

DRAFT MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

TUESDAY, 14 NOVEMBER, 2006 -- 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. Jon Fink (Chairman)

Mr. Bill Lucy (Vice-Chairman)

Ms. Cheri Lewis

Mr. Michael Farruggio

Mr. Hosea Mitchell

Mr. Michael Osteen

Mr. Jason Pearson

Commissioners Not Present:

Mr. David Neuman, Ex-officio, UVa Office of the Architect

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy

Mr. Brian Haluska

Ms. Mary Joy Scala

City Council Members Present:

Mr. David Brown, Mayor

Mr. Kendra Hamilton, Vice Mayor

Mr. Kevin Lynch

Mr. Dave Norris

Also Present

S. Craig Brown, City Attorney

I. REGULAR MEETING

Mr. Fink convened the meeting at 6:31 p.m.

Mr. Fink stated the Commission needed to seat a new Chair and Vice-Chair. He called for Ms. Lewis, on behalf of the Nominating Committee, to bring forth the slate of officers. Ms. Lewis stated the Nominating Committee would like to present as the slate of officers Mr. Fink as Chair and Mr. Lucy as Vice-Chair.

Mr. Farruggio moved they accept the slate of officers as Mr. Fink as the Chair and Mr. Lucy as the Vice-Chair. Mr. Osteen seconded the motion. Mr. Fink called for a vote by affirmation. The motion carried unanimously.

Mr. Fink stated public hearing item 4 had been withdrawn at the request of the applicant.

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

Mr. Fink called for matters not on the agenda.

Ms. Andrea K. Weider, of 2331 Highland Avenue, read a prepared statement regarding the loss of trees at the Cherry Hill development. She requested that the emergency vehicle access road be made a permanent and full access road for the use of the entire community. Ms. Weider then also read a statement about the traffic report for Biscuit Run. She submitted her statement to the Commission to have filed with the public record.

Ms. Jean Chase, of 223 Old Lynchburg Road, had signed up to speak but had to leave the meeting. She left a prepared statement with Ms. Weider to read about the Biscuit Run traffic report. Her statement was also left to be filed with the public record.

Mr. Peter Hedlund, of 204 Todd Avenue and Vice President of the Fry Springs Neighborhood Association, also spoke regarding the traffic on Old Lynchburg Road as it related to the Biscuit Run Development.

Mr. Fink welcomed the Neighborhood Leadership Institute class.

B. MINUTES

September 13, 2006 -- Regular Meeting

Mr. Farruggio stated the second paragraph from the bottom of page 19 should include the conversation regarding the width of the road and the approximately 100 feet of non-treed space from the railroad property to the trail to the road to the sidewalk on the other side. Ms. Lewis asked that 17 lines up from the bottom of page 11 the word "completed" should be "completely." She also noted that the last page said "Respectfully approved" when it should say "Respectfully submitted." Mr. Fink asked that the fourth paragraph down on page 13 include the word "dollars." Mr. Tolbert stated Mr. Neuman had asked that "Cheryl Martin" in the second paragraph under Joint Public Hearings on page 4 be corrected to "Cheryl Barton." Mr. Tolbert also stated Mr. Neuman had wanted a clarification that the University was working with the City on the project at JPA and West Main Street.

Ms. Lewis moved to approve the September minutes with corrections as noted. Mr. Osteen seconded the motion. The motion carried unanimously.

October 10, 2006 -- Regular Meeting

Ms. Lewis asked that "meeting" be changed to "launch" in her Commissioners' Report.

Mr. Lucy moved to approve the minutes for October. Ms. Lewis seconded the motion. The motion carried unanimously.

C. LIST OF SITE PLANS AND SUBDIVISIONS APPROVED ADMINISTRATIVELY

Ms. Creasy stated there had been no site plans or subdivisions approved administratively.

D. CAPITAL IMPROVEMENT PROCESS UPDATE

Ms. Angela Tucker, Development Services Manager, gave a presentation. The Department has received feedback over the years about whether larger, more comprehensive projects are getting addressed in lieu of the smaller, neighborhood-specific projects prioritized during the last few CIP cycles. While the three-year project cycle has evolved to meet expectations better than the annual cycle, there remain concerns about limited funds for each neighborhood and the minimal impact these limited funds can have on getting larger comprehensive project needs met. Commissioners had been given a memo outlining a new program which would establish a new committee staffed with Planning Commissioners, Council members, citizens, neighborhood representatives and City staff. Projects would be prioritized by this committee.

