

**DRAFT MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, 12 AUGUST, 2008 -- 5:30 P.M.
CITY COUNCIL CHAMBERS**

Commissioners present:

Mr. Jason Pearson (Chairman)
Mr. Michael Farruggio (Vice-Chairman)
Ms. Cheri Lewis
Mr. Hosea Mitchell
Mr. Michael Osteen
Ms. Genevieve Keller
Mr. Dan Rosensweig
Mr. David Neuman, Ex-officio, UVa Office of the Architect (arrived at 5:40 p.m.)

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS
Ms. Missy Creasy
Mr. Brian Haluska
Mr. Nick Rogers
Ms. Mary Joy Scala
Ms. Ebony Walden

City Council Members Present:

Mr. Dave Norris, Mayor
Mr. Julian Taliaferro, Vice Mayor
Mr. David Brown

Also Present:

Mr. Richard Harris, Deputy City Attorney

II. REGULAR MEETING

Mr. Pearson convened the meeting at 5:31 p.m. Mr. Pearson noted that public hearings 3 and 4 were two separate issues for that property.

A. COMMISSIONERS' REPORTS

Mr. Mitchell had nothing to report. He noted this was his last meeting. He thanked his colleagues, stating he had learned an unbelievable amount from them over the past years. He also thanked Mr. Tolbert and Ms. Creasy as well as their support staff for their dedication to the work of the Commission. He noted that the City was focused on increasing density and asked that the Commissioners remember the foundation of increased density was the infrastructure.

Ms. Lewis noted Mr. Mitchell had not been with them long, having stepped in to fill an unfinished term for someone else. She stated it had been a pleasure to serve with him. Ms. Lewis stated the City/County

Housing Affordability Task Force would be wrapping up its work on September 2nd. A draft report was under review and would be revised at the final meeting.

Mr. Osteen stated the BAR had not met since the last CPC meeting so he had nothing to report.

Mr. Farruggio thanked Mr. Mitchell for being on the Commission the short time he was and noted Mr. Mitchell's comments and concerns were always well founded. Mr. Farruggio stated the Eastern Connector Committee met and was finalizing the presentation that will be given to the Board of Supervisors and City Councilors as to the alignment of the potential eastern connector. He stated Parks and Rec had not met but work was being done on new park renovations. Mr. Farruggio stated the Neighborhood Federation had not met, but would later in the month.

Mr. Rosensweig stated the MPO Tech Committee had not met since the last CPC meeting but would meet later in the month. Mr. Rosensweig also thanked Mr. Mitchell for being a guiding light for the Commission and for modeling good sense and the ability to ask really poignant questions. Mr. Rosensweig hoped he would be able to achieve some of the things Mr. Mitchell had.

Ms. Keller also thanked Mr. Mitchell for his service. She expressed her regret that she had not had an opportunity to get to know him better and work with him longer. Ms. Keller noted she and Ms. Walden met with representatives of the Jefferson Fellows Foundation about the property on Maury Avenue.

B. CHAIR'S REPORT

Mr. Pearson stated the Thomas Jefferson Planning District Commission had not met but would meet next month. He stated he had met with Ms. Creasy and representatives from the County Planning Commission to talk about what might be discussed at the joint work session in late October; plans were to discuss the Housing Affordability Task Force report. A future joint work session would have discussions about issues where density occurs on the border between City and County and how density might be oriented along Route 29 in nonconformance with the Places 29 Plan developed by TJPDC.

Mr. Pearson thanked Mr. Mitchell for his service. Mr. Pearson stated he would keep infrastructure in the forefront of his mind. He asked Mr. Mitchell to communicate with the Commissioners if he felt they were failing to do so.

C. DEPARTMENT OF NDS/STAFF REPORTS

Ms. Creasy stated there would be a work session on 26 August for review of conservation districts and ordinances that were coming forward with that. Ms. Creasy noted it was Capital Improvement Project time again. Those discussions would begin in the next couple of months so the November work session would focus on the CIP. Ms. Creasy stated there was a new show on Channel 10 called the PC Review; it would provide a review of the Planning Commission agenda with a synopsis of each of the items which would be coming forward on the agenda.

Mr. Neuman arrived at the meeting, 5:40 p.m.

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

Mr. Peter Kleeman, of 407 Hedge Street, had seen PC Review and one of the issues had been removing trees along Route 29. His understanding was the Comprehensive Plan had a plan to increase tree cover in the City to 40 percent. Since the City was significantly short of that goal, he wanted to know how the

City would reach that goal if projects were only having 10 percent tree cover. He challenged the Commission to take that goal of increasing tree cover from 34 to 40 percent.

Mr. John Gaines, of 214 9th Street NW, wanted to speak to item SP-08-07-24 -- 608-612 Preston Avenue as he would not be able to stay to that point of the meeting. He expressed concern about the proposal about the cut through traffic through his neighborhood, security issues, and the trash that would come from the dance hall. He expressed concern about the nearness of the dance hall to a neighborhood church.

Ms. Lelia Brown, of 316 8th Street NW, stated she had lived there since 1937. She stated the neighborhood had changed a lot and was continuing to change. She was in agreement with Mr. Gaines and was concerned about the dance hall. She was concerned about the traffic. She stated there were safety issues in the neighborhood which would prevent her from staying for the remainder of the meeting.

Mr. Mitchell suggested the people wait until City Council was present. Mr. Pearson noted that when City Council arrived, people would have to wait for the matter to be called.

Ms. Barbara Moseby, also speaking in behalf of her husband, spoke in opposition of the dance hall. She stated the residents of the neighborhood would not benefit from this proposal. She stated it would have a detrimental effect on the community and the lifestyle of the residents. She also expressed concern about the traffic and the overflow of parking. She stated the noise of the bands would create a public nuisance and disturb the peace and serenity of the neighborhood. She expressed concern about the dance hall attracting people with antisocial behaviors. She stated there were other dance halls in the City. She asked that the proposal be denied.

Mr. Rosensweig stated he had sympathy for those who came anticipating being able to speak to the matter. He felt the people should make their voices heard to City Council. He suggested they E-mail City Council as a follow up. He suggested the Commissioners make note of some of the public commentary which has been provided to Council. Mr. Pearson stated he had been taking notes so those comments could be conveyed to City Council.

Pastor R. A. Johnson, of Pilgrim Baptist Church, 211 Albemarle Street, stated the proposed dance hall would be across from the church. He stated there were enough problems in the community already without adding a new one. He expressed concern that the dance hall would breed unwelcome conduct. He noted there was a problem with parking in the city.

Mr. Riley Anderson, of 944 Rugby Road, expressed concern about the proposed dance hall. He stated it was troubling to him as there was enough problem already with trying to clean up that area. He stated people who lived there were already scared and did not need this problem.

Mr. Wade Tremblay, general manager of Wade Apartments, stated the item he was interested in was scheduled for midnight and he wondered if it was something that would likely end up on a work session agenda. He stated his understanding that there had been no public notice of this matter and it could not be acted upon at this meeting. Ms. Creasy stated the only action available to the Commission would be initiating the text amendment. Mr. Pearson explained if the Commission did decide to initiate the zoning text amendment, the only thing they would be doing was initiating the process of researching whether or not it was a good idea. He stated they could not commit at this time if a work session would occur.

E. CONSENT AGENDA

1. List of site plans and subdivisions approved administratively
2. Minutes -- June 10, 2008 -- Regular Meeting
3. Minutes -- July 22, 2008 -- Pre-meeting
4. Minutes -- July 22, 2008 -- Regular meeting

Mr. Pearson noted the minutes of the July 22 regular meeting had not yet been received and would be stricken from the consent agenda.

