

**DRAFT MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, AUGUST 12, 2003 -- 6:30 P.M.
CITY COUNCIL CHAMBERS**

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

Mr. Kevin O'Halloran, Chair
Mr. Jon Fink
Ms. Karen Firehock
Ms. Kathy Johnson Harris
Ms. Cheri Lewis
Mr. Eldon Wood

ABSENT:

Mr. Craig Barton, Vice-chair

STAFF PRESENT:

Mr. Jim Tolbert, AICP, Director
Ms. Lisa R. Kelley, Deputy City Attorney
Ms. Claudette Grant, Neighborhood Planner
Ms. Mary Joy Scala, Neighborhood Planner
Ms. Mary Hughes, UVA, Office of the Architect

I. REGULAR MEETING

Mr. O'Halloran called the meeting to order at 6:26 p.m.

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

Mr. O'Halloran called for matters not on the agenda. There were none.

B. MINUTES

Mr. O'Halloran called for approval or changes for the July minutes.

Mr. O'Halloran noted that Ken Kipps had been listed as Ken Kepps.

Ms. Firehock asked that the fourth paragraph on page 6 that said, "He stated the applicant had not been notified," be changed to reflect that he had said he did not know whether or not the applicant had been notified.

Ms. Firehock also brought up page 8, the third paragraph which states "Ms. Firehock asked if there were a sidewalk on Park Street," she clarified that she wasn't talking about Park Street, she was talking about the driveway entrance to Park Street. She suggested it read, "Ms. Firehock asked if there was a sidewalk along the drive entrance to Park Street." Ms. Lewis asked if Ms. Firehock would say "the entrance to the subdivision off Park Street." Ms. Firehock concurred with Ms. Lewis' suggestion.

Ms. Lewis, referencing the third paragraph on page 7, said that she had stated that she wasn't sure what the standard of review was here, for her the criteria in the Code on historic properties was her guide for making the decision and the way that she felt the vote would go. She did state, just as a matter of observation, that most of the

properties on the Downtown Mall are newer than Riverdale. She stated she did point out that there was some ambiguity as far as the guidance on the standard of review, but that she felt that what they needed to look at was the underlying criteria that the Board of Architectural Review had looked at. She also stated that her final statement,

which was not reflected in the notes was that if she had to vote at that meeting whether to bring the property in as a historic property on a protected list, she would vote again to do that.

Ms. Lewis made a motion to approve the minutes with revisions noted. Mr. Wood seconded the motion, which carried unanimously.

Mr. O'Halloran welcomed Jon Fink to the Planning Commission. Mr. Fink is filling out the unexpired term of Bruce Appleyard. Mr. Fink has been an active member of the Woolen Mills Neighborhood Association. Mr. O'Halloran also recognized Mary Hughes who would be representing the University of Virginia's Architect's Office. Mr. O'Halloran also explained that there would be no joint public hearings since it had not been possible to have a quorum of City Councilors present; those items listed as public hearings will need to go before Council at a later date.

C. LIST OF SITE PLANS APPROVED ADMINISTRATIVELY

Ms. Lewis made a motion to approve the site plans approved administratively July 1st through August 1st. Ms. Firehock seconded the motion, which carried unanimously.

LIST OF SITE PLANS APPROVED ADMINISTRATIVELY

7/1/03 to 8/1/03

1. File No. Melbourne Park NW Corner of Melbourne

T-03-000006 Condominiums – 52 Units Road & Park Street

D. SITE PLANS

1. John Street PUD (Six unit Planned Unit Development)

East end of John Street

Lots 5, 6, 7, and 8

File # T-03-000009 (Considered with ZM--03-07-06, below)

Mr. O'Halloran stated the applicant had removed this application for now so there would be no staff presentation or public hearing.

