

MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, May 10, 2011 -- 5:30 P.M.
CITY COUNCIL CHAMBERS

Commissioners Present:

Mr. Jason Pearson (Chairman)
Mr. Dan Rosensweig
Mr. John Santoski
Mr. Michael Osteen
Mr. Kurt Keesecker
Ms. Genevieve Keller
Mr. David Neuman, Ex-officio, UVA Office of the Architect

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS
Ms. Missy Creasy, AICP, Planning Manager
Ms. Ebony Walden, AICP, Neighborhood Planner
Mr. Brian Haluska, AICP, Neighborhood Planner
Mr. Michael Smith, Neighborhood Planner

Also Present

Mr. Richard Harris, Deputy City Attorney

II. REGULAR MEETING

Mr. Pearson convened the meeting.

A. COMMISSIONERS' REPORT

- Mr. Santoski had no report.
- Mr. Osteen –The BAR had their regular meeting with 19 items on the agenda. The Jewish Center’s representative came in to talk about a few items that were changed in the field. Mr. Osteen wanted to emphasize that if you come in for a Certificate of Appropriateness to please follow through.
- Ms. Keller attended the City Manager’s neighborhood representative meeting. Jim Tolbert was in attendance and he touched on the Neighborhood Matching Grant program. There was also a status report of the sidewalk improvement program. Ms. Creasy gave an update and explanation of our Comp Plan process and how that works with the county and the planning district commission processes. There was also a discussion on the changes to the voting district precincts.
- Mr. Rosensweig had no report
- Mr. Keesecker reported that PACC Tech met on April 20th. The major agenda item presented was the Draft Consortium agreement between the University, City and County as well as an invitation to other community groups to join in the process under the “Sustainable Community Grant Program” that has been in the news lately. The draft agreement is posted on the TJPDC website.

B. UNIVERSITY REPORT

Mr. Neuman mentioned that the PACC meeting will be hosted by UVA on May 19th at 2:00pm in the Byrd room in the Harrison small library. He also mentioned that there will be several construction projects occurring on Grounds including: the realigning of Lee Street, construction on the Battle building, new Cabell Hall which is receiving funding from the state, and the UVA track, which will be fully renovated and closed down for the summer.

C. CHAIR’S REPORT

Mr. Pearson mentioned that the TJPDC did meet but he was unable to attend, so there is no report. He did attend the open house related to the Livable Community Grant administered by the TJPDC which represents the collaboration of a number of entities including the City and County and will provide a frame work for City and County to coordinate their comprehensive plan updates. If anyone is interested you can visit the TJPDC website for more information.

D. DEPARTMENT OF NDS/STAFF REPORTS/WORK PLAN

Ms. Creasy introduced NDS new staff members, Willy Thompson who joins us from Rockingham County where he spent 5 years and Mike Smith, who was an NDS planning assistant, has become an NDS planner. NDS was able to have Mike’s position due to the grant funding.

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

Tom Olivia-4632 Green Creek Road, Chairman of the Piedmont Chapter of the Sierra Club noted that he was representing the Alliance of Environmental Groups and read a copy of a letter that was given out to the Commission concerning the Comprehensive Plan. He offered his time to address any questions that the Commission may have.

F. CONSENT AGENDA

(Items removed from the consent agenda will be considered at the end of the regular agenda)

1. Site Plan and Subdivision approval list
2. Minutes - March 8, 2010 – Regular meeting
3. Minutes - April 12, 2010 – Regular meeting
4. Minutes - April 12, 2011 – Pre meeting
5. Entrance Corridor- 1600 Monticello Avenue
6. Zoning Text Initiation – Validity periods for Certificate of Appropriateness

Commissioners pulled item 2 from the Consent Agenda. They would also like for the minutes not to reflect each person's dialogue, but to note major issues. If a Commissioner would like the minutes to reflect a specific issue in more detail then they will let that be known so that can be recorded in the minutes.

Ms. Keller made the motion for approval of the Consent Agenda except for item #2.

