

MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION REGULAR DOCKET
TUESDAY, OCTOBER 9, 2001 -- 7:00 P.M.
CITY COUNCIL CHAMBERS

The regular meeting of the Planning Commission was held on this date with the following members present:

Mr. Herman Key, Chair
Ms. Nancy Damon, Vice Chair
Mr. Craig Barton
Mr. Eldon Wood
Mr. Kathy Johnson Harris
Mr. Kevin O'Halloran
Ms. Cheri Lewis

Staff Present:

Mr. Jim Tolbert, AICP, Director
Mr. Ron Higgins, AICP, Planning Manager
Ms. Lisa Kelley, Deputy City Attorney
Ms. Tarpley Vest, Neighborhood Planner
Mr. Gary O'Connell, City Manager
Mr. Satyendra Huja, Director, Strategic Planning

City Council Members Present:

Mr. Blake Caravati, Mayor
Mr. Maurice Cox
Mr. Kevin Lynch
Ms. Meredith Richards
Mr. David Toscano

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

Mr. Key called the meeting to order at 7:43 p.m. and asked if any members of the public would like to speak to matters not on the formal agenda. Hearing none, he invited discussion of the minutes of the September 18, 2001 meeting.

B. MINUTES

Ms. Damon recalled that she had responded to a comment by a member of the public reported in the paragraph on page 12 of the minutes beginning "A member of the public approached the Commission," but her response was not recorded. She thought the

minutes should reflect her response if the paragraph was included in the minutes, but wondered if it should be included at all since this had occurred after the public comment period. After a brief discussion, Ms. Damon moved to adopt the minutes striking the paragraph in question, seconded by Mr. O'Halloran. The motion passed unanimously.

C. JOINT PUBLIC HEARING

1. ZT--01-09-11: An ordinance to amend and reordain Section 34-567 (a)(2) of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) relating to protected properties by creating an "overlay" zoning restriction without affecting the underlying zoning district designation.

Noting that this proposal came to the Planning Commission as a recommendation from the Board of Architectural Review, Mr. Tolbert deferred to Ms. Tarpley Vest.

Ms. Vest reported that the proposal had been brought to the Board of Architectural Review by many different members of the community, as well as members of the Historic

Resources Task Force and the Albemarle County Historical Society. There was concern that although these were historically significant resources, they had no protection under the City's ordinance. Staff had conducted historical research on the cemeteries, the results of which were contained in the packet provided to the Commissioners. The Board had discussed the proposal over a two-month period and passed a resolution recommending designation of both cemeteries as local minor design control districts.

She noted that the designations would add two more local minor design control districts to the 97 individual properties currently so designated. As with other historic districts in the city, the designations would not affect the underlying zoning but would act as zoning overlays.

Mr. Key then invited members of the public who had signed up to speak on the matter to come forward.

Mr. Brian Menard of 522 Eighth Street Northeast, near Maplewood Cemetery, began by listing several of the people buried at Maplewood. He described those buried there as people from different areas, races and walks of life, but having in common their contributions to the fabric and history of the community. As resting places for the dead, green spaces for the living, and a record of the city's history, he continued, both cemeteries were worthy of collective remembrance and care. The neighbors had

exhibited their concern by watching over them, volunteering to inventory inscriptions, and tending to damages to markers and plantings. Confederate groups, the Masons, VMI, the African-American Genealogical Association, and other genealogical groups had an interest in those who were buried there. The issue, he suggested, was not whether the cemeteries were historic spaces, but whether the City would officially recognize their historic worth. He urged the City to honor the bond between generations and the agreements with people buried in the cemeteries, and signal that it took seriously its responsibility to preserve and care for the spaces by designating them as historic districts.

Ms. Martha Levering of 712 Grove Avenue said that she had been cataloguing and watching two spaces in Maplewood and had been saddened by damage to monuments that had occurred in the course of lawn care at the cemetery. She understood that the designation might bring better care for the cemetery and hoped the City would consider it.

Ms. Sue Weber of 601 Locust Avenue reported that 16 neighbors and three members of the Historical Society were conducting a full inventory of Maplewood. She thought that with the designation, the City would be saying to everyone that both cemeteries were significant and historic spaces and that this would help with work that needed to be done at the cemeteries.

Mr. John Wheeler of 505 Eighth Street thought there had been insensitivity to Maplewood's historic nature and said he would be in favor of anything that would push the City to care for the cemetery in the best way it could. He recalled that about ten years previously, when the City had planned to replace a fallen portion of the wall of the cemetery adjacent to his property with a chain-link fence, the plan had only been changed after lobbying by a neighbor who was also a member of the Board of Architectural Review. He also expressed concern about the fate of damaged stones removed from the cemetery. He suspected that these were eventually thrown away.

Mr. Key then asked if any other members of the public would like to address the matter. Hearing none, he invited questions and comments from members of the City Council.

Mr. Lynch said he was sympathetic to neighbors worried about the up-keep of the cemetery and agreed that there was less up-keep than there had been in the past. He noted that he fairly frequently walked through the one near his house, and that these were both nice old cemeteries in areas where there was little green space.

Mr. Cox was curious if a portion of vacant property between Oakwood Cemetery and Ridge Street was included in the area proposed for historic designation. Mr. Higgins explained that the parcel in question was owned by the City but was not part of the cemetery. He added that the Daughters of Zion Cemetery occupied the northern half of the Oakwood property.