Ms. Keller noted she had offered a verbal revision to the pre-meeting minutes at the pre-meeting.

Ms. Keller moved approval of the items on the consent agenda. Ms. Lewis seconded the motion. Mr. Pearson called the vote by voice affirmation. The motion carried unanimously.

F. STEEP SLOPE WAIVER REQUESTS

1. 617 9th Street SW -- Aquatics Center at Buford and Boys & Girls Club

Ms. Walden gave the staff report. The City Parks Department and the Boys and Girls Club are requesting a waiver from the critical slope ordinance to build two new facilities on the site of Buford Middle School. These developments will disturb 23,682 square feet of critical slopes or 13 percent of the entire site. Nine trees will be removed in order to place the Smith Pool Building. The slopes are man-made and do not appear to serve an aesthetic value. The slopes showed no signs of being highly erodible. Any trees that are lost or damaged should be replaced in a 2:1 ratio. Both facilities serve a public purpose greater than strict application to the critical slope provisions. Staff recommends approval with condition that they attempt to preserve trees near the swale as noted, but replace existing trees 2:1 if lost or damaged with similar trees that are at least 2 inches in caliper as this application meets all four criteria of the critical slope waiver.

Mr. Mark Keller, of Terra Concepts, 224 Court Square, was present on behalf of the Boys and Girls Club. He noted the demolition of the pool was almost complete so time was of the essence. An ephemeral stream to the north of the limits of work is preserved in its natural state as are the trees associated with it. Retention and biofiltration have been added to both projects; none of that exists on the property currently. Approval is needed if the site plans are to move forward.

Ms. Lewis thanked Mr. Keller for the photos of the site.

Mr. Farruggio also thanked the applicant for providing the photos. He expressed his agreement with staff's findings.

Ms. Keller agreed with her colleagues. She thought Staff should keep this as an example of a good submission.

Mr. Farruggio moved to recommend approval of this steep slope waiver for Tax Map 23 Parcel 192, 617 9th Street for the Boys & Girls Club and Smith Aquatic Center on the grounds that all four criteria are met with the following condition: That both applicants attempt to preserve trees near the swale, but replace any existing trees that are damaged or lost with similar trees that are at least 2 inches in

caliper. Mr. Osteen seconded the motion. Mr. Rosensweig noted that the staff report was to replace the trees 2:1. Mr. Farruggio amended his motion to include the 2:1 ratio. Ms. Creasy called the roll. The motion carried unanimously.

As there was time before the public hearings were to begin, Mr. Pearson called Item H from Section IV.

H. REQUEST FOR INITIATION OF ZONING TEXT AND MAP AMENDMENTS

The purpose of initiating these amendments is to allow formal consideration of the applications. These items will be scheduled for future public hearings if initiated.

1. Planting Strips and Tree Planting in the Right of Way

Mr. Haluska gave the staff report. This is a zoning initiation to look at the section of the code related to the placement of street trees. There isn't a lot of analysis on this at this point; this initiation will allow staff to move forward with that.

Mr. Osteen wanted to know if there was a particular tree or dimension of tree that was critical. Mr. Haluska stated there would be information on that if the Commission chooses to initiate the item.

Ms. Keller wanted to know who would bear the cost if this was approved. Mr. Haluska stated that was something that would need to be worked on.

Mr. Farruggio explained that the trees would make the sidewalks more pedestrian friendly by providing shade. This would also help increase the tree coverage in the city. He noted the plantings would also provide a safety separation for pedestrians from cars.

Ms. Lewis moved to initiate a proposed amendment to the city's zoning ordinance, to wit: amending Article 8, Division 2, Section 35-870 [sic] of the City Code concerning the placement of Streetscape Trees. Ms. Keller seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

2. 34-367 -- Bedrooms -- Limitation of number in R-UMD and R-UHD Districts

Mr. Tolbert gave the staff report. Density is currently regulated by the number of units with a bedroom limitation. Owners of apartments in the University area were concerned that it would force them to build three- and four-bedroom units. If there was a bedroom limit, it would give the owners the flexibility to design the number of units they wanted. The regulation was put into place to avoid a large number of four-bedroom units; however, the regulation is almost forcing that instead.

Ms. Lewis wanted to know why R-3 districts had been proposed for consideration. Mr. Tolbert stated he had thrown those in for the initiation. If the Commission didn't want to do that, it would be easy to take that out.

Mr. Pearson wanted to know if consideration would be given to square footage. Mr. Tolbert explained the Building Code had a requirement for that.

Mr. Osteen moved to initiate a proposed amendment to the City Zoning Ordinance, to wit: amending Article 11, Division 34-367 concerning residential bedroom limitations. Mr. Farruggio seconded the motion. Mr. Mitchell offered a friendly amendment that the R-3 Zoning be stricken from consideration. Mr. Pearson noted that there were some properties within the R-3 zoning which were under the area of influence of the University and might be relevant to this consideration. Mr. Tolbert

stated if it was left in, the recommendation could come back for no change. Mr. Osteen did not accept the friendly amendment. Ms. Creasy called the roll. The motion carried unanimously.

As City Council did not have a quorum, Mr. Pearson called a short recess while awaiting another Councilor. Thereupon the meeting stood in recess at 6:33 p.m.

Mr. Pearson reconvened the meeting at 6:41 p.m.

Mr. Pearson stated there was a special item, not on the agenda, which he wished to address. Mr. Pearson noted this was the last meeting of their colleague, Mr. Hosea Mitchell. Mr. Pearson recognized Mr. Farruggio to read a proclamation.

This is a proclamation of the City of Charlottesville: Whereas, Mr. Hosea Mitchell served on the Charlottesville Planning Commission from October, 2006, to August, 2008; and Whereas Mr. Mitchell served on the Downtown Advisory Committee; and Whereas Mr. Mitchell served as the Planning Commission representative to the Community Development Block Grant Task Force; and Whereas Mr. Mitchell served as a strong voice for ensuring that the City's infrastructure could adequately support development now and to the future; and Whereas Mr. Mitchell is an advocate for Charlottesville's natural environment; now, therefore, we, the City Council of the City of Charlottesville, do hereby thank Mr. Hosea Mitchell for his years of dedicated service on the Charlottesville Planning Commission and wish him success in the future of his endeavors. Signed and sealed on the 11th day of August, 2008, by the Mayor, David Norris.

Mr. Pearson again thanked Mr. Mitchell for his service to the Commission and for his forthcoming service to the City on the Housing Board.

III. JOINT PUBLIC HEARINGS

G. JOINT PUBLIC HEARINGS

1. ZT-08-06-14 -- 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 following:

- a. The structure and property at 134 10th Street NW (Former Coca Cola Bottling Works), Tax Map 31, Parcel 156.
- b. The original 1937 section of the former Monticello Dairy building and other wings identified as "J,K,L,M,N,O, and P" on a 1985 drawing titled "Old Monticello Dairy Property," and part of the existing parcel bounded by the rear wall of the designated building sections, the east wall of Section "J," and the areas in front of the building extending to Grady Avenue on the north, and extending to 10th Street NW on the west at 946 Grady Avenue, Tax Map 31, Parcel 60.
- c. The structure and property at 722 Preston Avenue (Coca Cola building), Tax Map 31, Parcel 38.
- d. The structure and property at 2115 Jefferson Park Avenue (Fry's Spring Service Station), Tax Map 17, Parcel 88.

e. The Wachovia bank building (Former National Bank and Trust) at 901 Emmet Street and part of the existing parcel, described as a polygon containing the entire building including the rear canopy, and enclosed by a line drawn parallel to the Arlington Boulevard property line from the northeast corner of the rear canopy to the Emmet Street property line; a line drawn parallel to the Emmet Street property line from the northwest corner of the rear canopy to the Arlington Boulevard property line; and the existing property lines along Arlington Boulevard and Emmet Street that connect these two lines, Portion of Tax Map 1, Parcel 1.