2. Preston Court Townhouses (Seven units)

Preston Place

File Number 1283

Status Report on Final Site Plan, Approved May 8, 2001 (No Action Needed)

Ms. Scala gave the staff report. The site plan was being submitted for informational purposes only. The site plan was approved May 8, 2001 subject to conditions as set out in the staff report and adding one condition that staff ensures that the issue of driveway was investigated and compliance with requirements confirmed. Staff has reviewed a number of submissions -- including the final subdivision plat, the erosion and sediment control plan, and necessary bonds -- that were turned in, in order for the developer to move forward with the site plan. The plan was revised to show joint driveways that are permitted under Section 34-722(5) of the Zoning Ordinance.

Mr. O'Halloran stated a letter had been received very late in the day from the Venable Neighborhood Preservation, LLC, which all of the Commissioners may not have been able to review. He suggested the Commissioners take a moment and read that before continuing.

Mr. Wood asked if Staff had an opinion as to the applicability of the points raised in the letter. Mr. O'Halloran clarified that the questions regard right-of-way and required pavement. Ms. Scala stated that the letter states it appears to violate 65(b)(1) which says "If such subdivision fronts on a street with a requirement for additional front yard set backs, the applicant shall dedicate an additional right-of-way according to the standards in 29-62(a). Ms. Scala spoke to the City Engineer about these points; he

said they do not require additional pavement since it was not a newly created street. Ms. Scala further stated an earlier site plan showed a 40-foot wide right-of-way with 18-foot wide pavement. Mr. Tolbert stated the ordinance had been changed so only 18 feet were required for single-family residential serving a small amount of residential traffic.

Ms. Lewis asked if the plan was the exact plan, which had been previously approved. Mr. Tolbert stated it was not, there were some minor deviations, which were improvements for safety reasons. Mr. Tolbert explained that the plans were ready for

administrative approval but they would be signed since it had been brought back to the CPC to be seen.

Since there was no need for action by the Charlottesville Planning Commission, Mr. O'Halloran thanked Ms. Scala for having brought it before the Commission to see what had been done.

E. COMMISSIONERS' REPORTS

Ms. Firehock had no report to give since the Parks committee had not met due to a lack of quorum.

Ms. Johnson Harris stated the CIP committee had not met since July 2nd but the Jackson Via renovations are going on.

Mr. Wood had no report since there had been no quorum for the McIntire Park committee.

Mr. O'Halloran recognized that Mr. Fink did not yet have a committee to attend.

Ms. Lewis stated the Board of Architectural Review continues to be busy. She had missed the PACC Tech meeting. She stated she was looking forward to the mass transit meetings scheduled for October.

Mr. O'Halloran asked that Ms. Hughes tell a little about what was going on at UVa. Ms. Hughes stated the pedestrian bridge was being built over Emmet Street.

F. CHAIR'S REPORT

Mr. O'Halloran stated the Planning District Commission had not met since the last Charlottesville Planning Commission meeting. He stated the need for a joint meeting with City Council had not been forgotten. He stated he had met with the Chairman for the Albemarle Planning Commission; they would like to have another joint meeting.

Ms. Firehock asked about the status of drafting a letter regarding the transportation meeting with the Planning Commission. Mr. O'Halloran explained that nothing had happened given the ins and outs of City/County politics.

Mr. Tolbert stated he had been asked if the Charlottesville Planning Commission would be agreeable to meeting with the APC before the September meeting at 4 o'clock to talk about the Fifth Avenue Extended development.

II. JOINT PUBLIC HEARINGS

Mr. O'Halloran again explained the public hearings would not be joint public hearings since a quorum of City Councilors would not be able to be present. City Council would hold their own hearing at a later date.

G. JOINT PUBLIC HEARINGS

1. ZM--03-07-06: A petition to rezone from R-2 Residential to R-2 Planned Unit Development (PUD), the four lots on the north side of John Street at its east end. The R-2 zoning allows single or two-family dwellings at 7-12 units/acre. The PUD designation would allow for six townhouse units in two groups of three and at a density of 13.7 units per acre. These properties are further identified on City Real Property Tax Map #4 as parcels 277.1 E-H, having 196 feet of frontage on John Street and containing approximately 19,304 square feet of land or .44 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are single-family residential at 3-7 units per acre.

Mr. O'Halloran stated the applicant had removed this application from the agenda.