In response to further questions from City Council, Ms. Vest explained that the Daughters of Zion property was owned by the City, but the Hebrew Cemetery was privately owned.

Mr. Caravati explained that the area Mr. Cox had referred to was a land-fill spoil site.

Ms. Richards commented that the cemeteries were an important part of history, particularly because of Southern society's history of segregating people not only when alive, but after they died. She expressed appreciation for the efforts of people in the neighborhood to protect the cemeteries. She thought the City had a responsibility to respond to this and to steward these historic resources in a more careful way than it had done before.

Ms. Damon asked how the designation would change the care of the cemetery, and Mr. Barton further questioned how it would help the City steward the resource. Mr. Tolbert responded that the designation would not provide funding. He said there would be potential to obtain funding for restoration, but not maintenance. The primary effects would be to increase awareness and put pressure on the City to better keep up with maintenance.

Ms. Damon asked who would take the lead in seeking funds for restoration. Mr. Tolbert deferred to Ms. Vest, who clarified that the City was eligible for certain historic preservation funds for properties designated as historic. The designation would make it possible to apply for restoration funds for these properties. She explained that the City could take the lead on that through Strategic Planning or Neighborhood Development Services.

Mr. Toscano wanted to know whether the designation would mean that issues such as fence replacement would come before the Board of Architectural Review. This was confirmed. He then asked if a family wanting to replace a fallen gravestone would also need to seek approval from the Board of Architectural Review, and Mr. Higgins replied that he did not believe the Board of Architectural Review would have to approve gravestones.

Mr. Toscano said it would be good to know whether or not gravestones would need to come before the Board of Architectural Review, because it raised interesting questions for people who have family members buried in the sites, particularly whether they should be notified of the proposed change in designation.

Ms. Vest said that in talking with Mr. Plocek, she understood that the City had assumed responsibility for maintenance of headstones in historic cemeteries, and that the City rather than the families would be responsible for restoring headstones.

Mr. Toscano asked if this meant a family could not come in and replace a headstone. General discussion followed, in which Mr. Higgins suggested that the City was responsible for maintaining what was in the cemeteries, but the families were responsible for replacing the headstones. However, he did not know whether or not they would need to seek Board of Architectural Review approval to do so, nor whether the same rule would apply for both cemeteries in question.

Ms. Damon asked if there were more spaces available at the cemeteries, and if there were design controls on future sites.

Mr. Higgins commented that as a public cemetery, the City could set guidelines. The designation of the cemeteries as minor rather than major architectural design control districts would allow flexibility.

Mr. Vest commented that Norfolk, Virginia was grappling with design guidelines for new headstones in an historic cemetery. She suggested that Charlottesville might look to other communities for guidance.

Mr. Cox commented that he had heard that Oakwood Cemetery was reaching its limit, but people were still being buried there and contemporary tombstones were being allowed. He stated he was concerned about the property

surrounding the cemetery. As the City had seen recently with the Region 10 headquarters, there were properties adjacent to the cemetery that were very visible from the cemetery, which could either be an addition or a detraction. In particular, he was concerned about the land zoned R-3, as any multi-family housing built there would have a negative impact on the cemetery. He suggested that they consider down-zoning the R-3 property, turning it into a park or folding it into the cemetery property itself so that it could not be built on at all.

Mr. Key commented that in what they were looking at tonight, that possibility was not being considered, although it was certainly something they could look at in the future.

General discussion followed, in which it was noted that the land to the east of the cemetery zoned M-1 was potentially even more problematical.

Mr. Lynch commented that although these were interesting questions, they did not change the issue of whether the properties should be designated.

Mr. Key asked if the Planning Commissioners had any questions.

Mr. Wood wondered why there was no document for the cemetery itself. He indicated that in his experience, when a cemetery is under perpetual care of some kind, there is usually a title giving rules and regulations for care and operation, including putting restrictions on the type and placement of headstones. Mr. Higgins said he believed there was such a document, but if not, one could certainly be established. Mr. Wood thought it could be done without complicated legislation.

Mr. Toscano asked whether the graves were owned by the City or if individuals had titles to them. Mr. Higgins responded that when people bought into a cemetery, they bought a piece of real estate. Mr. Toscano then pointed out that if there were design controls which affected peoples' property, there were notice questions involved. Notifying adjacent land owners did not solve the problem. Mr. Higgins, to much laughter, commented there had been no complaints from the occupants.

Mr. Key pointed out that valid questions had been raised but not answered.

Ms. Johnson Harris asked if there was a record of where people are buried. When Mr. Tolbert confirmed that this is usually the case, she asked if the duty of keeping track of that would fall to the City once the historic designation was in place. Without such a record, there would be no way of policing the individuals who have plots there.

Mr. Tolbert pointed out that the Parks and Recreation Division was responsible for maintaining the cemeteries, and in response to a question from Mr. Barton, indicated that this would not be affected by the historic designation.

Ms. Damon thought it was very important that the City designate the cemeteries as an overlay district, but she was uncertain whether they could do that when there were so many unanswered questions remaining.

Mr. Tolbert suggested that Staff had heard the City Council's questions, so if the Planning Commission wanted to go ahead and make a recommendation, Staff could provide the Council with answers before their next meeting.