ZM-08-06-15 -- 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 minor Architectural Design Control Districts for the following:

a. The property at 134 10th Street NW, further identified on City Real Property Tax Map Number 31 as parcel 156 having 150 feet of frontage on 10th Street NW and containing approximately 20,560 square feet of land or 0.472 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Multi Family Residential. The current underlying zoning, which will remain, is B-3.

b. A portion of the parcel at 946 Grady Avenue, further identified on City Real Property Tax Map Number 31 as parcel 60 having 450 feet of frontage on Grady Avenue and containing approximately 172,192 square feet of land or 3.953 acres. The original 1937 section of the former Monticello Dairy building and other wings identified as "J,K,L,M,N,O, and P" on a 1985 drawing titled "Old Monticello Dairy Property," and part of the existing parcel, bounded by the rear wall of the designated building sections, the east wall of Section "J," and the areas in front of the building extending to Grady Avenue on the north, and extending to 10th Street NW on the west are the only structure and portion of the parcel under consideration for this map amendment. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use. The current underlying zoning, which will remain, is Central City Corridor.

c. The property at 722 Preston Avenue, further identified on City Real Property Tax Map Number 31 as parcel 38 having approximately 175 feet of frontage on Preston Avenue and containing approximately 41,643 square feet of land or 0.956 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use. The current underlying zoning, which will remain, is Central City Corridor.

d. The property at 2115 Jefferson Park Avenue, further identified on City Real Property Tax Map Number 17 as parcel 88 having approximately 104 feet of frontage on Jefferson Park Avenue and 150 feet on Maury Avenue and containing approximately 13,242 square feet of land or 0.304 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Multi Family Residential. The current underlying zoning, which will remain, is R-3.

e. A portion of the parcel at 901 Emmett Street further identified on City Real Property Tax Map Number 1 as parcel 1 having approximately 2200 feet of frontage on Emmett Street and containing approximately 964,026 square feet of land or 22.131 acres. The Wachovia bank building (Former National Bank and Trust) and part of the existing parcel described as a polygon containing the entire building including the rear canopy, and enclosed by a line drawn parallel to the Arlington Boulevard property line from the northeast corner of the rear canopy to the Emmet Street property line; a line drawn parallel to the Emmet Street property line from the northwest corner of the rear canopy to the

Arlington Boulevard property line; and the existing property lines along Arlington Boulevard and Emmet Street that connect these two lines, are the only structure and portion of the property under consideration for this map amendment. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use. The current underlying zoning, which will remain, is Urban Corridor.

Ms. Scala gave the staff report. This was deferred from July 22nd to obtain more information on the dates of additions, if additions could be considered non-contributing, if partial buildings could be designated, and to review possible local or state and federal tax incentives. No changes to staff recommendations are made, except a smaller boundary for the bank is presented as an option. The City Attorney's office has advised that the zoning ordinance does not address non-contributing properties in the context of Individually Protected Properties. Therefore, any part of a building contained within a designated IPP boundary will be considered as contributing unless, in the future, the Board of Architectural Review determines otherwise. There are no local historic financial incentives identified in the Comprehensive Plan. The City has currently in place a local tax exemption for housing improvements for any structure at least 25 years old. The Comprehensive Plan recommends disseminating information on federal and state rehabilitation tax incentives; Staff agrees with this approach. On April 29, 2008, the BAR unanimously recommended designation of all five properties. The Planning Commission must consider the same criteria and make a recommendation to City Council. An E-mail had been received from one of the owners apologizing for missing this meeting due to travel. This same property owner, as well as two others, sent letters expressing opposition to designation. Ms. Scala felt these buildings were truly landmarks. In the past almost every property designated has been the entire parcel.

Mr. Osteen wanted to know if every design control district in the City had properties in it that the property owners were not positive about being part of the design control district. Ms. Scala thought that was a fair statement.

Ms. Lewis wanted to know if there had been decisions not to designate a district where there may be owners who came forward and said this is not good, that designation and oversight would destroy the social fabric of their neighborhood. Ms. Scala stated the district Ms. Lewis was speaking of had not been proposed for local designation, but had been proposed as a National Register district.

Mr. Pearson opened the public hearing.

Ms. Deirdre Johnson, of 117 Emmett Street, stated she did not believe the bank was a historical property. The current zoning of Barracks Road Shopping Center was Urban Corridor Mixed Use District. The Individually Protected Property designation would diminish the value of the property. She added if the Commission was determined to bestow the IPP designation, the drive through should not be part of the designation.

Mr. Curtis Southerly was present on behalf of Charlottesville Coca-Cola Bottling Company. He expressed concerns about the inclusion of the additions to the property at 722 Preston Avenue. He also expressed concern that this would limit their ability to make changes in the future to allow for better traffic access and circulation.

Ms. Lynn Heetderks, of 1624 Amherst Street, stated she had been a member of the BAR when the list of properties was first drafted; the Monticello Dairy building and the Coca-Cola Bottling Plant had been

two of her suggestions. She stated that she was not present on behalf of the BAR as her term had expired in December. She noted that Preston Avenue was under increasing development pressure and now was the time to protect resources on that street before it was too late.

Mr. Joe Cochran, Esquire, of Richmond & Fishburne, 214 East High Street, was present on behalf of H&W Land Trust, the owner of Monticello Dairy. He expressed concern that the designation of individual properties may exceed the City's authority under City Code. He noted the City's policy not to designate individual properties without the property owner's consent. The Monticello Dairy was located in the Central City Entrance Corridor Overlay District which gave the City great control over any exterior change made to the Dairy property.

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

Mr. Mitchell stated his belief that there was a policy which suggested they would not designate a property an IPP if there was objection from the owner. He sought clarification from City Council if there had been a change in that policy. Mr. Brown stated it was his understanding that they had not designated any properties individually except at the owner's request since 1993 so it had not been an issue. Mr. Taliaferro stated their longstanding preference has been to do it on a voluntary basis, but they had learned from the Compton House that they might need to be proactive.

Mr. Farruggio stated that the Compton House loomed in his mind. He expressed concern that something similar could happen to any of these properties.

Mr. Osteen stated the five buildings were iconic buildings that were core, significant buildings in the community. He stated all of the historic districts had properties whose owners had not consented to being part of the district. Mr. Osteen thought this was an important effort to support the idea that the historic properties were important to who the City was. He noted goal five of the Comprehensive Plan was to provide the fullest protection to the City of Charlottesville's historic resources; support of this measure was essential to doing that.