Mr. Santoski seconded the motion

All voted in favor noting that Mr. Keesecker will not be voting on item 5.

Motion passed with the exception of item 2.

Item 2 discussion

- Would like the conversation outlining “What is a Concept Plan and the difference between a Concept Plan and a Site Plan” added to the minutes.
- The discussion on Critical Slopes should include additional detail.
- The commissioners would like to see the March 8th minutes come back to the next meeting to reflect the two items above.

III. JOINT PUBLIC HEARINGS

G. JOINT PUBLIC HEARINGS

1. **ZM-11-03-06 - (Sunrise Park PUD):** An amendment to Sunrise Park Planned Unit Development (PUD) to add Tax Map 56 Parcel 85 to the development (incorporating this parcel into the PUD) and allow an increase in the allowable residential unit count for the PUD. The PUD includes all properties located within the block encompassed by Carlton Avenue, Rives Street, Nassau Street and Midland Street. The current PUD allows for the establishment of a mixed-use, mixed income development with no more than 60 residential units and up to 12,800 square feet of non-residential uses. This proposal requests an increase to no more than 66 residential units. The current proffers include: limits on the hours of operation for non-residential use, a 12,800 square foot maximum for non-residential uses on site, limitations on residential density, number of structures and maximum land cover for structures, driveway limitations, commemoration of structure at 1106 Carlton Avenue, transit improvements, transportation improvements and affordable housing requirements. The revised proffers reflect the increase in residential units and number of structures and maximum land cover for structures as well as changes to the plan of development. The current PUD is further identified on City Real Property Tax Map #56 as parcels 84, 85.1, 85.2, 86.1, 86.2 and 86.3 having approximately 420 feet of frontage on Midland Street, 278 feet on Nassau Street, 285 feet on Carlton Avenue and 60 feet on Rives Street and containing approximately 98,446 square feet of land or 2.26 acres. The additional parcel (TMP 56-85), is currently zoned R-2, has approximately 131 feet of frontage on Rives Street and 60 feet on Midland Street and contains approximately 0.18 acres which would bring the total development to 2.44 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Two-Family Residential. **Report prepared by Brian Haluska, Neighborhood Planner.**

Mr. Haluska gave the staff report.

Mr. Pearson called for questions from the Commissioners which included the following:

- What is the difference in this version and what was presented in the last conversation?
- Is there an area of non-residential use in the development?
- How much of a traffic increase will this create with the addition of more units?

The staff stated that the applicant has left some flexibility in the amended site plan and there is no real difference in what is being presented today than what was presented in the preliminary discussion except for the flexibility. There will not be a significant increase in traffic. Staff gave a run down on how many estimated trips are taken per day in a single family household.

The applicant-Don Franco, 471 Panorama Road, was present to present a PowerPoint Presentation and answered questions.

· With the code the way it is written, they are allowed to have 1600sqft of non-residential use to provide for home occupation scale or a daycare facility. It is not designed to be used for intense commercial.

· The property will be developed according to the PUD regulations.

Mr. Pearson opened the public hearing.

Michael Bednar, 1201 East Jefferson Street, feels it is a wonderful project and supports it fully.

Louisa Catalaro, 824 Mallside Forest Court, noted that she is a Habitat for Humanity partner family and feels this will be a great project with the mixed income and different cultures.

Peter Ochs-1617 Saint Annes Road, Professor at UVA, has changed his entire course outline to focus on Habitat. He has met with some partner families and was amazed at what actually goes on and how they get to know each other. He plans to use Sunrise Park annually as a place for his students to study.

Ms. Green was not present, but Ms. Creasy stated on her behalf that Ms. Green wanted the Commissioners to know that the neighborhood was very appreciative of the presentation from the applicant at their neighborhood meeting and dialogue on the project. A number of rumors were dispelled in that discussion.

The Chair called for any more questions or comments from Commissioners.

A City Council member wanted to point out that he feels it is a great example of a mix use and mix income project and that the City has supported this before.

The Chair called for a motion.