Mr. Lucy asked for an update of neighborhood projects which had not yet been implemented. Ms. Tucker stated there were several projects which were being worked on and others that would not happen because either they were not warranted or the support was not present. Mr. Tolbert stated he had prepared a report on that for the City Manager and would furnish Mr. Lucy a copy.

Mr. Lucy stated he had reservations about continuing the process with a mere \$20,000 which had the potential of involving excessive staff time and being questionable in terms of the amount of volunteer time needed at the neighborhood level. He wondered if it would be useful to pause the process for a year and go through a more city-wide process and perhaps return to it. Mr. Tolbert explained that the money would be available for the neighborhoods, but would not be allocated \$20,000 per neighborhood; an application process would determine how many the monies were used.

Mr. Tolbert stated they were looking to use the criteria to establish a baseline. The committee would make the decisions and recommendations on how to use the funds. The committee would meet two or three times in the spring or summer to select projects.

Mr. Pearson expressed concern about those neighborhoods which had needs but might not have the organized capacity to apply for the funding and supply a project manager. Mr. Tolbert stated they realized there were neighborhoods that did not have as much capacity as others and the Planners could do more work. He explained the project manager would get the consensus of the neighborhood interest on suggested projects.

Mr. Farruggio stated he agreed with the need to have some fine tuning to what had been done in the past. He also expressed agreement with the concept. He asked that more details be brought back to the Commission such as the scoring, who the neighborhood representatives would be and how that would be worked out.

Ms. Lewis expressed concern that this did not encourage neighborhoods to work with each other on a project. She noted there was a special consideration given for partnership with "another organization"; she suggested the phrase "or neighborhood" be added there. She suggested they hold another work session on this.

E. UPDATE ON BISCUIT RUN TRAFFIC REPORT

Mr. Tolbert stated Albemarle County had tentatively scheduled a work session for 19 December and was inviting the Commissioners to it to discuss the traffic and the proffer situation as related to traffic.

Ms. Jeanie Alexander, Traffic Engineer, stated the study had been based on 4100 units; the new site plan is 3500 units. The County must send Ms. Alexander a revised study before the work session. Proffers had not yet been submitted.

Mr. Farruggio stated Avon Street, Route 20, Fifth Street, and Old Lynchburg road were the most affected by this project. He asked for more detail on the current level service for those roads and what the anticipated numbers would be after the project.

F. COMMISSIONERS' REPORTS

Mr. Mitchell had no report at this time.

Ms. Lewis attended her last meeting of the Thomas Jefferson Planning District Commission. She thanked Mr. Pearson for taking that over. She stated she had served on the audit committee and the audit was clean.

Mr. Osteen stated he had attended the Strategic Plan Committee.

Mr. Lucy had nothing new to report from the Board of Architectural Review.

Mr. Pearson had nothing to report at this time.

Mr. Farruggio had nothing to report at this time.

G. CHAIR'S REPORT

Mr. Fink stated work was continuing on the Comprehensive Plan. Final recommendations should be presented to Council in the spring of 2007. He stated there had been an excellent work session on proffers with Mr. Tolbert and Mr. Brown.

Mr. Fink listed the new committee assignments:

Thomas Jefferson Planning District Commission -- Mr. Pearson.

Board of Architectural Review -- Mr. Osteen.

School Board CIP Committee -- Mr. Lucy.

Parks and Recreation Advisory Committee -- Mr. Farruggio.

Board of Zoning Appeals -- Mr. Fink.

PAC Technical Committee -- Mr. Lucy.

CDBG Task Force -- Mr. Mitchell.

MPO Tech Committee -- Mr. Farruggio.

Federation of Neighborhoods -- Mr. Farruggio.

Stream Protection Task Force -- Mr. Fink.

Downtown Advisory Committee -- Mr. Mitchell.

Strategic Planning Committee -- Mr. Lucy and Mr. Fink.

Downtown Zoning Committee -- Mr. Osteen and Mr. Pearson.

250 Interchange Committee -- Ms. Lewis.

UVa Master Planning Council -- Ms. Lewis.