Ms. Lewis felt the fact that the owners were not in complete agreement with the designation was a vexing factor. She noted the City Attorney had advised that was not a reason to deny. She cited the Staff report that their standard for review was to make an advisory recommendation to the City Council as to whether the proposed amendment would serve the interests of public necessity, convenience, general welfare, or good zoning practice. To determine that they were to ask whether the existing zoning of the property is reasonable and whether the proposed zoning would be reasonable and a relevant factor to look at was the Comprehensive Plan designation for the property. She wanted to consider The Wachovia bank building at 901 Emmet Street based on the BAR's criteria: 1) The historic, architectural or cultural significance, if any, of a building, structure or site and whether it has been listed on the National Register of Historic Places or the Virginia Landmarks Register -- Ms. Lewis felt it was debatable whether it was architecturally significant and noted it was not on either of the Registers and felt the answer to criteria 1 was no; 2) The association of the building, structure or site with an historic person or event or with a renowned architect or master craftsman -- she felt the renown of the architect was debatable; 3) The overall aesthetic quality of the building, structure or site and whether it is or would be an integral part of an existing design control district -- Ms. Lewis stated the second half of that criteria was a no and the first half was a subjective criteria but she did not feel this property fulfilled the criteria; 4) The age and condition of the building -- Ms. Lewis noted it was less than 50 years old so it was not old in the City of

Charlottesville and its condition, as a new building, was good; 5) Whether a building or structure is of old or distinctive design, texture and material -- Ms. Lewis stated it was not distinctive in Charlottesville; 6) The degree to which the distinguishing character, qualities or materials of a building, structure or site have been retained -- Ms. Lewis felt this criteria was met; 7) Whether a building or structure, or any of its features, represents an infrequent or the first or last remaining example of a particular detail or type of architecture -- Ms. Lewis felt this was not infrequent, nor was it the first or last building of this type; 8) Whether a building or structure is part of a geographically defined area within which there are significant concentration of buildings that by plan or development would be linked by association -- she stated there wasn't for this building. Mr. Osteen argued that if the reason was significant, one reason would be sufficient for preservation. Ms. Lewis thought the Guidelines said all factors had to be considered.

Ms. Keller agreed there were probably more significant buildings but those had not been brought to the Commission. She thought the Wachovia Bank building had more values. She argued it represented localism. She felt it was part of an era that was largely unrepresented in Charlottesville history.

Mr. Pearson thanked Ms. Lewis for bringing the criteria to their attention. He asked if there was a specific item which should be removed from consideration. Mr. Harris pointed out that Section 34-274 of the City Code lays out how to add or remove IPPs by stating: The Commission and BAR shall address the following criteria in making their recommendations. He suggested the Commissioners refer to Ms. Scala's report to go by what the Code requires.

In order for the Commission to move to discussion, Ms. Keller made a motion that they approve an ordinance to amend and reordain Section 34-273(b) of the Code of the City of Charlottesville 1990, as amended 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 district status for the following five buildings as listed on tonight's agenda. Ms. Creasy noted that two separate motions were required -- one on the text change and one on the map change. Mr. Farruggio sought clarification as to whether Ms. Keller was referring to alternate E or E. Ms. Keller stated she would retain the canopy. Mr. Osteen seconded the motion. Mr. Harris suggested someone make a friendly amendment to edit the criteria as to what the recommendation was being based on. Mr. Farruggio offered a friendly amendment that they go with alternate E and that this is based on all the criteria as listed in the Staff report. Ms. Keller accepted the friendly amendment so the Commission could move forward. However, for the record, Ms. Keller expressed her opposition to designating portions of buildings and portions of parcels. She stated it was her experience to be better preservation planning and good zoning practice to designate an entire parcel. Mr. Osteen accepted the friendly amendment as well. Mr. Rosensweig stated he was not ready to vote on all five. Mr. Mitchell agreed and felt the right thing to do for the property owners and the City would be to take each property individually. Ms. Lewis concurred with her colleagues. Ms. Keller suggested they look at all three bottling buildings together because they represented a similar theme. Mr. Mitchell stated he was only familiar with one of those buildings and would find it difficult to do that. Ms. Lewis moved to call the question. Ms. Creasy stated they were calling the question on the motion presented by Ms. Keller and further amended that would approve -- for the zoning text amendment alone -- all five and for the Wachovia building to not include the canopy. Ms. Creasy called the roll. The motion passed, 4-3; Mr. Mitchell, Ms. Lewis, and Mr. Rosensweig voted against.

Ms. Keller moved 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 minor architectural design control districts for the five properties they just approved. Mr. Farruggio sought clarification that was with alternate E. Ms. Keller stated it was. Mr. Farruggio sought clarification that it was based on the staff report. Ms. Keller agreed it was. Mr. Farruggio seconded the clarified motion. Ms. Creasy called the roll. The motion passed, 4-3; Mr. Mitchell, Ms. Lewis, and Mr. Rosensweig voted against.

2. SP-08-07-19 -- (617 9th Street SW -- Boys & Girls Club) An application for a special use permit for the property at 617 9th Street SW. This is a request to allow for a club use in the R-1S zoning classification. A parking waiver will also be considered for this site. This property is further identified on City Real Property Tax Map Number 23 as parcel 192 having approximately 490 feet of frontage on 9th street SW and containing approximately 821.890 square feet of land or 18.868 acres. The zoning of this property is currently R-1S and general uses called for in the Land Use Plan of the Comprehensive Plan are for Public, Semi Public.

Ms. Walden gave the staff report. This is a Special Use Permit for the Boys and Girls Club for a new facility located at the Buford Middle School. The property is zoned R-1S, a zone in which a club requires a special use permit. A club is defined by the zoning ordinance as a building, or portion thereof, used by a corporation, association, or other grouping of persons for private social, civic, educational or recreational purposes, and to which access is restricted to members of such group. The proposed use is for the Boys & Girls Club which provides educational and recreational programming/space for youth 6-18 years old. This is a reasonable and appropriate complementary use to a school. Staff finds it consistent with the Comprehensive Plan. Required parking for a club would be one space per four occupants at maximum occupancy. Per the building code this would require 269 spaces. The applicant is requesting a reduction to provide 23 spaces in a lot that will have 159 spaces for all three uses -- the Boys and Girls Club, the middle school, and the Aquatic Center. Staff feels that this parking reduction is appropriate. The three uses would not conflict in time of use as the school is in operation when the Boys and Girls Club is not, and vice versa. Staff believes that this use is reasonable and appropriate. There will be minimal impacts. The site plan conference was held on July 2nd, 2008. No members from the public attended. One member of the public had concern because there was some trespassing from youth in the current facility on her property.

Mr. Mark Keller, member of the Board of Directors for the Boys and Girls Club, stated the Boys and Girls Club had operated on the Buford Middle School campus for 16 years. He stated they operate after school during the school year and all day during the summer. Mr. Keller stated they were different than the typical club. The vast majority of their members are under the age of 16 and-a-half, the age at which most people acquire a driver's license. Parking is primarily needed for staff and volunteers.

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

Ms. Lewis moved to recommend the approval of this Special Use Permit application to allow the Boys & Girls Club to construct and operate a club facility at 619 [sic] 9th Street with the following modifications: that there be a parking space reduction to 23 spaces which staff has recommended on the basis of good zoning practice. Mr. Rosensweig seconded the motion. Mr. Farruggio thanked the Boys and Girls Club. He noted it had been a delight to work with them through the Parks and Rec

program. Ms. Lewis stated for the record that the parking reduction seemed very appropriate given the reasons the applicant stated and also because of the symbiotic relationship of the parking uses between the school and this facility. Ms. Creasy called the roll. The motion carried unanimously.

3. ZM-08-07-20 -- (600 Cherry Avenue) A petition to rezone from R-3 Residential to Cherry Avenue Corridor, the property at 600 Cherry Avenue. The application is to allow for a restaurant use. This property is further identified on City Real Property Tax Map Number 29 as parcel 233.3 having approximately 100 feet of frontage on Cherry Avenue and containing approximately 23,522 square feet of land or 0.54 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Neighborhood Commercial.

Ms. Walden gave the staff report. The applicant is petitioning for a rezoning to lease the building for a fast food restaurant operation. The property once held a special use permit for a drive-through window. The property was rezoned to R-3 by error in 2003. The current zoning is not reasonable or appropriate and is not consistent with the Comprehensive Plan. Staff recommends approval of this Zoning change.

Mr. David Cook, member of the Advisory Board for the Salvation Army and Chairman of its Property Committee, stated a local couple had approached them to lease the property and use it as a restaurant. The site is not large enough to develop medium density housing. The Salvation Army had purchased the property for expansion purposes as it is the west side adjoining neighbor. The property is an under utilized asset which would best serve as an income property to assist in program funding.

