

**CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
THURSDAY, DECEMBER 15, 2005 -- 6:30 P.M.
CITY COUNCIL CHAMBERS**

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

Ms. Karen Firehock (Chairman) Staff Present:
Mr. John Fink (Vice-Chairman) Mr. Jim Tolbert, AICP, Director of NDS
Mr. Michael Farruggio Mr. Ron Higgins, AICP, Planning Manager
Ms. Cheri Lewis Mr. Brian Haluska, Neighborhood Planner
Mr. Bill Lucy

Mr. Kevin O'Halloran City Council Members Present:
Mr. David Brown, Mayor

Commissioners Not Present: Mr. Kevin Lynch, Vice-Mayor
Mr. Craig Barton Ms. Kendra Hamilton
Mr. David Neuman, Ex-Officio, UVa
Office of the Architect

I. REGULAR MEETING

Ms. Firehock convened the meeting at 6:33 p.m.

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

Ms. Firehock called for matters from the public. There were none. She announced that Item C would be moved ahead of item B.

III. REGULAR MEETING ITEMS (Continued)

C. SITE PLANS

1. "Moore's Creek PUD" -- Palatine Avenue southeast of Avon Street -- 21 single-family units/lots.

Mr. Haluska gave the staff report. The plan had been before the Commission at the November meeting; staff had reevaluated the application and was being brought for preliminary site plan approval. The applicant is requesting a waiver of the 20 percent tree cover because the area is devoid of woody materials; by Section 34-869(a)(3) the Planning Commission has the ability to do that. The applicant is planning to plant trees; without the waiver, the applicant would need to plant 56 trees, most within the flood plain.

Staff recommends approving the waiver. Everything else on the site plan conforms to the conceptual plan that was submitted and approved in January.

Mr. Farruggio, citing 34-978, sought clarification that this site did not require lighting. Mr. Tolbert concurred, adding that was a weakness in the Code.

Mr. Farruggio wanted to know the overriding rationale for not planting 50 trees in the floodplain. Mr. Haluska cited 34-869: "The requirements of this section may be waived, in whole or in part, by the

director of neighborhood development services or the planning commission in the following circumstances: to allow for the reasonable development of areas devoid of woody materials."

The applicant's representative, Mr. Elliott Fendig, stated the waiver had been requested on the basis that planting an additional 50 or so trees represents an undue hardship for an area that is not currently treed.

The applicant's other representative, who did not identify himself for the record, stated he would recommend to his client that they try to figure out some way to put some lighting in the area. He felt it would improve the look of the subdivision and improve the safety a great deal.

Ms. Firehock sought clarification that the biofilter was within the floodplain. The applicant concurred. She expressed concern about maintenance of the biofilter. The applicant stated it would be included in the Homeowners' Association covenant.

Ms. Firehock called for comments from the Commissioners.

Mr. Farruggio wanted to see more done with the tree issue.

Ms. Firehock stated, based on her background in bioengineering, that there were trees that could be planted in a floodway. She wanted to see more vegetation come in and had not heard any reason why not to put trees in the floodplain. She could not support the waiver.

Ms. Lewis felt there was a hardship involved and stated the Code did allow for a waiver. She felt a compromise could be made and did not want to require the applicant to plant 56 trees.

Ms. Firehock thought the landscape plan should come back before the Commission.

Ms. Lewis thanked staff for the excellent report.

Ms. Lewis moved to approve the preliminary site plan. Mr. Fink seconded the motion. The motion carried unanimously.

II. JOINT PUBLIC HEARINGS

B. JOINT PUBLIC HEARINGS

1. ZT-05-10-23: An ordinance to amend and reordain Section 34-41(b) of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) to extend the filing deadline for special use permits and rezonings from 21 days to 49 days prior to the Planning Commission meeting.

Mr. Tolbert gave the staff report. Changing from 21 days to 49 days allowed for better preparation.

Ms. Lewis stated this was more important for the public.

Ms. Firehock opened the public hearing. With no one wishing to speak to the matter, she closed the public hearing and called for questions and comments from the Commissioners and Councilors.

Ms. Firehock moved to approve ZT-05-10-23. Mr. Farruggio seconded the motion. The motion carried unanimously.

Ms. Firehock recessed the meeting at 7:29 p.m. She reconvened the meeting in the upstairs conference room at 7:35 p.m.

2. SP-05-10-21: An application for a special permit to add a sixth satellite dish to the array of five at the Frank Ix building at 999 Second Street, Southeast and 201-239 Elliott Avenue. This property is further identified on City Real Property Tax Map Number 27 as parcel 208, having approximately 330 feet of frontage on Elliott Avenue and containing approximately 17.478 acres of land. The general uses called for in the Land Use Plan of the Comprehensive Plan are for industrial uses. Report prepared by Brian Haluska, Neighborhood Planner.