Eastern Connector Committee -- Mr. Fink.

Housing Advisory Committee -- Ms. Lewis.

CIP Committee -- Mr. Fink and Mr. Lucy.

Citizens' Committee on Sustainability -- Mr. Pearson.

Urban Streetcar Task Force -- Mr. Osteen.

The next work session would be 28 November.

II. JOINT PUBLIC HEARINGS

H. JOINT PUBLIC HEARINGS

1. ZT-06-11-23: (700 Lyons Ave) An ordinance to amend and reordain Section 34-273(b) of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) relating to Individually Protected properties by creating an "overlay" zoning restriction without affecting the underlying zoning district designation. This ordinance would create minor design control districts status for the structure and property at 700 Lyons Ave, Tax Map 52, Parcel 26. Report prepared by Mary Joy Scala, Preservation and Design Planner.

This item was heard in conjunction with:

2. ZM-06-11-24: (700 Lyons Ave) An ordinance to amend and reordain the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, by adding a minor Architectural Design Control District consisting of the property at 700 Lyons Avenue. This property is further identified on City Real Property Tax Map Number 52 as parcel 26 having 85 feet of frontage on Lyons Avenue and containing approximately 14,026 square feet of land or 0.322 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Single Family Residential of 3 to 7 units per acre. The current zoning, which will remain, is R-1. Report prepared by Mary Joy Scala, Preservation and Design Planner.

Ms. Scala gave the staff report. The zoning request was initiated by the property owner. The owners wish to preserve the property and would like to protect it for future generations. City Council must consider the recommendations of the BAR and the CPC, which must consider the same eight criteria. On 17 October the Board of Architectural Review recommended unanimously to recommend this be designated historic. At that time, they commented on the thoroughness of the applicants' application. This is a 1937 home designed by Floyd Johnson in Georgian Revival style which is not located in an historic district. No public comments have been received and it does meet the criteria for designation as an Individually Protected Property. Staff recommends approval.

Mr. Fink opened the public hearing. There was no one wishing to speak to the matter. Mr. Fink recognized the applicant.

Mr. Leo Napoleon stated he had lived at the property for most of his life. He stated he and his wife believed it deserves historic designation. He thanked Ms. Scala for her hard work and her cooperation.

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

Ms. Lewis stated she lived in a Floyd Johnson house and would support this proposal. She thanked the applicants for their research on the property.

Mr. Pearson commended the applicants for doing this.

Mr. Fink stated people who love their houses make a community great and interesting.

Mr. Osteen stated Johnson was one of several great architects in this City in the middle of the last century. That skill and grace is not found in a lot of residential architecture today.

Mr. Farruggio, citing application ZM-04-12-23 [sic], moved to recommend the adoption of an ordinance to amend and ordain [sic] the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, by adding a minor design control district overlay designation to the property at 700 Lyons Avenue, Tax Map 52, Parcel 26, containing approximately 0.322 acres of land and having 85 feet of frontage on Lyons Avenue. Mr. Lucy seconded the motion. Ms. Lewis offered a friendly amendment that the matter was ZM-06-11-24. Mr. Farruggio accepted the correction. The motion carried unanimously.

Mr. Farruggio, citing application ZM-06-11-24 [sic], moved to recommend the adoption of An ordinance to amend and reordain Section 34-273(d) [sic] of the Code of Virginia [sic] -- Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) relating to Individually Protected properties by adding 700 Lyons Avenue, Tax Map 52, Parcel 26, to the list of Individually Protected Properties on the basis that the proposal would serve the interests of the general public welfare and good zoning practice. Ms. Lewis seconded the motion. The motion carried unanimously.

3. SP-06-9-11: (3 University Circle) A recommendation from the City Planning Commission to consider the revocation of the Special Use Permit, with waivers, to use the building and property at 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 5 as parcel 39, having 142.25 feet of frontage on University Circle and containing approximately 24,000 square feet of land or 0.55 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. Report prepared by Ashley Cooper, Neighborhood Planner.