Ms. Lewis asked for clarification of the questions needing to be answered, and Mr. Key responded that they concerned ownership, the application of design control standards to tombstones and the issue of notice.

Ms. Richards asked about notice requirements. She wondered what the City's responsibility was to the individual plot owners. Mr. Tolbert indicated that staff would do research and find out.

Ms. Lewis commented that interments were still occurring at both cemeteries. She felt that notice to living people who expect to be buried in one of these cemeteries, particularly with regard to what sort of accommodations could be made for them, was very important.

Mr. Barton commented that he had the impression, both from the report and the comments made during the meeting, that people felt it was important to grant historic status to these sites. Clearly, they were important cultural resources for the City, for a variety of reasons already articulated. He stated that Ms. Richards' comments about the cemetery and the African-American community were ones that were particularly poignant to him. He moved that the Planning Commission approve the Staff recommendation to confer historic designation, because it appeared that the historic designation fundamentally would not change what was going on in the cemeteries. He added that it may well be that there are issues of notice and ongoing interments that will need to be contended with, and noted that for those seeking their final repose at either cemetery, knowledge that the design control would keep the sites in some semblance of

order, might prove to be beneficial.

The motion was seconded by Ms. Johnson Harris.

Mr. Key called for further discussion. Ms. Lewis said she was very inclined to approve the motion, but was concerned about vested rights and notice to owners living in Charlottesville who expected to be buried there. While she agreed with Mr. Barton that the historic designation would be beneficial and viewed positively by the owners, some owners might prefer more modern designs than permitted by the guidelines. She suggested that this question be addressed before the matter came before City Council.

Mr. Key commented that that seemed reasonable and was a good point. Ms. Lewis continued that there was some question about whether there were any documents in the possession of the City or Parks and Recreation that governed how the headstones were created and if there were any limitations on what could be erected. She suggested that an investigation be undertaken to determine whether any stones removed by the City had been stored in City facilities.

Mr. Key then called for a vote. The motion passed unanimously.

2. ZM--01-09-12: An ordinance to amend and reordain the Zoning District Map incorporated in Section 35-15 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, by adding minor Architectural Design Control Districts.

Mr. Higgins noted that this dealt with the same subject matter, but Staff felt it would be helpful to have a separate motion dealing with the map amendment.

Ms. Damon moved to amend and reordain the zoning district map as recommended by Staff, seconded by Mr. Barton. The motion passed unanimously.

3. ZM--01-09-13: A petition to rezone from R-2 Residential and B-1 Business to R-2 and B-1 Planned Unit Development (PUD) the property on the north side of Madison Avenue behind the Red Cross building.

Mr. Higgins made a brief presentation. He indicated that the survey work that had been done to assemble the parcel that would be a part of the PUD – the vacant land behind the Red Cross at the corner of Madison Avenue and Rose Hill Drive, and the Red Cross property itself -- had revealed that it was slightly under three acres. Since the ordinance did not permit consideration of a PUD under three acres, staff had suggested that the applicant withdraw or defer the application, and that the City consider repealing the three-acre minimum to allow greater flexibility. This would most likely mean a public hearing on the ordinance amendment in November and taking it before City Council after that.

Mr. Barton inquired about the difference between withdrawing and deferring an application. Mr. Higgins explained that it was an applicant's choice either to withdraw an application, in which case they could not reapply for a year; or

to defer it, in which case the Commission would have 90 days to make a recommendation to Council. He added that in this instance, the applicant preferred the latter, so it would be helpful if the Commission voted on the deferral.

Ms. Johnson Harris moved to defer application ZM--01-09-13. Mr. Barton seconded the motion, and asked if the Commission should specify a time limit. Mr. Higgins replied that Staff would put the item back on the agenda when in was possible to do so, or report to the Commission if it was withdrawn.

Mr. Key then called for a vote. The motion to defer passed unanimously.

4. ZM-01-09-14: A petition to rezone from R-2 Residential and M-1 Industrial to R-2

Planned Unit Development (PUD) the property in Belmont known as the CSX property at the north end of Douglas Avenue and Lyman Street.

Mr. Higgins reminded the Commissioners, most of whom had followed the process for several years, that the land being considered for rezoning was formerly owned by CSX, and was part of the large development north of the railroad near the Lexis Publishing Company, the Cox Building, and the coal tower. Possible uses of the parcel in question had been discussed, and it had been agreed that the City would pursue residential use of the property. Originally zoned M-1 industrial, the property had been rezoned R-2 residential in 1991 in recognition of the City's interest in pursuing residential use of the site, with an area fronting Douglas Avenue remaining M-1.

On the most recent occasion, with the help of the neighborhood in developing an RFP for people to submit ideas for development of the property, spectacular and creative ideas had been generated. The one selected by City Council was the one before the Commission: A loft-style concept that took almost five acres and placed buildings and paving on less than 20 percent of the property, leaving three or more acres open, with small lots that disconnect.

Referring to two maps on the wall, he described the layout and history of the site. He explained that the most critical development would occur on the large piece of property in the middle. The developers planned two 21-unit loft- or warehouse-style buildings up against the railroad, with four more single-family attached units to be placed on a small parcel adjoining the property. On the eastern end of site, where it adjoined a parcel across Spruce Street, the developers planned three single-family houses, in keeping with the residential zoning there.