Mr. Haluska gave the staff report. This is a request for an amended Special Use Permit. The one issue that has come up is the landscaping on the site; it does not meet the original site plan. The applicant, Gray Television Group, was unaware of that and is moving to fix the landscaping. They plan to plant Leyland cypress. Staff recommends approval.

Ms. Valerie Long, Esquire, of McGuire Woods, was present on behalf of the applicant. She explained the applicant had wanted to attend but could not. A sixth satellite dish was needed to provide additional programming, material, and access to the local stations through CNN News Source. Ms. Long stated there was landscaping on site; however, it is not the landscaping that was supposed to be there. She stated they were working with Snow's Garden Center to replace the landscaping which was not consistent with the requirements. Snow's recommended against planting the Leyland cypress at this time as it should be planted in the spring.

Ms. Firehock opened the public hearing. With no one wishing to speak to the matter, she closed the public hearing and called for comments from the Commissioners.

Mr. Fink stated this was visible from Elliott Avenue and was an eyesore. He recommended they ask for screening in the form of a six foot fence or wall on top of the Frank Ix building. Mr. Fink stated he would be uncomfortable if they did not ask the applicant to screen all of the dishes.

Ms. Lewis expressed concern that the applicant had not noticed the improper landscaping. She was disappointed in the loss of time for the Leyland cypress to be planted and screening the site. She thought they should require some manmade screening on the top of the roof. She felt the building needed landscaping. Ms. Lewis asked that Ms. Long tell her client it was disappointing to find this out.

Ms. Lewis moved to recommend approval of this application for a Special Use Permit for DE, Downtown Extended, zone for Gray Television at 201-239 Elliott Avenue and 999 Second Street Southeast to authorize a sixth satellite dish with the following conditions:

- that Leyland Cypress trees be planted along the north line;
- that appropriate CPTED and fast growing plants be added as needed to complete the screening along the front, and;
- that roof top screening be provided for all equipment.

Mr. O'Halloran seconded the motion. The motion carried unanimously.

3. ZT-05-11-24: An ordinance to amend and reordain Section 34-1120 of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) to provide for maximum slope allowances of less than 25 percent for buildable lots and adding regulations for administering this, including waivers.

Mr. Tolbert gave the staff report. This was the Ordinance that Commission recommended to Council previously with two clarifying sections; much of the wording came from Albemarle County's zoning. There had been no definition for "building site"; "parking bay" was also clarified.

Ms. Lewis sought clarification of "bay parking." Mr. Tolbert explained that was parking in anything other than a driveway.

Ms. Firehock opened the public hearing.

Ms. Valerie Long, of 1716 Yorktown Drive, stated many of her clients would be drastically affected by this ordinance. She expressed concern about the implementation of the ordinance as it could change the dynamics of a project from being one that is workable to being one that has a lot of uncertainty associated with it.

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

Ms. Lewis asked if the City was aware the County was reconsidering its Critical Slope Ordinance. Mr. Tolbert was aware of that but did not know on what basis. Ms. Lewis expressed concern about replicating the current County ordinance if it was not working.

Ms. Lewis stated she could not support this because: there had been no survey done of how this would affect affordable housing in the City of Charlottesville; the City did not have the plentiful land that the County had; the City did not have prime lots and affordable housing was often built on slopes. She felt this would take many lots out of play.

Mr. Fink respectfully disagreed with Ms. Lewis. He felt it was important to enact this.

Mr. O'Halloran concurred with Mr. Fink, but also understood Ms. Lewis' view.

Mr. Farruggio expressed concerned that they would have to come back to this ordinance because there are some problems that they did not know about yet; however, he had faith in the waiver provision.

Mr. Lucy moved that the Planning Commission approve ZT-05-11-24, an ordinance to amend and reordain Section 34-1120 of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) to provide for maximum slope allowances of less than 25% for buildable lots and adding regulations for administering this, including waivers, as amended in Section (b) Critical Slopes (3) building site area and dimensions to modify the language considering parking. Mr. Farruggio seconded the motion. The motion carried, 5-1; Ms. Lewis voted against.

Mr. Fink made a motion they recommend to City Council, with respect to ZT-05-11-24, any application that was submitted and received prior to the October 11, 2005, Planning Commission meeting and that has received staff comments after preliminary site plan review would be exempted from this ordinance. Mr. Farruggio seconded the motion. The motion carried unanimously.

Mr. Lucy asked to recuse himself from the next item on the agenda as he had family members who would be affected by the proposed Special Use Permit.

Ms. Firehock called for a brief recess at 8:50 p.m. She reconvened the meeting at 8:56 p.m.