Mr. Tolbert gave the staff report. This came before the Commission for a Special Use Permit for use as an institutional use in 2004. The use was approved by City Council conditional upon several things including the preservation of a 48 inch beech tree located at the front of the site. A tree preservation plan was to be included as part of the approval. The project manager stated in April or May they would like to remove the tree for what they felt were valid reasons. Ms. Scala and Ms. Cooper went to the site and made suggestions for alternatives. The project manager did not like those and complained to the City Manager about the suggestions. Mr. Tolbert suggested he come before the Planning Commission for a revision of the site plan. The tree was cut down. Mr. Tolbert, as acting Zoning Administrator at that time, put two stop work orders on the property and made a determination that they were in violation of the site plan Special Use Permit. One stop work order was for the E&S work; the other was for the work in general. They were allowed to stabilize the property. The project manager appealed Mr. Tolbert's decision to the Board of Zoning Appeals which heard the case in October and upheld the decision. They were fined \$100 for violation of the site plan, \$100 for violation of the Special Use Permit; the Commonwealth's Attorney preferred not to proceed with criminal prosecution. They have paid the fine and the project manager has been removed from the project. They have met with the neighborhood which feels a good faith effort has been made by the owner to try to rectify the situation. If the Commission chooses not to recommend revocation, there will be a revised site plan at the next meeting. Staff feels there has been a good faith effort and since the neighborhood is supporting the project and recommends the Commission move forward with this and review the site plan at the December meeting.

Mr. Mitchell, feeling that revocation was not the right way to go, wanted to know what other recourse they had. Mr. Tolbert stated they had exhausted every thing available. Mr. Mitchell also wanted to know how to avoid this in the future. Mr. Tolbert stated this was an unusual situation. He did not know of any way to keep it from happening.

Ms. Lewis wanted to know if they were still within the appeal period for the applicant to file an appeal to Circuit Court. Mr. Tolbert stated they were; however, the gentleman who had filed the appeal was no longer with the project.

Mr. Fink wanted to know if the gentleman who had been removed had any fiduciary interest in the project. Mr. Tolbert did not know. Mr. Fink and Ms. Lewis felt that was an important piece of information.

Ms. Lewis stated she, as well as several members of the public, felt that a fine of \$100 for a violation of the site plan and \$100 for violation of the Special Use Permit, in light of the facts and the egregious situation, was not sufficient. She stated state law allowed them to levy fines of \$200 per violation. Mr. Tolbert stated the Code had changed in July to allow cities to impose fines greater than \$100. Ms. Lewis asked that they amend the fine schedule immediately.

Ms. Lewis asked if they could amend the Special Use Permit and impose more conditions on this. Mr. Brown was not sure they could. He stated the law was silent on the matter. Ms. Lewis stated conditions could include submittal of a satisfactory landscape plan and a payment of \$5,000 to the neighborhood

to remediate the harm of what was done. She stated a Special Use Permit was a gift to an applicant. It allowed for the granting of an extraordinary use not allowed by right under the code

Mr. Fink expressed concern about any developers or potential applicants who were watching the meeting and performing a cost benefit analysis on the value of a purposeful violation of a Special Use Permit. Mr. Fink wanted to work with the City Attorney to make sure they had rules in place to make a willful violation of a Special Use Permit a very bad idea. He stated he was most offended by the fact the Commission was not consulted before the tree removal.

Mr. Pearson shared the concerns of his colleagues. He stated this condition would take 150 years to remedy.

Mr. Fink recognized the applicant.

Mr. Joseph Davis, of 604 Watson Avenue, stated he was the program director of the In Medias Res Educational Foundation, which was the owner of the property. He stated he was now the project director of this project as Mr. Turner resigned after the Board of Zoning Appeals hearing. He stated he had had a chance to express to Mr. Tolbert and to the Neighborhood Association their deep regret for violating the Special Use Permit and the site plan. He stated they had not respected the process or the work of the Commission. He stated they were wrong and foolhardy. He stated it had also been a violation of the Institute's own principles. The faculty and Institute are ashamed to be in the position they are in. Mr. Davis stated they had been working hard to redress the situation. They had met with the neighbors, had listened to them, and with them developed a new landscape plan. He stated they had sought the advice of Mr. Tolbert who had been extremely generous and kind to them. Mr. Turner has no financial stake in this project going forward.

Mr. Fink opened the public hearing.