2. Closing a portion of an alley off Elliewood Avenue: A petition to close a portion of the 10 foot alley a distance of approximately 120 feet running off of Elliewood Avenue between number 12 and number 17 Elliewood and the CSX Railway.

Ms. Scala gave the staff report. The applicant, Art Conroy, is requesting closing of a 12 foot alley that runs between lots number 9 and 10 and behind lot number 9 on Elliewood Avenue. The alley was created with a subdivision plat prior to 1920 as a private access to serve lots 5, 6, 7, 8, 9, and 10. Reading the deed, it looks as if the consent of all property owners on the alley would be necessary prior to closing the alley. Letters had been received from two of the property owners who opposed closing the alley. Staff recommended the application be either denied or deferred until the following conditions had been met: The applicant should obtain written consent of all the owners of the lots who have a right to use the alley; and, two, confirmation that the City does not require that utility easements be retained.

Ms. Lewis asked if the Tax Map showed the alley or the lots extending back to the railway right-of-way. Ms. Scala believed it showed the alley. Mr. Fink noted that one of the properties had a fence running down to the railway right-of-way and that another property has a deck built out over the alley. Mr. Tolbert stated it was a private alley and up to the owners to enforce keeping the alleyway open.

Mr. O'Halloran recognized the applicant's attorney, Mr. William Lee Anderson, Esquire. Mr. Anderson stated that all of the other owners have blocked their alleyways. The section the applicant seeks to close has potholes and is only wide enough for one truck to go straight down with no place to turn around at the end. The City, which owns the

alley, has not put a drainage management system in the alley. The owner, Mr. Conroy, cannot get insurance on the alleyway because there are no barriers, no safety cautions or anything else. Mr. Anderson explained that Mr. Conroy wanted to close the alley to further develop the area.

Mr. O'Halloran called for questions for the applicant or Ms. Scala.

Ms. Lewis asked if the alley had never been dedicated to public use. Ms. Kelly stated it was clear from the land records that the alley was intended for private use serving specific lots.

Mr. O'Halloran asked that Ms. Kelly speak to the question of ownership. Ms. Kelly stated her understanding that, in the context of a private alley, it was similar to when the City has an easement but not actual title to the underlying property; although adjacent property owners may have title to the underlying property, that is subject to an easement of right-of-way in favor of each of the adjoining property owners for whose benefit the alley was intended. Ms. Kelly sought Ms. Lewis' understanding of the matter as well. Ms. Lewis characterized it as each of the lot owners probably has a vested title interest in the part of the alleyway that abuts their property but it is subject to the general right of access and general use. Ms. Kelly added that the City does not have title to that nor is there any evidence of a recorded easement of right-of-way versus an easement for a utility.

Mr. Tolbert stated that there are a lot of issues that have been raised regarding this particular application. Staff would like to ask that it be deferred so that the issues between utilities and between the adjacent property owners could be worked out.

Mr. Fink asked if it were typical Charlottesville Planning Commission policy to gain consent from adjacent landowners. Mr. O'Halloran stated he was referring to the policy on closing streets and alleys, item 3, which says "Consideration will be given on whether all adjoining property owner support closure."

Mr. O'Halloran opened the public hearing on the matter.

Mr. Art Conroy, the applicant, stated he had a contract to purchase the adjacent property. He reiterated that the alley is effectively closed behind all the other properties. He stated his job was to redevelop the land so it produces more tax revenue for the City. He wants to close the alley so the two parcels can be replatted and joined into a single parcel.

Ms. Firehock sought clarification as to why the applicant was coming before the Charlottesville Planning Commission at this time before he owned both parcels. Mr. Conroy said the decision to close the alley would add or detract from the value. He further stated that neither property was insurable at this point; waiting to own both properties and being denied would not make it worth purchasing the second property. Ms. Firehock asked if an insurer has told him he would not be insured. Mr. Conroy concurred.

Mr. Tolbert stated staff would not be opposed to closing the alley if utility issues can be resolved.

Mr. O'Halloran closed the public hearing and called for comments from the Commissioners.