4. SP-05-9-17: An application for a special permit for higher density residential for the properties at 218 Ninth Street, Southwest and 848-854 Estes Street. The application is to increase the allowed density for residential only development to 43 units per acre. These properties are further identified on City Real Property Tax Map Number 30 as parcels 55,59,60, 61, and 62, having, collectively, approximately 280 feet of frontage on Estes Street, 80 feet of frontage on Ninth Street, Southwest and containing, collectively 30,900 square feet of land or .709 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for single-family residential at three to seven units per acre. Report prepared by Brian Haluska, Neighborhood Planner.

Mr. Haluska gave the staff report. The application is for a Special Use Permit for higher density in the Cherry Avenue Corridor which currently allows for 21 units per acre by right. This matter had been brought before the Commission in October; the staff report had been revised since that time.

The Cherry Avenue Corridor is designed to encourage conservation of land resources, minimize automobile travel, and promote employment and retail centers. The plan proposes covering the bulk of the site with impervious surface which is not in line with conserving land resources. The proposal does not make an attempt to minimize automobile travel. Some citizens have expressed concern that the project is automobile oriented; staff agrees with this assessment. The application seeks to add more residential density to the Fifeville area without addressing connections to employment or retail centers. Through denial of the application, the applicant will be forced to scale back the residential density or provide some sort of commercial component that will serve as an employment or retail opportunity. Staff recommends the Commission forward this application to City Council with a recommendation of denial because: the application will reduce the availability of affordable housing which will meet the current and future needs of the City; the application will generate noise and light that will adversely affect the natural environment including quality of life of the surrounding community; the scale and character of the proposed development is not consistent with the scale and character of the adjacent single-family neighborhood. Staff had attempted to contact the applicant but had not received any additional information from them. There had been no revisions to the noise and light abatement issues raised previously by the Commission.

Ms. Lewis asked if the applicant had talked with the neighborhood. Mr. Haluska stated, to the best of his knowledge, they had not met.

Ms. Hamilton expressed concern about how traffic would be handled.

The applicant's representative, Mr. Elliot Fendig, was present to answer questions. He reiterated Mr. Haluska's statement that there had been some lack of communication with the applicant. He also stated this was the same proposal as had been brought before the Commission previously.

Mr. Fink asked if Mr. Fendig had done anything to address the issues raised at the last meeting. Mr. Fendig stated storm water management had been addressed; a route had been selected for storm drainage to reach the City system that does not involve using the alley as is shown on the application plan.

Mr. Fink asked if the noise abatement issue had been addressed. Mr. Fendig stated that was an architectural issue and they had not heard from the architect.

Ms. Lewis sought an explanation for the large amount of parking spaces. Mr. Fendig did not know. Ms. Firehock opened the public hearing.

Ms. Lucy, of Nalle Street, asked that they deny the Special Use Permit as the site plan is incomplete, the proposed development is too dense for the site and does not conserve green space.

Mr. Jason Pearson, of 829 Nalle Street, expressed agreement with the comments of Ms. Lucy and staff.

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

Mr. Fink moved to deny recommendation of application SP-05-9-17 for a Special Use Permit in the Cherry Avenue Corridor zone for Estes Partners at 218 Ninth Street Southwest and 848-854 Estes Street.

Mr. O'Halloran seconded the motion. Ms. Lewis offered a friendly amendment that the site plan be called up when the applicant resubmits it by right. Mr. Fink and Mr. O'Halloran accepted the friendly amendment. The motion carried, 5-0-1; Mr. Lucy abstained from voting.

5. ST-05-10-22: Subdivision text change to Section 29-62 to correct minimum road standards: An ordinance to amend and reordain Section 29-62 of the Code of the City of Charlottesville, 1990, as amended (Subdivision Ordinance), relating to minimum street width standards in order to distinguish between street widths that can be accepted by right and those that require special approval.

Mr. Higgins gave the staff report. About five years ago changes had been adopted to the subdivision ordinance in a rush to add some standards that VDOT had in their guidelines for certain low volume, short streets. These were added to the minimum standards section of the subdivision ordinance instead of in a section of the zoning ordinance where PUDs or other conditional items are addressed. City Council adopted a policy to allow such streets in certain circumstances. The minimum standards can still be used with PUDs or in the Special Permit: Infill, and Cluster developments that the commission is currently working on.

Ms. Firehock opened the public hearing. With no one wishing to speak to the matter, she closed the public hearing.

Mr. Farruggio moved to amend and ordain Section 29-62 of the Code of the City of Charlottesville, as amended (Subdivision Ordinance), related to minimum street width standards in order to distinguish between street widths that can be accepted by right and those that require special approval. Mr. O'Halloran seconded the motion. The motion carried unanimously.