Ms. Karen Dougald, of 20 University Circle, stated the neighbors had developed a total distrust of the developer when the tree came down. She stated they had given Mr. Turner a second chance to come speak to the Neighborhood Association. After the presentation was given, they were shocked by his landscape plan of a few saplings and holly trees. She further stated she and another neighbor had met with Mr. Davis, the landscape architect, and the architect. At a second meeting, a new landscape plan was presented with sizeable trees. She stated the neighborhood support of them was based on the new project person and a very mature landscape plan. The neighborhood was concerned about what would happen to the property if the Special Use Permit was revoked. Ms. Dougald stated the neighborhood was behind the Special Use Permit. Ms. Dougald presented the Commission with a letter including four conditions they wanted on the project.

Mr. Davis stated the Foundation had agreed to all of the conditions presented by the neighborhood and would do all of those things. He reiterated they had an immense stake in the project.

Mr. Fink acknowledged the work of Ms. Cooper who had worked diligently and evenhandedly under extraordinarily difficult circumstances. He stated she had done an extraordinarily professional job.

With no one else wishing to speak to the matter, Mr. Fink closed the public hearing.

Mr. Tolbert stated he had consulted with Mr. Brown who thought they could recommend the Special Use Permit be amended with the four items brought forth by the Neighborhood Association; however, Mr. Brown wanted to tweak the language a little.

Mr. Fink asked if they could impose additional conditions on the landscape plan. Mr. Tolbert was not sure they could. Mr. Fink stated they should consult with an arborist to get information on the landscape plan and whether anything could be added to give a level of maturity and abundance in compensation for the violation. Mr. Brown stated it would be more defensible for the Commission to impose conditions to the Special Use Permit.

Mr. Fink stated they could move to defer, which delays the decision. He stated there was sentiment and sympathy for the applicant and this delay was not meant to be punitive but to get some additional information which may make the project a better project.

Mr. Tolbert stated they could defer action on the Special Use Permit and still review the landscape plan at the next meeting. He further stated if the Commission deferred the matter, NDS would submit the site plan to the City Arborist and maybe a landscape architect to make suggestions.

Ms. Cooper stated the plan which was in the Commissioners' packets had been resubmitted to the City and has been distributed to different departments including the Arborist. She was expecting comments back to present at the December meeting.

Mr. Farruggio, in reference to application SP-06-9-11, 3 University Circle, recommended to amend the Special Use Permit in reference to City Real Property Tax Map 5, Parcel 35 -- Tax Map 5, Parcel 39, that the Special Use Permit be amended to include a European Beech tree be planted at a minimum of 8 inch caliper; that a mature plant schedule be followed, and that if any major changes are proposed, the City and University Circle residents must be contacted for approval; that wood bollards, similar to those used on University Circle near Rugby Road, be placed along the curb line and that park area be reseeded; and that an agreed gift of \$5,000 from the Foundation serving the Institute for Advanced Studies and Culture be applied to the University Circle Beautification program -- items 1 through 4 were voluntarily offered by the applicant; and, number 5, a review by the City Arborist and report to the Planning Commission and City Council as to if the site plan is, in deed, mature and fits his requirements. Ms. Lewis seconded. Ms. Lewis offered a friendly amendment of a sixth condition that Mr. Joseph Davis be active to the end of this project as the applicant's representative. Mr. Farruggio accepted the amendment. Mr. Pearson offered a friendly amendment that Mr. Davis be active as long as he continues to be affiliated with In Medias Res Foundation. Ms. Lewis and Mr. Farruggio accepted the amendment. Mr. Fink felt the second condition should be City action as the City would keep the University Circle residents abreast of matters; he felt it would be a bad precedent to say that the neighborhood must be contacted prior to approval. Mr. Farruggio stated he had no problem with contacting them for approval but believed the City would retain the final decision in that. Mr. Osteen thought an American Beech might be a better tree since it could take heat and drought better than the European Beech. Mr. Osteen suggested withdrawing European Beech and specifying a signature specimen tree that the neighborhood agrees and the arborist supports. Mr. Fink thought that could be accomplished at City Council level. Ms. Lewis asked if they should restate condition 2 to say that a landscape plan with mature species come back to the Commission for approval and if there are any other subsequent changes to that landscape plan that they needed to hold a public hearing and notice the neighborhood. Mr. Farruggio felt having it go as it was to

City Council was more than adequate. Mr. Fink asked Mr. Tolbert to call the question. The motion carried unanimously.

