of 70 percent of the length.

Mr. Tolbert gave the staff report. At the May meeting, Formwork Design had asked for a change in the step back required along Water Street. The proposal is that the step back for buildings above four stories be changed to ten feet along at least 35 percent of the length of the street wall.

Mr. Barton sought clarification since the agenda read 30 percent but the staff report said 35 percent. Mr. Tolbert stated it was 35 percent.

Ms. Lewis wanted to know why the applicant was not seeking a waiver in regards to their specific property. Mr. Tolbert stated it had been their advice to the applicant that there were no grounds for a variance; there was no provision in the Code for a waiver.

Mr. Caravati stated he had not heard a staff recommendation. Mr. Tolbert stated he had not given one. He further stated that he had no problem with the change from 15 feet to ten feet; however, Mr. Tolbert was concerned that it was a significant character change to go from 70 to 35 percent on the street wall.

Mr. Barton called for the applicant.

Mr. Robert Nichols, of 105 Perry Road, stated that the set back requirements were fighting some of the efforts to work on a residential project at Fifth and Water Street. The 15 foot setback took away interior space.

Mr. O'Halloran wished there was a way to change Mr. Nichols building without across the board changes to the whole district.

Mr. Nichols stated there was a 15 foot set back on the fourth floor with five more floors going straight up. He suggested ten feet at the fourth floor with another five or ten feet at the seventh floor. Otherwise a canyon effect is achieved on any nine story building that is built. Mr. Nichols stated the set back makes sense for an urban balcony.

Mr. Barton called for members of the public who wished to speak to the matter.

Ms. Virginia Pennell, owner of the building adjacent to the proposed project, spoke in opposition of the proposal. She felt the historic block would be dwarfed by the proposal as it already exists and it was inappropriate for that area and for the City as a whole.

With no one else wishing to speak, Mr. Barton closed the public hearing. He then called for questions from the Commissioners.

Mr. Fink asked if there were any way to just change this building without changing the entire area.

Mr. Tolbert stated there was not; the project did not meet the variance requirements. Mr. Tolbert also demonstrated another setback plan which would not encourage the canyon effect; after four stories there would be a ten foot setback, after the next two there would be another five foot setback and if there is another story, it would be set back an additional five feet. The effect is similar to an inclined plane.

Ms. Lewis felt they should not amend the Zoning Ordinance on the fly and not at such a late hour. She could not support the change to the Zoning Ordinance although there was a lot of sympathy on the Commission to look into better treating of step backs.

Mr. O'Halloran also felt they were not at their best considering the late hour and a lot of time should be invested into the Zoning Ordinance.

Mr. O'Halloran moved to defer this until the next meeting. Mr. Fink seconded the motion. The motion carried 6-1 with Ms. Lewis voting against.

Mr. Barton called for a brief recess whereupon the meeting stood at recess at 10:40 P.M.

Mr. Barton reconvened the meeting at 10:43 P.M.

REGULAR MEETING ITEMS (Continued)

G. SITE PLANS

1. Oak Lawn Cottages (PUD) - 206 Fifth Street, SW - 6 single-family units

Mr. Barton reminded the Commission this property had been rezoned at a prior meeting and required that the plan come before them because of questions concerning the open space requirement.

Ms. Grant gave the staff report. The applicant had made changes to the site plan particularly addressing the open space requirement. The applicant shows approximately 47 percent of the site as open space, far exceeding the 15 percent requirement. Staff recommends approval of the final site plan with the condition that the applicant address all engineering and erosion and sediment plan comments to the satisfaction of staff prior to the final site plan approval.

Ms. Firehock cited a memo from the applicant citing "common" space but the ordinance is open space, not common space. The applicant was citing rooftops as common space. She felt the 47 percent calculation was ridiculous. She wanted a more normal description of the open space and how it was met as per the ordinance.

Ms. Lewis stated the applicant defined common space as how the Virginia Condominium Act defines it. She also wanted clarification on the calculation of 47 percent. Ms. Grant stated the 47 percent mentioned in the staff report was based on the applicant's calculation.

Mr. Fink found that number preposterous since it had been under 15 percent before.

Mr. Barton expressed concern also about the number and the series of general and vague deductions with no calculations given. He further stated this did not have the requirements they asked for and that it should come back to them at another point in time. The applicant agreed with the comments about the memo. He stated they were trying to create stand alone affordable housing. He stated he would meet with the engineer and owner and they would start all over and come back.

Mr. Barton asked that the record reflect that the applicant's statement to come back was a deferral on his part.

Ms. Lewis asked that staff re-verify the open space requirements as part of the application to verify whether the calculations are correct.