Concerning the parking, Mr. Higgins indicated that the entrance along the track would access 84 spaces. The development was set up as a planned unit development, with a proposed density of less than seven units an acre. He explained that two parcels on the western end of the property were zoned M-1, but the proposal was to make them residential as well. The parcel on the east side of Douglas Avenue would have an open space which would serve as a "front door" to the neighborhood, with a small picnic pavilion and an area for community gatherings. He explained that a total of 49 units were planned for the site, which they were proposing be zoned R-2 PUD.

Mr. Higgins then described the traffic and access situation. The location of the entrance would provide several routes of access to either Avon Street or Monticello Avenue. A private traffic engineering firm, Wilbur Smith and Associates, did a complete traffic analysis of the development, concentrating on the higher-density, 42-unit portion of the property, and determined that it would not affect the level of service of the Douglas-Monticello or the Avon-Graves intersections.

Mr. Higgins explained that some wooded area would be removed, but fairly significant areas would be retained, with the majority of the site remaining open and wooded. The actual footprint of hard surface was relatively small compared to the whole.

After indicating that the potential number of children at the site would not adversely impact the capacity of the local schools, he went over the price ranges for the units, commenting that they allowed for a nice mix of family types.

As the development concept was in harmony with the Comprehensive Plan and what had been proposed for the land for the past 10 years, and as it would not have an adverse impact on the surrounding neighborhoods if the conditions were met, Staff recommended approval of rezoning to R-2 PUD. Mr. Higgins pointed out that the project met the

guiding principles of the PUD ordinance, but Staff still recommended some conditions having to do with administrative approval of the site plan. Staff also asked that the developers do a subdivision plat for any separate lots that they would be creating as a result of the individual units, and that they provide a homeowner's document that would give assurance about maintenance of open space. He added that the developers had

indicated to Staff that, even though the City would retain the one acre, they would provide for maintenance of that land as if it were their own lawn, so that the City would not have to go over their PUD to maintain its little plat.

Mr. Key invited the applicant to come forward.

Mr. Huja commented that Mr. Higgins had already covered most of the items he had been planning to address, but he wanted to touch base on the City's role in relation to this project and how it related to their housing strategy. He pointed out that the City owned the property through CIDA. The Charlottesville Planning Commission, Housing Authority and City Council had adopted a housing strategy that called for redevelopment of these kinds of property for a more balanced housing approach. He commented that although the project was the result of a public-private partnership, he hoped that soon it would belong to the private sector and they would be able to take some "alimony" from them as a result of the development. He thought the project would be an asset to the neighborhood. He added that he wanted to thank the neighborhood also for their sincere effort in getting them this far, and he expressed hope that the project would be under construction soon.

Frank Stoner, speaking on behalf of Stonehaus Development and Belmont Commons, LLC introduced his partner Bruce Wardell of Wardell Associates, the architects for the project. He noted that since Mr. Higgins had covered so much already, Mr. Wardell would discuss the process of getting from the PUD-RFP submission and originally proposed design to the plan now being presented, and then he would step back in to discuss some other minor elements not previously addressed.

Mr. Wardell explained that their proposal was one of seven proposals given to the neighborhood, responding to requirements that the neighborhood and the City had established. He described the history of the development plans for the site, outlining the goals of the community, the layout of the site, the problems that had arisen and the changes in the plan up to the present proposal. Referring to a diagram that showed the configuration of the two main loft-unit structures connected by a lobby with an elevator, he explained that access to the parking area would be on the north side, along the tracks. He added that lack of multiple points of access to the parking area would increase security. The buildings had been moved as far to the north as possible to preserve the maximum amount of landscaped area to the south. Mr. Wardell indicated that the developer proposed to retain the wall of an old, ruined structure on the site and to plant a row of trees along the wall and the property line, making the area into a front lawn for the development.

He reported that a group was interested in building four units on the Lyman Street side of the site, theoretically oriented so that the units facing Douglas Avenue would reinforce the residential scale of the single-family houses there. The three sites on Spruce Street had been separated out of the PUD submission because they were single-family residential lots and could be started before the PUD project. Referring to a photo of the view of the site from Douglas Avenue, he then described plans for the facades of the units.

Mr. Stoner added that the duplex units planned for the corner of Lyman and Douglas were envisioned as either straight residential duplexes or possibly live-work units. People with businesses compatible with such spaces had expressed interest in them. He explained that the developers thought of this area as a transitional zone from the warehouses on Lyman St. adjacent to the property, to the warehouses housing the loft units. He asked that the Commission and Council allow the flexibility to make one or more of these townhouse/duplex units into live-work units.

Mr. Stoner stated that the second aspect of the PUD that required the Planning Commission's consideration concerned the end of Spruce Street, namely how improvements at the end of Lyman Street varied from what would be allowed by right. Under the current zoning ordinance, a lot needed to have 50 feet of frontage on a public street in order to be a legal lot. As Spruce Street stopped short of these three lots, the applicants were asking that as part of PUD, they not be required to run the road all the way to the railroad tracks, but just to the beginning of the last two lots, allowing the rest of the space to remain as a buffer or be conveyed to the lot owner. He stated that there was no

practical reason to extend the street, and people who had expressed interest in building houses there preferred that the street not go all the way to the end.