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

Mr. Farruggio agreed with the staff report. He supported the proposal fully.

Ms. Lewis agreed with Mr. Farruggio.

Mr. Farruggio moved to recommend approval of this application to rezone Tax Map 29 Parcel 233.3 from R-3 to MU-CH on the basis that this rezoning would serve the interests of the general public welfare and good zoning practice. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

4. SP-08-07-21 -- (600 Cherry Avenue) An application for a special use permit for the property at 600 Cherry Avenue. This is a request for use of the drive through window associated with a fast food restaurant use. This property is further identified on City Real Property Tax Map Number 29 as parcel 233.3 having approximately 100 feet of frontage on Cherry Avenue and containing approximately 23,522 square feet of land or 0.54 acres. The zoning of this property is currently R-3 and general uses called for in the Land Use Plan of the Comprehensive Plan are for Neighborhood Commercial.

Ms. Walden gave the staff report. This application would allow for the drive-through window to operate at the site. A previous applicant had requested a Special Use Permit in 1981 which was approved. This is a reasonable request given that this had previously operated as a drive-through restaurant in the recent past and there are minimal impacts to this neighborhood as a result of this use. Staff recommends approval.

Ms. Lewis noted the staff report had suggested additional landscaping and wanted to know if that meant low bushes or shade trees. Ms. Walden stated the recommendation was meant to beautify the site.

Ms. Keller wanted to know if there would be any pedestrian conflict with the drive-through. Ms. Walden did not think there would.

Mr. David Cook, member of the Advisory Board for the Salvation Army and Chairman of its Property Committee, stated this would allow their potential tenant the opportunity to be as successful as they could.

Ms. Lewis wanted to know how necessary this would be to the success of the business. Mr. Mike Brown, of 42 Mill Creek Drive, stated this was very important because it would make it much more successful and help the business.

Mr. Farruggio wanted to know if it would be a problem for the Commission to say the drive-through could not be open past 9:30 p.m. Mr. Cook stated the operation of service both inside and at the drive-through would end at approximately 9:30 p.m.

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

Ms. Lewis thought there might be some adverse impacts even though there was a precedent for its use. She thought these could be mitigated by the landscaping suggestion of Staff.

Ms. Keller stated she felt very positive about reestablishing a business at this location as it would be positive for the neighborhood and the city. She was less concerned about the drive-through since it was pre-existing.

Mr. Rosensweig saw the drive-through as being contrary to Code. He felt approval should be conditioned with having an agreeable landscape plan filed with staff.

Mr. Farruggio agreed a landscaping plan to address the front of the building would be helpful.

Mr. Farruggio moved to recommend approval the Special Use Permit application to allow a drive-through restaurant at 600 Cherry Avenue with the following conditions, exceptions and/or modifications: a, additional staff-approved landscaping plan to include front beautification and additional tree coverage; and, b, staff-approved pedestrian safety enhancements. Ms. Keller seconded the motion. Ms. Creasy called the roll. The motion passed, 6-1; Mr. Rosensweig voted against.

5. SP-08-07-22 -- (1600 Monticello Avenue) An application for a special use permit for the property at 1600 Monticello Avenue. This is a request for increased density from 21 DUA to 43 DUA. This property is further identified on City Real Property Tax Map Number 60 as parcel 252.1 having approximately 168 feet of frontage on Monticello Avenue and containing approximately 17,424 square feet of land or 0.40 acres. The zoning of this property is currently Highway Corridor with Entrance Corridor Overlay and general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use.

1. Entrance Corridor Review Board Recommendation
2. Recommendation on the Special Use Permit

Mr. Haluska gave the staff report. The Highway Corridor zoning permits 21 dwelling units per acre by right or eight units on the property. The zoning ordinance allows an applicant to ask for up to 43 dwelling units per acre via Special Use Permit; this would allow 17 units on the property. The applicant is leaning toward rental units/apartments in this building. The principal issue is the impact on parking and traffic in the area. Uses allowed by right on this property include gas station, automobile sales, hotel, laundromat, movie theater, fast food or full service restaurant, professional or business offices, grocery store, pharmacies, and other retail stores. This Special Use Permit would not adversely affect the intersection alone; most of the impact comes from surrounding properties. Staff recommends the application be approved.

Ms. Scala gave the ECRB staff report. Based on what is proposed, the increased density does not add any additional adverse impacts to the Entrance Corridor District. The proposed building has less height than would be permitted by right. Staff recommends approval.

Mr. Bruce Wardell, of BRW Architects, stated the property was at a location where larger scale, multi-family residential properties have been developed met single-family residential neighborhoods so the applicant felt this property would be more appropriately used as a residential property rather than a commercial property. He stated they intended to provide affordable units within the project.

Ms. Keller wanted to know if any alternative transportation studies had been considered. Mr. Wardell stated they had been considered, but they were not sure what was and was not enforceable. Mr. Kurt Keesecker, owner of the property, explained the parking would be underneath the building and an area had been designated for bicycle racks.

Ms. Keller wanted to know if these were to be rental units or condominiums. Mr. Keesecker stated they were looking at rental right now since the area has a lot of condos at the moment.

Mr. Neuman wanted to know if they were considering some sort of LEED certification. Mr. Wardell stated they were considering some sustainable measures for the project but the LEED level had not yet been determined.

Mr. Pearson opened the public hearing.

Mr. Andrew Hersey, of 1610-B Monticello Avenue, explained he was a member of the Board of Directors of the Homeowners Association for the Monticello Overlook condominiums. He stated the Board supported development on the site but feared the scale of this development was not well suited for such a tiny parcel. They were also concerned overflow traffic would end up in their parking lot.

Mr. Jay DeMaio, of 1612-F Monticello Overlook Condominiums and also with the Board of Directors of the Homeowners Association, stated his chief concern was safety at the Druid and Monticello intersection.

Ms. Kari Anne Slope, of 1608-G Monticello Avenue, shared the safety concerns which had been expressed. She was concerned about rental properties affecting the property values of the condominiums.

Ms. Joyce Lesich, of 1606-F Monticello Avenue and also with the Board of Directors of the Homeowners Association, supported Mr. Hersey's comments. Her main concern was the traffic situation.

Mr. Jay Orgo, of 1608-C Monticello Avenue, echoed the concerns of Mr. Hersey, Ms. Slope, and Ms. Lesich. He stated the property was not in a good location for development.

Ms. Johanna Cloussen, of 1610-E Monticello Avenue, reiterated the points which had already been discussed. Her main concern was the traffic. She also expressed concern about the effect on property values.

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

Mr. Pearson suspended the Planning Commission meeting and convened the Entrance Corridor Review Board.

Ms. Lewis stated she agreed with Staff's report.

Mr. Farruggio also agreed.

Ms. Lewis moved to find that the proposed Special Use Permit to allow increased density at 1600 Monticello Avenue in a new building will not have adverse impacts on the Monticello Avenue Entrance Corridor. Mr. Farruggio seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson closed the Entrance Corridor Review Board and reopened the Planning Commission meeting.

Mr. Farruggio thanked Mr. Wardell for his application packet. He stated he agreed with Mr. Wardell and with Staff's conclusions. Mr. Farruggio did not think the Commission could condition the off-site improvements.

Ms. Lewis, having lived in that neighborhood previously, stated that traffic was a concern. She stated the solution to the traffic problem at Druid and Monticello was one for the City to handle.

Mr. Mitchell believed the traffic and safety were issues. However, he felt the way to address them was through the site plan.

Mr. Farruggio expressed a desire to include a secure bicycle storage facility for at least ten bicycles to push alternative transportation.