Mr. Fink called for a brief recess at 8:28 p.m.

Mr. Fink reconvened the meeting at 8:35 p.m.

4. ZM—06-10-21: (320 and 322 Eleventh Street NE) A petition to rezone from R-2 Residential (two family) to R-3 Residential (multifamily), for the properties at 320 and 322 Eleventh Street NE. The application is to allow for an increase in the density. The general concept and development layout as outlined in the application is included as a proffer for this development. These properties are further identified on City Real Property Tax Map 54 as parcels 191 and 192 having 105 feet of frontage on Eleventh Street NE and containing approximately 17,783 square feet of land or 0.408 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Office Use. Report prepared by Missy Creasy, Planning Manager.

This item was withdrawn at the request of the applicant.

5. ZT-06-9-16: An ordinance adding a new section 34-1107 to Article IX, and amending and reordaining Section 34-1200 of Article X of Chapter 34 (Zoning) of the Code of the City of Charlottesville, 1990, as amended, relating to portable storage containers.

Mr. Tolbert gave the staff report. Three changes were recommended. The ordinance allows one POD per property; the amendment would allow two PODS on properties for no more than 15 days. One container could stay for no more than 60 days in a consecutive 12 month period; change in ownership would start a new 60 day period. The third change would allow one POD in a legal on-street parking space as not everyone had driveways. These changes make it operationally easier to administer and to operate. The PODS company notifies NDS of PODS rental.

Mr. Mullins, with PODS, of 8516 Holly Hill Road, stated the ordinance made it difficult to do business in Charlottesville. He stated they wanted to work with the Commission to make sure it was beneficial to both parties.

Mr. Farruggio wanted to know if they had taken the signs off PODS to temporarily meet the ordinance. Mr. Mullins stated they had taken the signs off the large containers since the day it happened. Mr. Farruggio commended him on that.

Mr. Fink opened the public hearing. With no one wishing to speak to the matter, he then closed the public hearing.

Ms. Lewis noted that Section 34-1020 of the City Code is an introductory section that deals with the applicability of the sign ordinance. It does not have anything to do with temporary signs. Section 34-1045 deals with temporary signs. Ms. Lewis differed with Mr. Farruggio that the language of paragraph 3. She felt it would be appropriate to say "No sign shall be attached to a portable storage container except by the sign regulations governing temporary signs set forth in." Mr. Fink asked if this was to be a restatement of 3. Ms. Lewis stated it was. Mr. Brown stated his concern with citing 1045 is paragraph C suggests that these types of temporary signs may be located on property occupied by a lawful use in any zoning districts allowing commercial uses; he felt this was a restriction they may not want to apply. He

cited paragraph 7 of Section 34-1026, Signs permitted in all districts without permits, which talks about temporary signs not over six square feet in area.

Mr. Farruggio, referencing application ZT-06-9-16, an ordinance adding a new section in 34-1107 to Article X [sic], and amending and reordaining Section 34-1200 of Article X, moved that they accept, amend, and reordain as shown to them with the following changes: in paragraph 2, NDS be spelled out to Neighborhood Development Services; and in paragraph 3, the strike out be removed and to read as follows: Other than the required City permit, no sign shall be attached to a portable storage container except as authorized by the sign regulations governing temporary signs set forth within Section 34-1026.7, et seq, of the City Codes, Signs. Ms. Lewis seconded the motion. Ms. Lewis offered a friendly amendment that NDS also be spelled out in paragraph 1. Mr. Farruggio accepted the friendly amendment. The motion carried unanimously.

6. ZT-06-9-18: An ordinance to amend Chapter 34 (Zoning) of the Code of the City of Charlottesville, 1990, amending and reordaining Section 34-662 of Article VI to further regulate mixed uses in the Cherry Avenue Corridor; and amending and reordaining Section 34-1200, definition for Mixed Use Development.

Mr. Tolbert gave the staff report. The Commission had suggested at its last meeting that no residential uses be allowed on the ground floor of any Mixed Use building. Mr. Tolbert had suggested a minimum non-residential office or commercial uses should constitute 25 percent of the total floor area. He explained his logic was the maximum height of a building is four stories, so first floor commercial should theoretically be 25 percent. Parking is an ancillary use and would be allowed if the ordinance said no residential use on the ground floor, but is not allowed under the percentage breakdown.