Ms. Firehock stated it seemed that closing that part would not landlock the other owners. However, she did take seriously staff's recommendations to find out about the utilities.

Mr. Wood made a motion to defer the matter for one month and have the answers to the various and sundry questions. Ms. Firehock seconded the motion. Ms. Lewis stated she would like to see the alley properly closed for the City to get some tax revenue from it, but that would require staff to contact the remaining owners in the block. She further stated that for safety reasons she found it compelling that it should be closed.

Mr. Tolbert called the question. The motion carried unanimously.

3. Closing of a portion of Old Oak Street right-of-way: A petition to close the portion of the 20 foot Oak Street right-of-way running approximately 100 feet west of 6 1/2 Street, SW.

Ms. Grant gave the staff report. The alley is approximately 2000 square feet. The applicant is Joe Mallory. The petition has been filed by the adjoining property owner to file for this right-of-way to extend the property lines of all adjacent properties to the center of the closed right-of-way. City land records do not clearly indicate whether the street or alley was created for public or private use. There is an existing storm sewer line in the proposed area. There will be no additional development rights for any adjacent landowner, nor will any parcel be landlocked. Staff recommends approval of the application with the reservation of the storm sewer utility easement and any pending further research into the title.

Ms. Firehock asked if the need for further research meant the Charlottesville Planning Commission should defer the application. Ms. Kelly stated the City Attorney's Office had advised staff to treat it as a public alley because it is clearly a place created by an old subdivision plat, which allows an easement. Closing the street establishes title and clears title for adjacent property owners.

Mr. O'Halloran clarified that there are two property owners, both of whom want the alley closed. Ms. Lewis asked if the Charlottesville Planning Commission could know who the other property owner was. Ms. Grant informed the Commission that Mr. Leon White was the other property owner.

Mr. O'Halloran opened the public hearing.

Ms. Cynthia White, of 319 6 1/2 Street, Southwest, explained the alley was very little; she doubted a car could go down it. She was in favor of closing the alley.

With no other members of the public wishing to speak to the matter, Mr. O'Halloran closed the public hearing and called for comments from the Commissioners.

Ms. Hughes stated there seemed to be no reason not to grant the request.

Mr. Wood made a motion to grant the request to vacate the end of Oak Street as requested and that, in the usual manner, that the City deeds the property to each of the two adjacent owners and that they not assess any value. Ms. Lewis seconded the motion.

Ms. Kelly asked if anyone would consider suggesting a friendly amendment to preserve the storm drainage easement. Ms. Lewis offered a friendly amendment to Mr. Woods' motion that there should be a grant or reservation to the City for the storm sewer line easement. Ms. Johnson Harris seconded the amended motion.

Mr. Tolbert called the question. The motion carried unanimously. Mr. Tolbert reminded the applicant that City Council would also be having a public hearing over this application since City Councilors were not present at the Charlottesville Planning Commission meeting.

4. Closing of an alley between Montpelier Street and Piedmont Avenue: A petition to close the 15 foot alley right-of-way running a distance of 150 feet between Montpelier Street and Piedmont Avenue.

Ms. Scala gave the staff report. Dale Ludwig is the applicant and is requesting closing an unbuilt 15-foot alley. The alley would serve the rear of three parcels on Fontaine Avenue. This is a private alley and only the adjacent property owners have used the area. The City Attorney's Office has examined the City's land records and has indicated the alley was intended for private use. There are no gas lines or storm drainage; other utilities still need to be confirmed. The applicant owns the corner parcel and wants to combine that with the center parcel and cut off the rear of the two parcels forming a third lot. It would result in an additional development

right. Staff originally considered recommending approval with a reservation of utility easements to be determined but there have been several phone calls from the public since the staff report was written. Concerns had been expressed by neighbors about the alley being reserved for electrical lines. Concern had also been expressed by the current owner of the center lot, Mr. Jeff Sprouse.

Mr. Fink sought clarification as to why staff had recommended closing. Ms. Scala explained that when the report was written there had been no public input against closing. Ms. Scala suggested, based on input received, deferral of the matter.