Lastly, he touched on the environmental issues, which he indicated had been integral to the process. Reports prepared for the City back in the early '90s indicated that some dumping had occurred on this site. A big concern of the developers had been whether these issues could be addressed satisfactorily. He reported that he had received a final version of the environmental site characterization report yesterday, as well as a remediation assessment and a tier-based risk assessment, and the consultant's conclusions had been that the property could be remediated cost-effectively under a combination of programs, including the state-administered Voluntary Remediation Program.

Mr. Key invited members of the public who had signed up to speak on the project to come forward.

Mr. Jimmy Dodd spoke on behalf of the Belmont Neighborhood Association as well as other people who had voiced their opinion. He pointed out that the process had been going on for a long time and the neighborhood association had dealt with various

people to get the development to where it was now. He acknowledged that it did have some environmental problems. He was concerned that, while it was currently within the price range the builder could afford and the banks could lend, if they kept

delaying the project, the cost would go up. After describing the efforts that had been made to come up with proposals for the site, he stated that Mr. Wardell had come up with what the neighborhood association considered the best plan. He said he was

here to tell the joint session of the Council and the Planning Commission that the neighborhood was ready for the work to start. Mr. Key expressed thanks to the Neighborhood Association for their work in bringing the project forward.

Mr. Leo Arico of 222 Douglas Avenue commented that there were several items that he thought deserved attention. He mentioned the old roadbed of Lyman St. and a parcel that belonged neither to the City nor CSX, which might or might not be used as access through the Optronics property to remediate the increased traffic from the development. He thought this was an important thing to consider. Concerning the property to be retained by the City but maintained by the Home-owners' Association, he wondered what would happen with this property or the railroad in future. In particular, he wondered what the City's position would be on the retained property

as something the City held title to but did not maintain. He then indicated that he had noticed there were currently people camping and living on the property, and wondered if this would be an ongoing problem.

Hearing no further comments from the public, Mr. Key opened the floor to discussion of the proposal.

Mr. Wood requested information on the property mentioned by Mr. Arico as belonging neither to the City nor CSX. Mr. Higgins explained that a few years ago, the City Council had vacated the Lyman Street right-of-way during their dealings with National

Optronics, which resulted in half reverting to the owners of the property under consideration this evening, and the other half supposedly reverting to the railroad. However, the railroad had not wanted the property, and that issue was still unresolved.

He confirmed that this property could serve as access to the National Optronics property.

Mr. Stoner asked if the City would resolve the issue and Mr. Higgins said that the City would try to as part of the final closing.

Mr. Wardell said that they did not own the property yet, so the City needed to get CSX to quit-claim the strip so it would revert back to the City and become part of the parcel that would be transferred when the sale was closed.

Responding to questions from Ms. Damon, Mr. Wardell added that Optronics wanted more parking space, and that the developers' ownership of the strip would open the possibility of trading parking space for Optronics for additional street access for the

development's residents. His understanding was that the ball was in the City's court to pursue the quit-claim.

Mr. Stoner commented that the reason it had not been brought to the Commission as part of this rezoning was that they didn't want the approval to be subject to something beyond their control.

Mr. Barton asked what type of use the developers predicted for the live-work units. Mr. Stoner and Mr. Wardell said that they had had interest expressed by an architect, a hairdresser, and a graphic artist.

Mr. Barton asked if the PUD documents would prescribe, describe, or restrict the use, as there was a difference between a hairdresser and a service industry such as graphic design or architecture. Mr. Stoner indicated that they were open to discussion on that point and said that there were probably uses that they would not want. The underlying zoning would allow a variety of possibilities. He indicated they wanted to allow as much flexibility as possible while still maintaining an appropriate use for a live-work environment. For example, he did not envision a retail- or manufacturing-type operation.

Ms. Damon sought and received clarification that they were asking for a change from M-1 to R-2. She noted that they could therefore look to what was prevented in R-2 zoning. Mr. Higgins pointed out that none of these commercial uses were permitted in

R-2; rather, the PUD allowed them. He added that typically, no more than five percent of a property was allowed to be non-residential, but in the case of live-work units, all units might be home occupations. Retail business with people coming and going would

not be allowed, but there was still a pretty wide range of things permissible in a home occupation, such as a hairdresser, barber, architect, lawyer, or some type of direct sales or mail order business.

Mr. Barton wanted to see this issue clarified, since the PUD does give the developer necessary flexibility. In particular, he would like to see specifics about how developers would interpret what kinds of occupations would be allowed there.

Mr. Caravati asked if the duplexes were fee-simple sales, and if so, why he would want to control them at all. Mr. Stoner responded that they had not proposed restrictions because they wanted as much flexibility as possible. The current zoning was M-1,

but he needed to be educated as to what the implications of an R-2 designation with a PUD might be. They had assumed that, within the PUD, they'd be allowed a lot of flexibility given that the underlying zoning was currently M-1; it sounded now

as if that was not the case.

Ms. Richards suggested that one approach to finding a mechanism for some restrictions would be restrictive covenants. Mr. Key asked if Ms. Kelley could shed some light on this question.