Ms. Lewis sought clarification of where residential uses were excluded on the ground floor. Mr. Tolbert explained this would be reviewed for all but in this case it would only apply to mixed use buildings.

Mr. Lynch suggested it be worded to say residential and parking is prohibited on the first floor except with Special Use Permit.

Mr. Fink stated they needed to find a happy medium in light of a recent application with a tiny percentage of commercial space. Mr. Fink wanted to know what Staff's resistance would be to looking at conditioning the percentages under a Special Use Permit. Mr. Tolbert stated he would have no resistance to it, but it would need to be studied again.

Mr. Pearson stated they needed to make a decision on this as an interim measure in advance of more comprehensively understanding of the changes that might need to be made on the Cherry Avenue Corridor.

Mr. Lucy sought clarification of the language of 34-662(e): "No residential uses may front on primary or linking street. At a minimum, non residential office or commercial uses shall constitute 12.5 percent of the total floor area." Mr. Fink and Mr. Farruggio clarified that it should be total gross floor area. Mr. Lucy amended his statement and added to it: "At a minimum, non residential office or commercial uses shall constitute 12.5 percent of the gross floor area and shall front on the street."

Mr. Fink asked Mr. Lucy to wordsmith the matter because he had a good grasp on the language. Mr. Fink stated his agreement with Mr. Pearson that they needed something in the interim to make sure

they did not see any more applications like the recent one. Mr. Farruggio suggested: "No residential uses shall be allowed on the ground floor of any mixed use building on the primary or linking street.

Mr. Farruggio asked if it would be better to defer this for one meeting to allow Mr. Tolbert to craft this matter again.

Mr. Lynch reiterated it should be no parking unless through a Special Use Permit. Mr. Fink stated that would allow them to address it on a case by case basis.

Mr. Tolbert stated they would need to advertise that and do that again.

Mr. Fink opened the public hearing. With no one wishing to speak to the matter, Mr. Fink closed the public hearing.

Mr. Pearson suggested they allow Mr. Tolbert a few minutes to digest what had been discussed and come back with suggested language.

Mr. Lynch suggested they say no residential on the first floor and no parking on the first floor. This would establish clearly what can be done by right.

Mr. Farruggio felt they should allow by right parking on the first floor under controlled situations.

Mr. Fink asked if the Commissioners were in favor of allowing Mr. Tolbert to create the language. They were.

III. REGULAR MEETING ITEMS (Continued)

I. SUBDIVISIONS

Eddins Cottages -- Final -- six single Family Lots and four Townhouse Lots

Mr. Haluska gave the staff report. This is the fourth time this has appeared before the Commission. It has not changed from the preliminary.

Ms. Lewis asked if Mr. Haluska was satisfied there was 15 percent open space. Mr. Haluska stated he was.

Mr. Fink sought confirmation that nothing had changed in the site plan. Mr. Haluska confirmed that it was identical to the previously submitted plan.

Mr. Farruggio moved they accept the final subdivision of the Eddins Cottages. Mr. Lucy seconded the motion. The motion carried unanimously.

Cherry Hill Subdivision -- Preliminary and Final -- 23 Single Family Lots and 94 Townhouse Lots

Ms. Cooper gave the staff report. This is a preliminary and final site plan. This property was rezoned in March 2004. The plat submitted is the same one as the one approved for the PUD. All roads will be public. The open space will be maintained by the Homeowners' Association. NDS is aware of the public interest in the project.

Ms. Lewis supported Staff's recommendation and moved to approve the proposed preliminary and final subdivision plat for the property located at Tax Map 22-A, Parcel 3. Mr. Lucy seconded the motion. Mr.

Farruggio noted there was no creek buffer involved in this project, there is the lack of connectivity and it is very dense. Mr. Fink called for a vote by voice affirmation. The motion carried unanimously.

J. SITE PLANS

1. Gleasons -- Mixed Use Building -- 126 Garrett Street – The building contains 108,195 square feet of floor area (111 residential units and 31,216 square feet devoted to commercial use.)