Mr. Farruggio moved to recommend approval of this application for special use permit in the HW zone, at property located at 1600 Monticello Avenue, for increased density not to exceed 37.5 units per acre, with the following conditions: the inclusion of affordable housing component and the inclusion of secure bicycle storage facility for at least ten bicycles but not within the units themselves. Ms. Lewis seconded the motion. Mr. Haluska asked for clarification as to how many affordable units and what was "secure" storage. Mr. Farruggio amended his motion to clarify the affordable units to equal 15 percent, or three units, referencing the 2004 Housing Strategy. Mr. Harris noted there was to be an item on the agenda about affordable housing legislation which was going to mark affordable dwelling units at 60 percent or less of area median income. Mr. Farruggio restated his motion for clarity: Mr. Farruggio moved to recommend approval of this application for special use permit in the HW zone, at property located at 1600 Monticello Avenue, for increased density not to exceed 37.5 units per acre, with the following conditions: inclusion of affordable housing component at three units at 60 percent AMI; and the inclusion of secure bicycle storage facilities for at least ten bicycles, not to

be included in the units themselves. Ms. Lewis again seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson called for a brief recess, whereupon the meeting stood recessed at 9:43 p.m.

Mr. Pearson reconvened the meeting at 10:02 p.m.

6. SP-08-07-23 -- (1003 West Main Street) An application for a special use permit for the property at 1003 West Main Street. This is a request for additional building height of 10 feet (for a total of 70 feet) and a reduced setback on 10 ½ Street from 5 feet to a zero foot setback. Additionally a request has been made for permission to encroach 5.68 feet into the right of way airspace on West Main Street. This property is further identified on City Real Property Tax Map Number 10 as parcel 51 having approximately 75 feet of frontage on West Main Street and containing approximately 16,656 square feet of land or 0.38 acres. The zoning of this property is currently West Main North Corridor and general uses called for in the Land Use Plan of the Comprehensive Plan are for Mixed Use.

Mr. Rogers gave the staff report. The applicant has removed the airspace encroachment component from the request since the meeting's advertisement. Staff found no adverse impacts to the additional ten feet setback encroachment. Staff recommends approval.

Mr. William Atwood, of Atwood Architects, Inc., gave a brief PowerPoint presentation.

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

Mr. Farruggio thought the proposal was very creative and a great idea. He did want to know if trees would be planted on Main Street. Mr. Atwood stated there would.

Ms. Keller expressed concern about the encroachment into the right of way.

Mr. Farruggio wanted to know if affordable housing had been considered. Mr. Atwood stated they had and would be willing to provide two affordable units.

Mr. Farruggio moved to recommend approval of this application for a special use permit in the West Main North zone for Atwood Architects, Inc. at 1003 West Main Street for 10 feet of additional height and the ability to encroach up to 5 feet in the side setback on 10 ½ Street with the following conditions: two affordable units at 60 percent AMI; shade trees planted on Main Street; and secure bicycle storage not in the units. Mr. Mitchell seconded the motion. Mr. Rosensweig commended the applicant for one of the more interesting and exciting designs he had seen come before the Commission. Ms. Creasy called the roll. The motion carried unanimously.

7. SP-08-07-24 -- (608 -612 Preston Avenue) An application for a special use permit for the property at 608-612 Preston Avenue. This is a request to allow a dance hall within the Central City Corridor. This property is further identified on City Real Property Tax Map Number 32 as parcel 14 having approximately 165 feet of frontage on Preston Avenue and containing approximately 74,488 square feet of land or 1.71 acres. The zoning of this property is currently Central City Corridor and general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use.

Mr. Rogers gave the staff report. The applicant proposes to use one of the buildings at the rear of the site as concert space for live music and for private events on a for rent basis. Issues which have come

from Staff analysis and public comment include: traffic -- the new use would add more traffic to the site on performance nights; parking -- there is no clear equation for determining the parking so parking is calculated using the formula for the most similar use listed which only calls 24 spaces; noise; trash; and residential safety. Significant public comment has been received. A petition against the proposal was received from 76 residents of the Tenth and Page community. Forty-three E-mails have been received from supporters of the Special Use Permit. Staff still had concerns about the applicant's ability to manage the overflow parking. Despite that Staff recommends approval conditioned upon the submission of an overflow parking agreement before the applicant receives their Certificate of Occupancy.

Mr. Rosensweig sought clarification of which buildings at the rear of the site would be used. Mr. Rogers explained it was the squatter building at the rear.

Ms. Lewis wanted to know what types of traffic calming measures were proposed. Mr. Rogers stated there were any number of design solutions and he would rather defer that to the Traffic Engineer. Ms. Lewis expressed concern about assurances being given to the neighborhood if cut through traffic was going to be an issue.

Mr. Kirby Hutto, of Starr Hill Presents, was not sure that cut through traffic through Tenth and Page was going to be a concern. He thought the location was an ideal location for they type of use proposed. He did not think there would be a problem with meeting the City's noise ordinance even if the doors were open. He stated they had identified about 136 parking spots to make available to patrons; 55 were on-site, 27 were being made available by Region Ten, 30 were public parking spaces on Dale Avenue, 24 on 4th Street from Staples to Preston. This was to be a green venue.

Mr. Mitchell wanted to know what level of contact the applicant had had with the neighborhood. Mr. Hutto had spoken with most of the business neighbors on the east side of the railroad tracks but had had minimal contact with 10th and Page neighborhood.

Ms. Keller sought clarification of when events would occur. Mr. Hutto stated most would start around 10 p.m. and end around 12 or 1 a.m.

Mr. Farruggio wanted to know if they would be amenable to putting a strong, solid fence around the property to keep people from trespassing across the railroad tracks. Mr. Hutto stated the property was fenced. Mr. Farruggio stated he had been at the property two days prior and found trails to get through the fence. Mr. Hutto stated he would be willing to. Mr. Farruggio asked that they consider fencing and cleaning up the property behind the venue. Mr. Farruggio also wanted him to consider off site litter clean up. Mr. Hutto stated off site litter clean up was being offered. He said he would approach the owner about the fence and cleaning up the overgrown property.

Mr. Rosensweig wanted to know if the applicant would consider another condition regarding noise as in having a test run of the decibel level inside and outside the business. Mr. Hutto stated their expectation was to live within the newest version of the noise ordinance.

Before opening the public hearing, Mr. Pearson noted for City Council that six members of the public had expressed a desire to speak to this item but spoke to this item during Matters to Be Presented by the Public Not On the Formal Agenda due to concerns for their own safety if they were to try to return to their homes at this time of night. He noted their concerns included: cut through traffic, security --

specifically fights or disturbances, trash, the proximity of the venue to a church, potential for violence, a detrimental effect on community and lifestyle, increased traffic, noise as a public nuisance, effect on property values. Mr. Pearson noted all the presentations were in opposition to the application. They expressed the sentiment that the neighborhood already had enough problems without adding another one to the mix, that it was not healthy or wise to locate a dance hall here, and parking would be a problem. Mr. Farruggio noted that there were concerns about parking on Albemarle Street and walking across and trespassing on the railroad tracks.

Mr. Pearson opened the public hearing.

Mrs. Barbara Moseby, speaking on behalf of her husband also, read a prepared statement in opposition to the Planning Commission approving the proposal and reiterating the comments she made earlier. She stated the dance hall would be a detriment to the community and the lifestyle of the residents.

Reverend Doctor George A. Bates, of 933 Henry Avenue, stated he was the assistant to Dr. Johnson at Pilgrim Baptist Church on Albemarle Street. He stated Ms. Moseby had hit the nail on the head. He stated this was a community already burdened which was in a battle with street crime, drugs, trash, noise, and antisocial behavior. He stated putting another alcohol establishment would be unconscionable. He stated this is the wrong venue, wrong time, and wrong place for this neighborhood.