Mr. O'Halloran opened the public hearing.

Ms. Monica Viera, of 2316 Fontaine Avenue, spoke in opposition of the proposal and read a prepared statement asking that the alley not be closed for the future development of a duplex.

Mr. Kevin Kotlarski, also of 2316 Fontaine Avenue, spoke in opposition of the proposal. He read a prepared statement stating that the proposed use for the alley was not in conjunction with the Comprehensive Plan goals of a desire to increase owner occupancy throughout the City, and to preserve the neighborhoods.

With no other members of the public wishing to speak to the issue, Mr. O'Halloran closed the public hearing and called for comments from the Commissioners.

Mr. O'Halloran reminded the Commissioners that there had been some sentiment towards deferral until more information was received from the adjacent property owners. He asked if that were still the will of the Commission.

Mr. Fink expressed his feeling that until more clear information was received about ownership or future ownership of parcels by the applicant there was no reason to defer; he would be in favor of denying it.

Ms. Lewis asked what Mr. Sprouse's comments had been. Ms. Scala stated he had not been in favor of closing the alley.

Mr. Wood, referencing item 6 in the list of policy statements and with the plans that are underway for the work on Fontaine, felt that the last speaker made a good point that they did not know what the needs would be for that community once the street widening changes and takes place.

Ms. Lewis made a motion that the application be denied. Mr. Fink seconded the motion. Mr. Tolbert called the question; the motion carried unanimously. Mr. O'Halloran reiterated that Council would need to vote on the matter as well.

H. DEPARTMENT/STAFF REPORT

1. Capital Improvement Program

Mr. Tolbert explained that, three years ago, it seemed a great idea to give the neighborhoods money to do improvements within their neighborhoods. The Commissioners' packets had a status report on the projects. He stated that it had become apparent that it was difficult for staff to manage not only 18 projects, but 30 to 40 projects since some neighborhoods have more than one project. He also explained that Council, to create the necessary fund, had allocated monies from other sources. In order to alleviate citywide needs, a three-year cycle was proposed in which, for two years neighborhood projects would be done and in the third year, citywide projects would be done. He stated that to make this happen, it was necessary to determine how to use the \$800,000 available for this year. Council had asked that staff present the Charlottesville Planning Commission with a recommendation for use of the fund. Mr. Tolbert presented the Charlottesville Planning Commission with a plan for spending the CIP money for 2004 including drainage projects, sidewalk repairs, traffic signals, bike route markings and annual bridge inspections. The proposed budget also contained a contingency fund.

Ms. Hughes sought clarification regarding traffic signal synchronization. Mr. Tolbert explained that the Intelligent Transportation System is the most important thing that could be done for traffic improvement. He further explained that ITS is a computer system which controls all traffic signals that are tied into it; the University will be contributing towards the computer system. Installation of 10 ITS signals are proposed in conjunction with the University parking garage and in 16 other locations in the City.

2. Public Park Protection Overlay District (Referred by City Council)

Mr. Tolbert explained that Ms. Firehock had raised an important issue with City Council in that four parks, Bailey, Starr Hill, Rothwell, and Jackson, were not listed because they did not show up on the list of parks in the City Code. Council was asking that the CPC look at the enforcement language in the zoning ordinance. The proposed change to the enforcement language was that the four parks be added into the list and that the language in Section 34-328 be changed to "No property within the PPPO District shall be sold except by an ordinance passed by recorded affirmative vote of three-quarters of all the members elected to City Council following a public hearing on the proposed sale; nothing herein shall prohibit the use of property within the PPPO District, public parking, utilities, improvements for storm water management, streets, roads, or any other public improvements as may be authorized by City Council."

Ms. Firehock made a motion to approve the language as submitted. Mr. Wood seconded the motion. The motion carried unanimously.

3. Stream Protection Committee

Mr. Tolbert stated he, Ms. Scala, Ms. Firehock, and Roe Elam had met to come up with the proposal. He then asked Ms. Firehock to explain the proposal.