Ms. Keller said, I move to recommend approval of this application to rezone property from R2 to PUD with proffers on the basis that the proposal will serve interest of the general public welfare and good zoning practice.

Mr. Osteen seconded the motion.

Ms. Creasy called the question.

Santoski Yes

Osteen Yes

Keesecker Yes

Keller Yes

Pearson Yes

Motion passed

2. **ZT-11-04-04 (Assisted Living)** An ordinance to amend and reordain Section 34-796 (Use Matrix), of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, to allow

assisted living facilities of greater than 8 residents in the Downtown North Corridor. **Report prepared by Brian Haluska, Neighborhood Planner.**

Mr. Haluska gave the staff report.

Questions from the Commissioner's

- Will the building code dictate the maximum number of occupants in these buildings?
- Are there areas of Downtown North in the parking modified zone?
- Have any issues come up that needed to be addressed when talking to the applicant or other staff members.

Mr. Haluska stated that the building code would play a role in the amount of people in a structure. Some of the Downtown North corridor is in the parking modified zone which is one reason why an SUP could be good for this type of use.

The Chair called for a motion

Mr. Rosensweig said, I move to recommend approval of the zoning tax map amendment, to amend and reordain section 34-796 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990 as amended to allow adult living facilities greater than eight residents in the Downtown North corridor by Special Use Permit on the basis that this change will serve the interest of public necessity and good zoning practice.

The Chair asked for any more comments or discussion on the matter

· Ms. Keller stated that with Martha Jefferson Hospital moving and changes to the Court Square area, we might need to look at and think about the boundaries as the Comprehensive Plan gets revised. The current zoning district may have a different character once the hospital uses change. The Commission may want to consider whether the Court Square and former MJH areas still have the same character and whether they should be in the same zoning classification.

Mr. Osteen seconded the motion.

Ms. Creasy called the question

Santoski Yes

Osteen Yes

Keller Yes

Rosensweig Yes

Keesecker Yes

Pearson Yes

Motion Passed

3. **Closing of a portion of Seminole Court:** A petition to close a portion of Seminole Court for a distance of approximately 106 feet long x 48 feet wide and vacate a portion of the plat that originally created the street in 1982. The portion of this street is located at City Real Estate Tax

Map 41C Parcel 3.1 Block C, east of the intersection with Zan Road at the driveway entrance to the property located at 200 Seminole Court. **Report prepared by Ebony Walden, Neighborhood Planner**

Ms. Walden gave the staff report.

The applicant was present and added;

- The City has not spent any money to maintain the property.
- The expansion is to help the tenant due to their increase in sales.
- This will create revenue for the city in the form of taxes

Questions from the Commission

- Will there be an effect on Hillsdale Drive?
- The plans show the new addition encroaching into the roadway, what exactly will happen?
- Will there still be access to the shopping center from Seminole Court or will it be totally closed off?

The Applicant responded by saying, there will not be any effect on Hillsdale Drive, the addition only encroaches slightly into the City's ownership. Access to the shopping center from Seminole Court will remain open.

Mr. Pearson opened the Public Hearing.

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

Mr. Pearson called for discussion from the Commission

- Clarification of what is being voted on tonight, closing of the road or the addition and will the addition still require a site plan.
- The standard of review is on Page 2, and we need to make sure that this request meets that standard.

Ms. Creasy clarified that the Commission is only voting on the closing of the road tonight and the addition will have go through a site plan process.

The Chair asked for further discussion, with no further discussion he called for a motion.

Ms. Keller said, I move to certify that the propose vacation of the 1,662sqft portion of Seminole Court would not result in public inconvenience or impediments to public access and is consistent with the Comprehensive Plan. I move to recommend to City Council that this street be vacated by ordinance.