Ms. Kelley explained that the PUD ordinance allows for non-residential uses that are of a commercial character that are compatible with and secondary to the primary residential uses. The total area of commercial development in the PUD cannot exceed five percent of the gross area, and the ordinance's final provision, at section 34-328, says that commercial uses shall include only uses permitted in the B-2 business district. She concluded that the ordinance taken as a whole allows any commercial uses that are

permitted in the B-2 business district, as long as they are otherwise compatible with the residential uses that are the primary uses within that PUD.

Mr. Higgins stated that that was clearly not what had happened. Mr. Tolbert said he thought the intent of the ordinance was that one might build some sort of commercial use into a PUD that would support the residents; whereas, here, the proposal was more for a

kind of glorified home occupation. It could be more, but the feeling he was getting from the Commission was that that was probably all that was appropriate, given the fact that this was a residential development. He asked if they could put in a condition that any commercial use of the live-work units be restricted to home occupation use, as a further restriction on B-2.

Ms. Kelley responded that she did not think that should be part of the zoning, but would be more appropriately dealt with in the City's sale of property to the developers.

Ms. Damon asked if "home occupation" meant the home owner was the sole business person, and Mr. Tolbert and Ms. Kelley clarified that the home occupation restriction allowed for one employee. Ms. Kelley further stated that she did not think it would be

wise to put in such conditions at this time, as the developers were not that far into the process and their needs could change. She advised sticking with the general parameters in the ordinance and looking to see if there was a different way to impose restrictions on the use of the property down the road, perhaps by building that into whatever agreement existed between the developer and the City for the purchase of the property.

General discussion followed in which it was clarified that, with a PUD, the developers have to propose a commercial area at the outset, which was not the case in this instance. If no commercial use is requested, the developers are then limited to typical residential uses, including home occupations.

Following questions by Mr. O'Halloran concerning zoning, Ms. Kelley pointed out that what they were trying to sort out was whether a live-work unit was actually a commercial use underneath a residential use or whether it was all a person's home. She did not know if the Commission had dealt with this before, but she felt that a live-work unit sounded

more like a commercial use underneath a residential use than it did a home occupation. Further discussion followed concerning the proposed usage for the live-work units. Ms. Kelley stated that the Commission could essentially designate what commercial uses would be permitted for this development, but Mr. Key and others pointed out that

if the Planning Commission dealt with the application strictly on a residential basis, they would not have to describe the possible commercial uses. Ms. Kelley agreed, noting that the usage then would be limited to something that looked like a home occupation.

Mr. Barton stated that this was really a question for the applicant. If the units were limited to home occupation, that actually would impose limits on what kinds of live-work would be acceptable. If the applicants wanted to expand the permissible uses, they would need to come before the Commission and be more explicit about what kinds of things they would be considering.

After further discussion, Mr. Tolbert reminded the group that the applicants had asked for a residential PUD and nothing else; even if the Commission were to consider anything else, they would need to go through the notice process again.

Mr. Barton commented that since home occupations were allowable in a residential PUD, the only reason the applicants would have to come before the Commission again was if they wanted to expand their request to allow for different kinds of uses than one might

automatically consider in a home occupation. He noted that this project seemed to be the kind of mixed use that one would want to support; he would only ask that there be some greater specificity about how the developer would expand the idea of work or

occupation.

Mr. Stoner stated that the developers were unclear about what zone a live-work unit actually fell into, as well as about the implications of a PUD being, by default, an R-2 PUD. He said that their intent was to have the flexibility for a live-work unit, which,

in his mind, was residential use over commercial use, rather than there being no distinction between the residence and the office. He apologized and commented that they needed to articulate this better.

Mr. Cox agreed with Mr. Stoner's interpretation that live-work was not a home occupation. If someone wanted to open a cafe there and reside above it, that would be a legitimate use. He commented that the issue was whether the use was compatible with the neighborhood scale development, and in this instance, Belmont was fortunate in that it already had a mix of downtown, et cetera. He asked whether the applicants were asking for resolution of this issue at this meeting. He thought that these things might be on two separate tracks, and Mr. Stoner suggested that they could bring it back to the Commission. Mr. Cox thought it would be wise to look at the larger parcel, or certainly the eastern-most pieces that were ready for construction, while the other area was

still being formulated. Mr. Cox also felt that another issue that needed to be resolved regarding Lyman Street was the interface with Optronics. He had not seen a site plan yet that indicated it was possible to make the connection; it would be helpful to know whether the applicant would have to trade parking or something in order to allow for the

access. He stated that he would like to know whether the proposed entrance plan worked to the applicant's satisfaction, and expressed concern that if this issue was not resolved before a deed was written up, it would not happen at all. He stressed the importance of having the proposed outlet.

Mr. Wardell said that, even if they got the parcel, the access may not happen because they may not be able to come to an agreement with Optronics; therefore, that issue was subject to Optronics' decision as to what the costs and benefits of that arrangement would be.

Mr. Huja offered two comments. He observed that, as Mr. Tolbert had pointed out, home occupation was what was allowed under the present application. If the developers wanted to do more than that, they would have to apply for it in some fashion. Secondly, in response to Mr. Cox's question about whose responsibility it was to resolve the Optronics issue, he commented that that was really secondary to the PUD. According to the traffic report, although the access would be a nice thing to have for Optronics

and the residents, it was not required.