Ms. Firehock stated that the memo drafted with staff was clear-cut. She reminded everyone that this arose in response to concerns brought to the Planning Commission by residents who were concerned about environmental protection in the new ordinance. She further stated this arose in response to some proposed developments that entailed streams and steep slopes. She also said that according to the state, Charlottesville needs to come up with a storm water ordinance. The Charlottesville Planning Commission had been given a draft list of proposed committee members.

Ms. Hughes felt the advisory committee was a great, although long overdue, idea.

Mr. Tolbert stated staff would suggest, if the Planning Commission would like, that Ms. Firehock chair the advisory committee.

Ms. Lewis expressed concern about the make up of the recommended participants. She asked that three builders/developers be included rather than two; she was suggesting fair representation in light of the proposal of six environmentalists/city park experts.

Ms. Firehock made a motion to approve the scope of work in process as presented with the suggestion that they also seek out more developer representation, specifically Blue Ridge Home Builders or some other such person who would represent the same constituency group. Ms. Lewis seconded the motion. The motion carried unanimously.

4. MPO Tech Committee - Planning Commission Representative

Mr. Tolbert explained the committee, per its bylaws, needed a Charlottesville Planning Commission representative. The committee meets at 10:30 a.m. the fourth Tuesday of every month at the Planning District Commission office. Meetings usually last until noon. The committee consists of 10 to 12 people. Mr. Fink said he would be happy to serve as the Charlottesville Planning Commission representative.

Mr. O'Halloran brought forth two matters not on the agenda. Two members were needed for the Historic District Committee as well as two members for the Corridor Design Standards Committee.

Mr. Tolbert explained that proposals had been received for the two studies that needed to be done -- updating the design criteria for the historic district and entrance corridor districts; the other is to study new areas for inclusion as historic districts. He further stated they would like to have two members of the Charlottesville Planning Commission on each and two members of the Board of Architectural Review on each. He asked that they appoint three citizens on the committees.

Mr. O'Halloran nominated Mr. Barton to serve on the Design Standards Committee. Ms. Lewis concurred. Mr. O'Halloran also suggested that the Charlottesville Planning Commission representative to the Board of Architectural Review, Ms. Lewis, should be on the Historic Districts Committee. Ms. Lewis stated she would be happy to serve on that committee. Ms. Firehock expressed an interest in serving on the Historic Districts Committee. Mr. Wood volunteered to serve on the Design Standards Committee.

Mr. Tolbert stated they would be meeting with property owners in the Rugby Corner area on August 13th for a discussion of the implications of what a local designation would mean to them.

Mr. O'Halloran asked if there were any further business.

Ms. Johnson Harris stated she had not been present when the Planning Commission corrections; she asked that her pager number be deleted as she no longer had that. Mr. Wood stated that he no longer had an office and asked that the office number and fax number for him be removed as well.

Ms. Lewis recognized that she was halfway through her term on the Charlottesville Planning Commission and stated that it had been a great experience for her.

Ms. Lewis stated that she was very uncomfortable about the Preston Court Townhouse application. She asked for a copy of the May 2001 meeting minutes. She added that if anyone requested that it come back to the Planning Commission that it wasn't just for advice and no action. She feared that they were probably being asked to approve conditions. She felt very awkward about that and regretted that the Charlottesville Planning Commission could not take some sort of action or even have a public hearing and let the public air their views even if the Commission could not take action. She further stated there was obvious public interest in the matter.

Ms. Firehock concurred with Ms. Lewis. She also stated she didn't have a copy of the past site plan so there was no way to review whether there were changes. She stated it would be good to have all the material for review.

Mr. Tolbert stated he would be happy to answer their comments off the record. Ms. Lewis stated she had wanted her comments on the record, but had not felt it was appropriate to bring it up at that time in the meeting.

Ms. Lewis made a motion to adjourn the meeting until the September 9th Joint Public Hearing. Ms. Firehock seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 8:42 p.m.

Respectfully Submitted,

James E. Tolbert, AICP
Secretary
APPROVED:

Kevin O'Halloran, Chair