Mr. Santoski seconded the motion

With no further discussion Ms. Creasy called the question

Santoski Yes

Osteen Yes

Keller Yes

Rosensweig Yes

Keesecker Yes

Pearson Yes

Motion Passed

4. **ZT-11-04-05 Critical Slopes** - An ordinance to amend and reordain Section 34-1120(b) (Critical Slopes) and 34-1200 (Definitions), of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, to revise regulations pertaining to critical slopes. **Report prepared by Brian Haluska, Neighborhood Planner.**

Mr. Haluska gave the staff report. He provided a definition of "Critical Slopes." He also wanted to touch on staff policy for item 2c. The applicant is able to come to staff and request a determination of whether or not they are subject to the critical slope ordinance. Staff is prepared to respond to the applicant within 21 days of receipt of a formal written request.

Questions or Comments from the Commission

- The Commission is satisfied with section 6A relating to the criteria for when to grant a waiver. They would like additional clarification on section 6B, paragraph B as to whether they are interpreting the paragraph correctly.

- The Commission wanted to clarify how they were interpreting when they should grant a waiver and when they could not grant a waiver.

- If you are going to satisfy the purpose and intent of critical slope provision, then you may not disturb anything natural. The ordinance does not read in such a way that there is any alternative.
- The Commission wanted to know if paragraph 2 and 4 were necessary? They are saying the same thing, but paragraph 4 has language that may be interpreted in different ways
- Could paragraph 2 and 4 be combined when re-writing the ordinance? The Planning Commission's handcuffed to what they are allowed to grant.
- What is the process if an applicant is denied?
- Is there a time limit for City Council to vote on this after the Commissioners have made a recommendation?
- How would exemptions apply under paragraph 4A for existing sites in the city with buildings on them. How can those properties be expanded with this ordinance in place?

Mr. Haluska stated that if the Commission is not going to grant waivers; then that section should not be included in the critical slope ordinance. If an applicant is denied and it is related to a site plan or a subdivision application, than an appeal can be made through Circuit Court. If it is related to a SUP then an appeal can go through City Council.

Mr. Haluska stated that in section 7A, the regulations don't impact what you can do to an existing structure.

Questions from Council

- Where did the 6000 sq ft number come from?

Mr. Haluska stated that the number is the local standard for requiring an Erosion and Sediment Control plan.

Questions from the Commission

- What measures will be used to measure environmental quality?
- How would an applicant know that built forms could be used for achieving the goals of the Comprehensive Plan?

Mr. Pearson opened the public hearing.

Bod Hodous, 1319 Lester Dr, representing the Chamber of Commerce, feels that the map should show all critical slopes.

Andrea Weider, 2331 Highland Avenue, would like to thank the Commission for their hard work and feels nothing should be changed.

Neil Williamson, Free Enterprise, did not want the new ordinance to discourage new development.

Charlie Armstrong feels that the ordinance should be written as a policy and not a regulation. He feels that this issue is not ready for a vote.

Bill Nibel, 2707 Eaton Road, feels this ordinance could be improved and further work is needed.

Frank Stoner, 240 Chestnut Oak Lane, appreciates all the effort everyone has put forth. He does not feel this solves the problem. He feels that a better effort could be put forward to preserve public space.

Bill Emory, 1604 East Market Street, appreciates the re-writing so that the language could be better understood. He feels that it should be voted on to see what happens.

Collette Hall, 101 Robertson lane, feels automatic waivers should not be included.

Mr. Pearson closed the public hearing

Comments, questions or discussion from the Commission

- A presentation was shown comparing affordability and effects of the critical slopes ordinance.
- Some Commissioners feel a task force needs to be appointed by City Council to evaluate affordable housing and critical slope ordinance.
- Policy vs. ordinance needs to be addressed
- Some feel that paragraph 5 is necessary.
- There should be a map that identifies waterways and buffers and language to identify areas in the Comprehensive Plan.
- The ordinance should be made easier for people to read and understand. Does consideration of the critical slope stop at the property line or does it go across the line.
- Who will survey the property line?
- Should a slope over 25% should allow for construction or should it not be touched?
- Should off site slopes be included into the calculation?
- Item C needs to be reviewed. 6000sqft should be the threshold.
- 2A and 2B should not be expanded and 2C should be used.