Mr. Caravati suggested withdrawing the Lyman-Douglas Street duplex property from consideration in this PUD, and allow the applicant opportunity to flesh it out more and return to the Commission to take it through the process in a relatively timely manner.

Mr. Huja reminded him of the acreage requirement, and general discussion followed. Mr. Cox observed that this was an issue he hoped would come back quickly to the Commission, because in a city of limited land resources, three acres for a PUD was far too much.

Mr. Tolbert stated that this would be on the November agenda, but waiting for the three-acre requirement to be changed would mean delaying action on the application until December. He suggested that the Commission could go ahead and approve the application as it was, as a residential development, and give the applicants the opportunity to resolve the access issue.

Noting that she had been very happy to see communities and neighborhood associations working on planning in the city and had been impressed with the way the Belmont community had worked together to resolve issues, Ms. Johnson Harris made a motion to

approve this project with administrative approval of the final revised site, A through K, and postpone looking at the other issue until a later date.

Mr. O'Halloran seconded the motion, and Mr. Key asked for further discussion.

Mr. Wood asked if the environmental study's findings would not prevent development of the single-family lots on Spruce Street. Mr. Stoner responded that there were no environmental issues on the Spruce Street lot.

Ms. Lewis expressed concern about the acre that was to be retained by the City but maintained by the applicants. She assumed that the larger parcel would be developed as condominiums, and stated that typically, under a condominium scheme, the common

grounds are owned by the Condominium Unit Owners Association. She was concerned about the expense of maintaining so much acreage, particularly if it was not owned by the condominium owners. She would like to see thought given to creating a city park there,

because she was concerned about the expense that these owners would bear in maintaining what would really be a beautiful common area but was a lot of acreage.

Mr. Wardell stated that the City had refused to have a park there, and Mr. Stoner noted that if it were, in fact, made into a public park, then there would need to be access, and the acreage was not located in an area that would be accessible to most of the community without going through the development. Mr. Wardell noted that the only reason the City was retaining this parcel was that, while they could get construction financing for the project, the purchasers of the units would not be able to get their mortgages underwritten because of the hazardous material that was buried there. If the hazardous materials weren't there, the Condominium Association would own and maintain the entire parcel as an open space for the development. He pointed out that the condominium owners would have to be informed of all of this, but the cost of maintenance had been built into the model.

After further discussion about ownership of the parcel, Mr. Wardell brought up the issue of who would be responsible if, 20 years from now, an effect were discovered of something buried in that piece of property. He indicated that the City would retain

that liability, not CSX. Mr. Stoner clarified that the developers did know what was buried on the property, and that the only contamination there was diesel fuel. He did not think there was a risk of any adverse health impact being discovered. The issue to him was if, at some point in the future, some federal law required the City to go in and dig the stuff out, the homeowners would not want to bear any of that responsibility. The VRP program would immunize the City from any State action in the future, but it would not fully immunize the City from any superseding federal action that might occur.

Mr. Cox asked if the environmental remediation involved altering the slopes so that pedestrians could go through. Mr. Wardell confirmed this.

Mr. Key asked if there was further discussion. Mr. Barton asked, with respect to Spruce Street where they proposed to terminate the street at the southern edge of the big parcel, how the developers proposed to run the utilities, sanitary and sewer, if they were to extend the two properties east and west to meet in the center. Mr. Stoner answered that the utility laterals would extend from the corner of those lots, so that the extensions would go to the end of the street, with the laterals coming off the end of the street to the two properties. There would have to be a turnaround of some sort, and the applicants had proposed a turnaround court there. Mr. Barton further asked if the applicants would

maintain the 22-foot width of the street, which Mr. Stoner confirmed.

Ms. Harris moved that the Planning Commission recommend to City Council approval of the rezoning of the 4.88 acres of land at the north end of Belmont at Douglas Avenue, Lyman Street and Spruce Streets, known as the

CSX/Belmont Commons, LLC property from R-2 and M-1 to R-2 Planned Unit Development (PUD) for the following reasons:

1. The proposed development concept and density is in harmony with the Comprehensive Plan and Land Use Plan in that it proposes residential units for sale at a gross density less than our R-2 zoning density.
2. It will not have a significant adverse impact on the surrounding neighborhoods if conditions are met.
3. This PUD addresses the following objectives of the City Code:
 1. Flexibility in design to take the greatest advantage of natural land, trees, historical and other features.
 2. Accumulation of larger areas of open space or recreation, preservation of natural amenities, and provision of community facilities.
 3. Clustering of residential units for better use of land and open space, as long as the resultant density does not exceed the allowed density in the existing district.
 4. Allowance of sufficient freedom or the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the City.
 5. Efficient use of land which may result in reduction and maintenance costs of street and utility systems.

This approval is conditioned upon the following:

1. Administrative approval of the final revised site plan with the following items addressed:
 1. All items required on the site plan in accordance with the City Code;
 2. Final utility plans with sizes, materials, meters and appropriate separations;
 3. Final plans for grading, soil erosion control and stormwater management;
 4. Final environmental reports on site characteristics and mitigation;
 5. Final architectural drawings and details for lighting and other features;
 6. Screening for the dumpster area;
 7. Profiles for all utilities;
 8. Calculations for all storm water runoff and detention;
 9. Final design details for all roads, driveways and parking.
 10. Provision of a minimum aisle width, serving 90° parking of 24', and;
 11. Indication of bicycle storage areas.
1. Submittal of appropriate subdivision plats for the detached houses to be developed at Spruce Street and the attached units to be developed at Lyman Street.
2. Provision of homeowner's documents to assure maintenance of common open space and adjacent open space to the east.