Mr. Toby Brown, owner of Brown's Cleaners on Preston Avenue, spoke in opposition of the proposal due to parking concerns.

Ms. Shaunda Howard Moore, co-owner of two homes in the area, expressed concerns about on-street parking and possibly intoxicated patrons.

Ms. Rebecca Wells, of 733 West Street, spoke not only on her behalf but also for the neighborhood of Tenth and Page. They felt granting the Special Use Permit would have a negative effect on the community. They were concerned it would increase the drug trafficking and gun related violence in the neighborhood.

A woman, who did not identify herself but noted she worked at Reid's Supermarket, spoke in opposition of the proposal. She expressed concern about the parking and about the noise.

Mr. Brent Nelson, of 707 Northwood Avenue, stated he has experienced the situation that this neighborhood could experience as, for 15 years, he had lived across from the parking lot to Club 216. He wanted to make sure the Commission understood there would not only be noise from the music of the venue, there would also be uncontrollable noise from the parking lot.

Mr. Hugh Scott, of 701 West Street, spoke in opposition of the proposal, expressing concern about the noise. He expressed concern also that the end result of the impact on traffic and noise would be known too late.

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

Ms. Keller stated this was a great use in the wrong place due to the cultural clash, traffic problems, noise and crime.

Mr. Rosensweig stated he could go through the standards of review and tick off a number of issues.

Mr. Osteen stated parking was problematic. He also said the noise was his big issue.

Mr. Farruggio noted he has had experience with the management of several of these establishments who are very professional and handle their situations, he was not sure the number of detractors could be overcome for this site.

Ms. Lewis stated the impact on the neighborhood was the most compelling factor. She noted they had heard from both residential and commercial neighbors who were not reconciled to this use at this time.

Mr. Farruggio was not sure there was a solution to handle the noise, but he was not sure that was the biggest problem. He thought there were ways to mitigate the other impacts if they were applied.

Ms. Lewis thought the lack of a parking plan was a big impediment. She stated she would want a written arrangement before the Special Use Permit was granted.

Mr. Farruggio stated that before he could feel comfortable moving forward he wanted: a minimum of 160 parking spaces that are identified, patrolled, and cleaned up; fencing around the entire property so no one could stray off the property other than by the route the applicant wanted them to take to get on and off the property; cleaning up the adjoining area; cleaning up off site after performance; and working with the community.

Mr. Hutto stated they would defer and see if they could address some of the points that have been brought up. Based on the comments he had heard, he felt they had an uphill battle.

Mr. Pearson stated the Commission would accept his deferral.

Mr. Osteen explained to the Chair that he needed to excuse himself from the remainder of the meeting. He left the meeting at 11:41 p.m.

8. ZT-08-07-25 -- 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 following:

ii. The Patterson wing structure of the Martha Jefferson Hospital and a part of the existing parcel that extends from the Patterson Wing east to Locust Avenue and south to East High Street at 459 Locust Avenue, Tax Map 53, Parcel 234.

iii. The coal tower and part of the existing parcel delineated on an approved preliminary site plan as an approximately 70 ft. square containing the tower at 133-155 Carlton Road, Tax Map 57, Parcel 157.

ZM-08-07-26 -- 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 minor Architectural Design Control Districts for the following:

a. A portion of the parcel at 459 Locust Avenue, further identified on City Real Property Tax Map Number 53 as parcel 234 having 325 feet of frontage on Locust Avenue and containing approximately 353,402 square feet of land or 8.113 acres. The Patterson Wing of Martha Jefferson Hospital, and the part of the existing parcel that extends from the Patterson Wing east to Locust Avenue and south to East High Street are the only structure and portion of the parcel under consideration for this map

amendment. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Office Use. The current underlying zoning, which will remain, is Downtown North Corridor and B-1 with Special Use Permit.

b. A portion of the parcel at 133-155 Carlton Road, further identified on City Real Property Tax Map Number 57 as parcel 157 having approximately 900 feet of frontage on Carlton Avenue and containing approximately 464,175 square feet of land or 10.656 acres. The coal tower and part of the existing parcel delineated on an approved preliminary site plan as an approximately 70 feet square containing the tower are the only structure and portion of the property under consideration for this map amendment. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Industrial Use. The current underlying zoning, which will remain, is Downtown Extended Corridor.

Ms. Scala gave the staff report. The BAR on April 29, 2008 unanimously recommended designation of both properties. The Patterson wing is the original portion of Martha Jefferson Hospital and was built in 1928-1929. It is a contributing resource of the Martha Jefferson National and State Register District. At the BAR meeting on April 29, Steve Bowers representing Martha Jefferson Hospital had no objection to the recommendation to designate the Patterson Wing. This property meets the criteria for designation as an individually protected property. The BAR recommended (8-0) designation of the Patterson Wing of Martha Jefferson Hospital and part of the existing parcel that extends from the Patterson Wing east to Locust Avenue, and south to East High Street. The Coal Tower was built in approximately 1940 and is a very interesting structure. The coal tower is not currently in use. This site is proposed for future development. Alan Taylor, representing the owner, said he wants to clean it up, make it safe, and make the area a park. He also wants to remove the metal parts around it, such as the stairs, because they are an attractive nuisance. The BAR recommended (8-0) designation of the Coal Tower and part of the existing parcel shown as an approximately 70 ft. square on the site plan.

Ms. Keller wanted to know if Martha Jefferson Hospital was being considered in the context of a potential district. Ms. Scala stated the neighborhood was interested in having a local district done as well as the National Register and state Register districts that are already in place.

Mr. Pearson opened the public hearing.

Mr. Norris noted that at the July CPC meeting, Council had said that any public hearing that started after 10 p.m., because it disenfranchises citizens to expect them to stay up till midnight to participate in a public hearing that Council would allow public comment at Council meetings on topics during Matters By the Public. He stated he would apply the same policy here.

Mr. Steve Bowers, of 2010 Hessian Road, stated the hospital was not opposed to this ordinance. He thought the future of this site was one of the most important projects on the horizon for the City.

Mr. Alan Taylor, with Choco-Cruz LLC, had hoped to make a decision about the scaffolding and stair area at this meeting.

Mr. Rosensweig sought clarification from staff that deferral at this meeting would allow Mr. Taylor to remove the metal before the Coal Tower was designated. Mr. Farruggio wanted to know if there was any way to designate the Coal Tower, but not the stairs. Mr. Harris explained the IPP designation was for a parcel and the stairwell could not be removed from the designation. Mr. Harris asked Mr. Taylor how

long it would take to remove. Mr. Taylor did not know. Mr. Taylor stated they wanted to keep the Coal Tower structure and clean it up to look like it used to.

Mr. Brown wanted to know how long the applicant had owned the property. Mr. Taylor stated it had been five years. Mr. Brown wanted to know why the stair had not been removed already. Mr. Taylor explained there had been hopes to develop the property and the stair removal would have been in Phase I. Mr. Brown did not think it was a big burden to have to go through the design process.

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

Ms. Keller wanted to know if it would be within Ms. Scala's purview to offer administrative approval for the removal of the stairs and other metal features. Ms. Scala stated it would not.

Ms. Lewis asked for clarification of what metal features Mr. Taylor wanted to remove and if it included the metal on the top of the structure. Mr. Taylor said they would do whatever the Commission wanted on that as he was concerned about the parts that were potentially dangerous and could cause somebody to get hurt.

Ms. Keller felt it would be better to talk with the BAR about removing portions and would be more advisable to consult with some of the experts at the Virginia Department of Historic Resources to learn ways to do this that would be less invasive.