- Man-made slopes should be protected. We already have an ordinance to protect the public interest.
- What constitutes a policy vs. an ordinance? Sustainable sites are very important and 25% is very critical.

Mr. Pearson wanted to get an idea of who would support a task force. It was not a majority.

Mr. Pearson called for a motion

Mr. Rosensweig said, I move to recommend approval of the zoning text amendment and reordain section 34-1120 of the code of the City of Charlottesville 1990 as amended to amend the critical slope regulations according to our conversation tonight on the basis that the changes would serve the interest of public necessity. I recommend that Council before considering the ordinance create a task force inclusive of regional planners, architects, environmental groups, including regional based environmental groups, affordable housing providers, and someone from the general public and normal stake holders important by Council to the process.

Discussion on motion

· Some Commissioners were not comfortable with City Council waiting on a task force before voting.

Mr. Keesecker seconded the motion.

Ms. Creasy called the question

Santoski No

Osteen Yes

Keller No

Rosensweig Yes

Keesecker Yes

Pearson No

Motion did not pass

Ms. Keller said, I recommend approval of the zoning text amendment to amend and reordain sections 34-1120 and 34-1200 of the code of the City of Charlottesville 1990 as amended to amend the critical slope regulations on the basis that the changes would serve the interest of public necessity, convenience, general welfare and good zoning practice and that this approval will incorporate the specific points identified this evening by Chairman Pearson and it is further recommended that Council considers establishment of a task force to consider sustainable site development initiatives of the City of Charlottesville and that staff continues to expand and illustrate of the critical slope implementation guidelines.

Mr. Osteen seconded the motion

Ms. Creasy called the question

Santoski Yes

Osteen Yes

Keller Yes

Rosensweig No

Keesecker No

Pearson Yes

Motion passed.

IV. REGULAR MEETING ITEMS

H. Lighting Waiver

A. Charlottesville High School

Ms. Walden gave the staff report.

Questions/ Comments from the Commission

- Why is all the lighting proposed for the site not indicated on the photometric plan?
- The Commissioner's feel there are a couple of areas where the lighting is too low such as at the building entrances.
- Are the lights in the Martin Luther King Center recessed?

- Was any exploration done of more aggressive dark sky type lighting? Not having the poles up in the sky but having them close to ground level?

Ms. Walden stated that they are not required to show the lighting differently on the site plans. No exploration has been done on more aggressive dark sky lighting.

John Merle, 1017 Midlothian Turnpike, Midlothian VA, the applicant, added that there are 16 recessed lights at the entrance to the Performing Arts Center that are not reflected on the plan. This project will be done in phases. The project will have lighting consistent with the levels at the CATEC site.

Questions from the Commission

- What would it take to increase the lighting in the area between poles 51 and 40?
- Does the applicant know about lighting that is being used in the Midwest, where the glare is taken away because the area is lighted from the bottom and not the top of a pole which creates illuminated walkways.

The applicant stated that the addition of another pole would be needed to increase the illumination between the poles. The applicant had heard some about this, but they are considering using the poles in the future for security cameras.

Comments from the Commission

- Commissioners are concerned about the walkway from the pedestrian bridge over to McIntire.
- Commissioners feel that it is already pretty dark in that area now and eliminating lights would not be safe.
- Is there less lighting proposed in those locations?
- Who is representing the school?
- Are we approving only a waiver and not the photometric?

There is some redistribution of the lighting. There is actually an increase in the lighting at the areas that the Commissioners are concerned about. The applicant stated he is here to represent the school along with Scott Hendrix.

Mr. Pearson called for a motion

Mr. Rosensweig said, I move to approve the waiver of section 34-1003A of the zoning ordinance that prohibits light poles over 12ft in residential zones and section 34-1003C, one that requires full cutoff luminaries for Charlottesville High School with the following conditions; the minimal luminal reading between power poles 40 and 51 be 1 on the basis that the alternative would satisfy the use of outdoor lighting regulations to an equivalent degree.

Mr. Santoski seconded the motion

All in favor

Motion passed

Adjourned at 9:57 pm