6. ZT-05-11-25: An ordinance to amend and reordain the following sections of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance);

- a. Section 34-1107 & 1200: Regulation of PODs
- b. Section 34-1101: Appurtenances

Mr. Tolbert gave the staff report. The standards have been written in a more positive context rather than a negative. D(4) deals with decks that are less than three feet and may extend into any yard not closer than five feet to any lot line and not more than ten feet into any required front yard. For single-

family and two-family dwellings, any porch or deck that is greater than three feet above the finished grade may extend into required yards as follows: front yard -- ten feet but not closer than five; rear yard -- ten feet but not closer than ten to a property line. There is a limit on the size of those in the rear yard to not 15 over 40 percent of the footprint of the structure to which they are attached. For multi-family dwellings, there shall be a maximum of one porch or deck per dwelling unit and no porch or deck shall be more than ten feet wide; those greater than three feet above the grade may extend six feet and no closer than ten feet to the front line and may extend four feet but no closer than ten 19 feet to the side, and may extend four feet, but no closer than ten feet to the rear. Enclosed appurtenances may not extend into any required yard. ADA ramps may extend into any required yard.

Ms. Firehock opened the public hearing.

Mr. Daniel Ortiz, of 411 Altamont Circle, asked that the Commission reject or reconsider some of the proposed amendments to 34-1101. Subsections (d)(4) and (d)(5) allow equal encroachment; he felt high appurtenances were more worrying. There was no overall height limit on appurtenances. Forty percent of the footprint of the building seems quite large.

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

Mr. Fink felt there was some language that could be firmed up, especially "finished grade."

Mr. O'Halloran felt they were making progress, but were not there yet.

Ms. Firehock expressed a willingness to defer appurtenances as long as there were specific suggestions made to staff as to what should be fixed.

Commissioners suggested changes to: finished grade; should balconies have their own definition; the rationale for the 40 percent figure -- and the Commission recommended something smaller; a height limit; limiting one per space or one per face.

Upon completion of the list, Ms. Lewis moved to defer. Mr. Fink seconded the motion which carried unanimously.

Mr. Tolbert gave the staff report on PODs. There were two changes. The original draft restricted PODs to no longer than nine days in any consecutive six months period; it was changed to 14. The ordinance stated no sign or advertising may be displayed on the portable storage container; however, this section shall not apply to the required permit. The Commission had asked that that be eliminated; this was eliminated in the draft.

Ms. Firehock opened the public hearing. With no one wishing to speak to the matter, she closed the public hearing.

Ms. Lewis expressed her opposition to PODs in commercial districts. She stated she was against this provision in general.

Mr. Farruggio suggested changing: (a) to say 30 days and the container length would be allowed to be 20 feet and kept 10 feet off the property line; in (c) it was allowed for 60 days but only once in a 365 day period and they were allowed to be 40 feet in length.

Mr. O'Halloran moved that they approve sections (a), (b), and (d) of Section 34-1107 as modified by Mr.

Farruggio suggestion, changing in (a) 14 days to 30 days and 12 feet to 20 feet. Mr. Farruggio seconded the motion. Ms. Lewis sought clarification of when the commercial district would be taken up. Mr. Tolbert stated they would draft something for the Commissioners and if the Commissioners liked it, it would be advertised for the February meeting. The motion carried unanimously.

III. REGULAR MEETING ITEMS (Continued)

Eddins Cottages

Mr. Haluska gave the staff report. A preliminary discussion had been held in October. The original proposal had a portion of the adjacent commercial building on a piece of the lot used for this PUD. The solution devised by the applicant and staff was to include the entire commercial building along with the original PUD so the setback could be amended. Proffers, including two affordable units, would be proposed at the public hearing.

Mr. Charles Henderson, with The Gaines Group, spoke on behalf of the applicant. He stated his belief that the commercial building encroached on their site; however, they encroached on it. They propose an S2-type buffer of a solid board fence, approximately six feet high, with vegetation on the Eddins Cottages side to achieve the goal of the S2 buffer. The project was geared toward young professionals. There have been neighborhood meetings. Two adjacent neighbors have issues with parking; Mr. Henderson thought they had addressed the concerns. Mr. Henderson stated they wanted a sustainable development as far as storm water control is considered.

Ms. Lewis agreed with Mr. Henderson; if there was enough physical space for parking within the subdivision, she did not see why parking would be needed on Chestnut.

Mr. Fink moved to adjourn until the second Tuesday of January, 2006. Mr. O'Halloran seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 10:50 p.m.

Respectfully submitted:

Mr. Jim Tolbert, Secretary

Approved:

Ms. Karen Firehock, Chair