Mr. Farruggio stated he wanted to vote on this and take it off the agenda.

Mr. Farruggio moved to recommend the adoption of 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 Districts for a portion of the parcel at 459 Locust Avenue, known as the Patterson Wing of Martha Jefferson Hospital, further described in the Commissioners' documents and reports and a portion of the parcel at 133-155 Carlton Road, further identified as the Coal Tower and further identified still in the staff reports. Ms. Lewis seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Farruggio moved to recommend the adoption of an ordinance to amend and reordain Section 34-273(b) of the Code of Charlottesville, 1990, as amended (Zoning Ordinance) related to Individually Protected properties by creating an "overlay" zoning restriction without affecting the underlying zoning district designation in order to create minor design control district status for the following: the Patterson wing of the Martha Jefferson Hospital and the Coal Tower, both further described in the staff reports. Ms. Lewis seconded the motion. Ms. Lewis thought both of these designations met more of the criteria and seemed much more appropriate for designation than the properties discussed earlier in the meeting. She stated these were truly unique. Mr. Harris asked if Mr. Farruggio had referenced the staff report as being the basis for the referral. Mr. Farruggio had not. Mr. Farruggio noted for the record that for the two motions he previously mentioned relating to the Patterson Wing and to the Coal Tower, he did this on the basis of the staff reports the Commission received. Ms. Creasy called the roll. The motion carried unanimously.

9. ZT-08-07-27 -- Indoor Recreation Facilities in Residential Districts -- An ordinance to amend and reordain Section 34-420, 34-480 and 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to establish two categories under Recreational facilities for indoor facilities. One

category would be specific to city owned or city school owned property and the other to private facilities. The amendment would also be to allow indoor facilities to be located on city owned or city school owned property by right in all zones.

Ms. Creasy gave the staff report. Charlottesville Parks and Recreation is in the process of renovating multiple city sites. In the plan review process, it was discovered that indoor recreation facilities are not allowed within residential districts, therefore, all recreation sites on city property were nonconforming. This was an oversight in the 2003 Zoning Ordinance update. As nonconforming uses, there are limitations to the changes that can be made to the sites, many of which have been endorsed by City Council. It would limit the establishment of any additional indoor recreation facilities on public land.

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

Mr. Farruggio agreed with the proposed change.

Mr. Farruggio moved to recommend approval of the zoning text amendment to amend and re-ordain Section 34-420, 34-480 and 34-796 of the Code of Charlottesville, 1990, as amended (Zoning Ordinance), to establish two categories under Recreational facilities for indoor facilities as stated and laid forth in the Staff report and did this on the basis of the general public welfare and good zoning practice. Ms. Lewis seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

10. ZT-08-07-28 -- Affordable Housing -- An ordinance to amend and re-ordain Section 34-12 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), adopting requirements for the provision of on-site or off-site "Affordable Dwelling Units" or a cash contribution to the city's affordable housing fund, in lieu of such units, as a condition of approval of a rezoning or special use application for residential or the residential portion of mixed use projects with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre.

Mr. Pearson stated this item had been removed from the agenda and would be considered at a later date.

11. ZT-08-07-29: (Zoning Ordinance) An ordinance to amend and re-ordain Article III, §34-420 and Article VI, §§34-540 through 34-799 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to:

- a. Eliminate bedroom limitations in all mixed use districts.
- b. In the Downtown District, change the by right density from 87 to 43 DUA, and the density allowed by SUP from 200 to 240 DUA.
- c. In the Water Street District, change the by right density from 87 to 43 DUA, and the density allowed by SUP from 200 to 240 DUA.
- d. In the Downtown North District, change the density allowed by SUP from 200 to 240 DUA.
- e. In the Downtown Extended District, change the by right mixed use density from 87 to 43 DUA, and density by SUP from 200 to 240 DUA.

f. In the West Main South District, change the by right mixed use density from 64 to 43 DUA, and density allowed by SUP from 200 to 240 DUA.

g. In the West Main North District, change the density allowed by SUP from 200 to 240 DUA.

h. In the South Street District, change the by right density from 87 to 21 DUA, and eliminate the allowance for increased density by SUP.

i. In the Central City District, change the by right density from 43 to 21 DUA, the by right mixed use density from 64 to 43 DUA, and the density allowed by SUP from 87 to 200 DUA.

j. In the Urban Corridor District, change the by right density from 43 to 21 DUA, and add an allowance for increased density of up to 64 DUA by SUP.

k. In the Corner District, change the density allowed by SUP from 43 to 120 DUA.

l. In the RUMD District, add an allowance for increased density of up to 87 DUA by SUP.

m. In the RUHD District, change the density allowed by SUP from 87 to 120 DUA.

n. In the MR District, change the density allowed by SUP from 43 to 87 DUA.

Mr. Tolbert gave the staff report. The Planning Commission began talking about this two years ago. These changes will primarily allow greater density than the City does now.

Ms. Lewis wanted to know if there was some proposed text that would be added. Mr. Tolbert stated it should be in her packet. In the absence of the text, Mr. Tolbert suggested removing items l, m, and n from consideration.

Mr. Farruggio wanted to know if this would change slow development due to the high cost of the infrastructure improvements or would it encourage even more increased density to pay for those infrastructure improvements. Mr. Tolbert thought there could be some negative impacts but it would require the City to be prepared for substantial developments to partner on those.

Mr. Farruggio wanted to know if Staff would point out to the Commission those impacts which would need to be mitigated as they came before the Commission. Mr. Tolbert stated they were finally getting the necessary utility information to be able to tell applicants at the beginning of the process.

Mr. Rosensweig wanted to know why SUP increased density was not recommended for Cherry Avenue. Mr. Tolbert stated they needed to recommend to the Comprehensive Plan that there be a complete study of that district for changes.

Ms. Keller wanted to know what issues are anticipated for the Corner District with the SUP going from 43 to 120. Mr. Tolbert explained that with an SUP the Commission had the complete ability to determine if it was appropriated because there may be one or two sites that are appropriate for higher density.

Mr. Tolbert, using a district chart, explained to the Commissioners that he had heard from property owners in the South Street district and would be changing the chart to reflect a proposed by-right of 43 rather than the 21 on the chart. He added that he wanted to change the proposed SUP from N/A to 87.

Mr. Pearson opened the public hearing.

Mr. Brent Nelson, of 707 Northwood Avenue, read a prepared statement regarding the proposed change to by right residential density in the South Street zoning district.

Ms. Mary Gillam, of 218 South Street, had been prepared to speak in opposition to the rezoning of South Street; however, her concerns had been discussed. She, like Mr. Nelson, wanted to encourage residential and not commercial uses.

Ms. Barbara Johnson, of 909 6th Street, SE, expressed concern about the assorted abbreviations in the mailing and whether any of it affected her property. Mr. Tolbert explained she was not directly affected but was within 500 feet of the West Main Street District.

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

Mr. Farruggio believed this was the right way to move.

Mr. Farruggio moved to recommend approval of this zoning text amendment to amend and reordain Section 34-420 and Chapter 34, Article 3 of the Code of Charlottesville, as shown in the staff report and in the agenda for this evening, only items a through k with the most recent changes that Mr. Tolbert pointed out. Ms. Lewis seconded the motion and added that the amendment would allow these changes on the basis that the changes would serve the interest of the general public, welfare and good zoning practice. Mr. Farruggio accepted the amendment. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Farruggio moved to adjourn until the next regularly scheduled meeting which would be Tuesday, September 9. Ms. Lewis seconded the motion. The meeting adjourned at 12:47 a.m., Wednesday, 13 August, 2008.