Mr. O'Halloran seconded the motion. The motion passed with the following recorded vote: AYES: Lewis, O'Halloran, Harris, Damon, Barton, Wood, Key. NOES: None.

Mr. Tolbert notified the Commission that the Virginia Citizens Planning Association had presented an award to the City for the conduct of the Community Citizens Participation Program in the planning process of the Comprehensive Plan. Applause followed this announcement, and to much laughter, Ms. Johnson Harris asked whether this would be a good time to ask for raises.

Mr. Key called the meeting back to order and called for consideration of the next item.

5. LIST OF SUBDIVISIONS AND SITE PLANS APPROVED ADMINISTRATIVELY

Ms. Damon made a motion to approve the list of subdivisions and site plans approved administratively. Mr. O'Halloran seconded the motion, which was unanimously approved.

LIST OF SUBDIVISIONS APPROVED ADMINISTRATIVELY

9/1/01 TO 10/1/01

1. Revised Lot 10A "Woods Addition" No new lots

1115 Little High Street, TM 54-106 Virginia Housing Land Trust

File No. 1246-A Preliminary & Final

Final Signed: 9/10/01

2. Lots 5A, 6A & 7A, Redivision One new s. f. lot

North end of Hill Street & Center Street Ralph Cason

File No. 1255 Preliminary & Final

Final Signed: 9/10/01

3. Redivision of TM 56-75 & 76, Lots A, B, C No new lots

1411-1415 Vine Street Ralph Cason

File No. 1258 Preliminary & Final

Final Signed: 9/10/01

LIST OF SITE PLANS APPROVED ADMINISTRATIVELY

9/1/01 TO 10/1/01

1. File No. 929-A Virginia Institute for Autism 1414-1416 Westwood Road

Alternations to old School Site

F. COMMISSIONERS' REPORTS

o Mr. Wood reported that he had attended his MPO Technical Committee meetings and had also sat in on the last MPO Policy Committee meeting, but he had nothing to report.

o Mr. Barton had nothing to report.

o Ms. Damon reported that the Thomas Jefferson Planning District was in the process of hiring a new executive director, which had been the main focus for the last several meetings. She stated that they had narrowed the list down to six nominees on the "A

list" and eight on an alternate list and that she would keep the Commission posted on the progress of the interviewing.

o Ms. Johnson Harris reported that the school CIP meeting had been postponed, and the next one would be in November.

G. CHAIR'S REPORT

o Mr. Key reported that he had had a meeting with the McIntire Park Steering Committee, and they had looked at incorporating the different phases that had

been discussed. He stated that they would be having a meeting to develop guiding principles, and as they proceeded through this process, he would keep the

Commission up to date.

H. DEPARTMENT/STAFF REPORT

Mr. Tolbert reminded the Commission that October 18th was the Zoning Ordinance Kickoff and that there were still a few spots to be filled on the committee by the Commissioners. Passing out copies of the notice sent to current committee members, he noted that the meeting was to be held at Jefferson School from 6 to 9 p.m., that copies of the agenda were attached, and that some sort of food would be provided. He briefly went over the agenda for the meeting. He then announced that the Commission's annual meeting/work session had been set for Tuesday, October 23rd from 4:00 to 7:00 and that there would be food provided then as well. The annual awards date was yet to be finalized.

Just for the general information of the Commissioners, Mr. Tolbert informed them that the County was meeting at that moment on the Sperry Project, and he briefly described the progress on the development proposed there. In relation to another area of county development, namely the area off of Fontaine, he and others concerned had made a suggestion at the MPO meeting and to their bosses that this be something that is studied through the PACC Tech and the respective Planning Commissions, rather than be given to the MPO. He stated that they probably needed to look at the Fontaine Area B study

that had been done 8, 10, or 12 years ago and consider updating it. He believed that one of the developments was by right and could not be prevented, but any developments requiring land use changes would be examined carefully by the County in conjunction

with the City and the University and alternative approaches for them sought. General discussion followed concerning one of the proposed developments.

Mr. Key asked why the Commission could not attend Board of Visitors meetings and provide input on some of these matters, and Mr. Tolbert informed him that Mr. Caravati was doing this on a regular basis with the leadership of the university. However, he did

not feel Mr. Caravati was making any progress. Mr. Key noted that these were his personal feelings and he did not know what other the Commissioners felt, but he suggested that this was something that could be discussed at the meeting on the 23rd. General discussion followed.

Ms. Johnson Harris announced that Blue Ridge House would be having an open house on Friday, October 12. She expressed satisfaction that they had worked with

the community and the Ridge Street Neighborhood Association. General discussion followed concerning landscaping proposed there.

Mr. Barton moved to hold a Joint Public Hearing at the next regular meeting of the Planning Commission on the second Tuesday of November. The motion was seconded by Ms. Damon, and the motion passed unanimously.

Whereupon, the meeting concluded at 10:00 p.m.

Respectfully Submitted:

James E. Tolbert, AICP

Secretary

APPROVED:

Herman Key, Chair