H. ENTRANCE CORRIDOR OVERLAY DISTRICT – DESIGN REVIEWS

820 East High Street Building - Revision to west elevation.

Ms. Creasy gave the staff report. The applicant is seeking an amendment to a recently approved Certificate of Appropriateness. He wishes to revise the west elevation of the building to enclose the steel balconies by carrying the concrete panels around the upper portion of the third floor balcony and enclosing the steel column

with brick at the ground floor and concrete panels on the second and third floor. The materials are proposed to match the prior approved materials.

Mr. Jeff Dreyfus, of Bushman Dreyfus Architects, explained that the requested change was being made for architectural reasons.

Mr. Barton sought clarification that the change was one of massing. Mr. Dreyfus concurred.

Ms. Lewis moved to approve this application for an amendment to a Certificate of Appropriateness. Mr. O'Halloran seconded the motion. Mr. Dreyfus showed the Commissioners an illustration of what had been approved in comparison to what was sought in the amendment. Ms. Lewis changed her motion to add the two Juliet balconies on the Main Street elevation. Mr. O'Halloran seconded the motion.

The motion carried unanimously by acclamation.

I. PRESENTATION OF REZONING CONCEPTS/DISCUSSION OF ISSUES

Walgreens Store at High Street, Long Street & Riverdale Drive -- Planned Unit Development for "mixed use" - Laird Virginia, LLD – Contract Purchasers

Ms. Creasy gave the staff report. This is an application for rezoning from R-3 Highway Corridor and Central City Corridor to PUD with proffers at Tax Map 50 parcels 5 through 9. The site currently holds a car dealership on the corner and a colonial-style house in the rear of one of the lots. That property is historically designated.

Mr. Tolbert stated that the rear property would be subject to BAR review for any action affecting it. The applicants request to demolish the newest portion of it and relocate the remainder on the site. The dilemma was who does the entrance corridor design review since that was part of the Charlottesville Planning Commission purview while the historically designated lot was under BAR purview. He stated that Ms. Kelley ruled that BAR would be doing the design review on the project. Ms. Kelley clarified that the BAR would have jurisdiction over the design issue; the Entrance Corridor Review Board had jurisdiction of the Entrance Corridor Design Review.

Ms. Robin Askew, president of Laird Development, LLC and Laird Virginia, LLC, gave a brief history of the colonial-style house which had been listed erroneously. She also stated that the plans had begun prior to the Entrance Corridor designation.

Mr. Tolbert stated the area had been zoned B-3 which would support the proposal at the time. The primary streets require a 15 foot minimum setback, 30 foot maximum; linking streets are 20 feet minimum and 30 feet maximum. Mr. Tolbert also clarified that the proposal was before the Commission for a preliminary PUD discussion.

Ms. Firehock commended the applicants for a well prepared packet; however, she was confused about the relocation of the existing historic structure. She noted for the record that it was not the decision of the Charlottesville Planning Commission that that was a mistake; Ron Higgins made some testimony but it was not able to be documented in writing in any way, but that was not to say that the City would not have designated it as a building in the early 20th century. Ms. Askew explained that the house would be moved up and back a little.

Mr. Fink felt the proposed 12 foot high street wall was pedestrian unfriendly and gave the illusion of a prison.

Mr. Tom DeSanctis, of Walgreens, stated he understood the effect the City was trying to create with the streetscape look, but customers do not like parking in the back and walking to the front of the store and customers, as a safety issue, avoid parking in the back of the store at night.

Mr. Barton stated those were points they were sympathetic to. He did express concern about the 2 foot retaining wall.

Ms. Askew sought advice on where to relocate the house even to another property which was historic also. Mr. Wood stated the location was important. Ms. Lewis also stated the location was permanent since for years the property was the beginning of the town. However, Ms. Lewis thought it could be moved to a more prominent location.

Ms. Lewis stated the purposes of the Entrance Corridor Guidelines are to encourage connectivity, a pedestrian friendly streetscape, to manage automobiles, to control the quality of design within these corridors, and to preserve some open space. She did not find that their concept met very much of that.

Mr. Fink stated that the Commission was sympathetic to having Walgreens in the City. He stated they support the concept and asked the applicant to consider how they can support the Commission in its vision of what makes Charlottesville beautiful.

Ms. Firehock concurred with Ms. Lewis and Mr. Fink. She suggested the wall be lowered and having screening vegetation planted. She felt that the proposal was the standard Walgreens suburban proposal.

Ms. Askew explained the design concern over delivery trucks with the grade issues of the site.

Mr. Barton suggested the applicants not treat all sides equally.

Mr. Barton thanked the applicants for having come before the Commission.

Mr. Fink moved to adjourn until July 13. Mr. O'Halloran seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 11:51 P.M.

Respectfully Submitted,

James E. Tolbert, Secretary

Approved:

Craig Barton, Chair