Mr. Haluska gave the staff report. The applicant proposes to keep the older portion of the building and to demolish the rear portion of the building which is newer and build a six story addition to this for a mixed use project. The staff report was based on a site plan dated 25 September; the plan in the packet is from 27 October. The correct bedroom count is 105. There are 71 residential units. Seventy-one percent of the project will be residential. The traffic generation figures have been redone and should be 1291 trips per day instead of 1545.

Mr. Fink wanted to know if there were any open space requirements; there were not. Mr. Fink thought the design of the building lent itself to a green roof.

Mr. Farruggio wanted to know, if it were not parking exempt, what would the parking requirement be. Mr. Haluska stated it would require one space per unit plus if it were all retail it would require 90 additional spaces for a total of 161 spaces.

Ms. Lewis moved to approve the preliminary site plan for the Gleason building at 126 Garrett Street. Mr. Pearson seconded the motion. Mr. Farruggio stated the proposed parking equaled approximately 1.75 spaces per unit; he felt this was a fair compromise. Mr. Farruggio felt the traffic would be a substantial impact. Mr. Haluska stated the traffic numbers were based on the ITE manual which said the closer you were to a downtown-type area, the trips were fewer. Mr. Farruggio agreed with Mr. Fink that this building was an excellent candidate for a green roof. The applicant, Mr. J. P. Williamson, stated they had explored the opportunity of doing that on the existing building. Mr. Fink called for a vote by voice affirmation. The motion carried unanimously.

Mr. Fink recalled ZT-06-9-18. Mr. Tolbert suggested: "(e) No ground floor residential uses may front on a primary or linking street unless the building fronts on more than one primary or linking street, in which case ground floor residential uses may front on one primary and/or linking street. Under no circumstances, however, shall any ground floor residential uses front on Cherry Avenue or Roosevelt Brown Boulevard. At a minimum non-residential office or commercial uses shall constitute 12.5 percent or more of the gross floor area." Ms. Lewis asked if the City Attorney would recraft it into legislative language before it went to Council. Mr. Brown stated he would.

Mr. Osteen moved that they amend Chapter 34 of the Code of the City of Charlottesville, Article VI, Mixed Use Corridor Districts, Division 7, Cherry Avenue Corridor, Section 34-662 as follows: (e) No ground floor residential uses may front on a primary or linking street unless the building fronts on more than one primary or linking street, in which case ground floor residential uses may front on one primary and/or linking street. Under no circumstances, however, shall any ground floor residential use front on Cherry Avenue or Roosevelt Brown Boulevard. At a minimum non-residential office or commercial uses shall constitute 12.5 percent or more of the gross floor area. Mr. Lucy seconded the motion. Mr. Fink offered a friendly amendment that they include the public hearing number ZT-06-9-18 to the motion.

Mr. Osteen accepted the friendly amendment as did Mr. Lucy. Mr. Tolbert conducted a roll call vote. The motion carried unanimously.

K. OTHER PLANNING ITEMS

Mr. Farruggio asked that they discuss in a work session an increased fine schedule and a method to enforce site plans and Special Use Permits. Mr. Fink suggested they get a recommendation from Council as to what avenues were available to them.

Mr. Farruggio also mentioned the importance of engineering on site plans. He wondered if the staff report could include any concerns that other engineers or arborists have. Mr. Tolbert stated any comments were included in the staff report. Mr. Tolbert stated he would ask the arborist to comment.

L. DEPARTMENT OF NDS/STAFF REPORTS

Mr. Tolbert stated he would meet with the City Attorney to discuss the fine schedule and draft something for the Commissioners.

City Council would have a presentation from the Center for Survey Research at the University which had completed the attitudinal survey at their 4 December meeting.

Ms. Karen Firehock's class would be presenting their findings to the community at the Design Center on 15 November. This information would be presented to the Commissioners at their 28 November work session.

Mr. Tolbert presented the Commissioners with copies of the title pages of the draft of the Comprehensive Plan. The Comprehensive Plan could be accessed online.

The CIP would not be ready for the work session.

Mr. Tolbert stated if the Commission wanted extra compensation, they needed to let him know so he could submit that in his budget.

Mr. Farruggio moved to adjourn and reconvene Tuesday, December 12th. Mr. Lucy seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 10:21 p.m.