

**DRAFT MINUTES  
CITY OF CHARLOTTESVILLE  
PLANNING COMMISSION  
TUESDAY, NOVEMBER 9, 2004 -- 6:30 P.M.  
CITY COUNCIL CHAMBERS**

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

Ms. Cheri Lewis, Chair Staff Present:

Mr. Kevin O'Halloran, Vice Chair Mr. Jim Tolbert, AICP, Director, NDS

Mr. Craig Barton Mr. Ron Higgins, AICP, Planning Manager

Mr. Jon Fink Mr. Dan Clark, Assist. City Engineer

Ms. Karen Firehock Ms. Ashley Cooper, Neighborhood Planner

Ms. Kathy Johnson Harris Mr. Brian Haluska, Neighborhood Planner

Mr. Bill Lucy Ms. Mary Joy Scala, AICP, Neigh. Planner

Ms. Lisa Kelley, Deputy City Attorney

City Council Members Present: Ms. Mary Hughes, Ex-Officio, UVa Office of the

Mr. David Brown, Mayor Architect

Mr. Kevin Lynch, Vice Mayor

Ms. Kendra Hamilton

**I. REGULAR MEETING**

Ms. Lewis convened the meeting at 6:31 p.m.

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

Ms. Jean Chase, of 223 Old Lynchburg Road, presented the Commission with copies of a letter addressing issues affecting the property owners along Old Lynchburg Road.

Mr. Ken Schwartz, of Renaissance Planning Group, gave a presentation on the Southern Urban Area B report.

**B. MINUTES**

October 12, 2004 -- Regular Meeting

Ms. Lewis stated the October 12, 2004 minutes were not yet available but would be forthcoming.

October 31, 2004 -- Annual Meeting Retreat

Ms. Lewis asked for comments on the October 31, 2004 minutes. With no comments, Ms. Lewis asked for a motion to adopt the minutes. Mr. O'Halloran so moved; Mr. Barton seconded the motion. The motion carried unanimously.

**C. LIST OF SITE PLANS APPROVED ADMINISTRATIVELY**

Ms. Johnson Harris moved to approve the list of site plans approved administratively. Mr. O'Halloran seconded the motion. The motion carried unanimously.

#### LIST OF SITE PLANS APPROVED ADMINISTRATIVELY

10/1/04 - 11/1/04

1. File No. 1066 K-Mart - Concrete Pad 1801 Hydraulic Road  
for dumpster/compactor
2. File No. Willoughby Townes 5th St., SW @ Harris Rd.  
T-04-000012
3. File No. Carrollton Terrace Apartments End of Carrollton Terrace  
T-04-000005 - amendments for lot off of JPA  
consolidation and easements

#### D. COMMISSIONERS' REPORTS

Ms. Firehock stated the McIntire Park Board had not met and was waiting for Council to schedule a public hearing on the plan. The Streams Task Force would be meeting November 17, 2004 from 8:30 to 11:30 at City Hall.

Ms. Johnson Harris stated the Federation of Neighborhoods met and discussed projects going on in the city. There had been a CIP School Board Committee meeting with an update on the school renovations and projects. The Herman Key Memorial would be presented to City Council on November 15, 2004.

Mr. Lucy had no report.

Mr. O'Halloran stated the Board of Zoning Appeals was continuing to meet on a regular basis; he was the new Chair for the BZA.

Mr. Barton had no report.

Mr. Fink missed the MPO Tech Committee meeting due to a business trip to Asia.

Ms. Hughes had attended the MPO Tech Committee meeting. A concept plan had been prepared for light rail service. The MPO Policy Board had met; discussions were being held between the University, the City and the County about the possibility of forming a transportation district. The University had two new preservation positions filled.

#### E. CHAIR'S REPORT

Ms. Lewis reminded the Commissioners that their packets contained the new Neighborhood assignments for the year. Committee Assignments had also been made. There would be a meeting about the Zoning Amendments on November 30, 2004 at 5 p.m.

Mr. Fink asked if they could be given the E-mail addresses for the Neighborhood Association presidents. Mr. Tolbert would ask Mr. Higgins to do that; however, he could not promise it would be accurate.

#### J. DEPARTMENT OF NDS/STAFF REPORTS

In the absence of a quorum of Councilors, Ms. Lewis called for the NDS/Staff report.

Mr. Tolbert stated that on November 18, 2004 at 6 p.m. at the Monticello Event Center a community meeting would be held to discuss the Comprehensive planning process for the development of the next Comprehensive Plan. The City is required to adopt a new Comprehensive Plan in 2006.

Mr. Tolbert introduced Ashley Cooper, previous Zoning Administrator, who would be a new Neighborhood Planner for the neighborhoods primarily around the University: Venable, Lewis Mountain, JPA, Fry's Spring, Johnson Village, and North Downtown. Mr. Tolbert also introduced Brian Haluska, Neighborhood Planner for Fifeville, Ridge Street, Tenth and Page, Belmont, Woolen Mills, and Jackson Via. Mr. Tolbert stated Ms. Scala would no longer be a Neighborhood Planner; she would be staffing the Board of Architectural Review and would give staff reports for the Entrance Corridor Reviews.

## I. SITE PLANS

1. River's Edge PUD -- Chesapeake Avenue and Riverside Drive -- Phase I, five lots

Mr. Tolbert gave the staff report. This site plan implements the PUD previously approved. It meets all the requirements of the PUD. Staff recommends approval.

Mr. Barton stated there was a cautionary note about the construction of a manhole cover to prevent the backflow from flowing out. He asked that detail of the construction be given.

Ms. Firehock noted that biofilters were not recommended for floodplains. She also asked what kind of recourse or ability the City had to track the green technologies. Mr. Tolbert stated they would ensure that the Homeowners' Association adequately addresses that.

Mr. O'Halloran moved to table the matter until later in the meeting when the applicant might be present. Mr. Barton seconded the motion which carried unanimously.

With the presence of a quorum of Councilors at 7:19 p.m., Ms. Lewis opened the Joint Public Hearings.

## II. JOINT PUBLIC HEARINGS

### F. JOINT PUBLIC HEARINGS

1. CP-04-8-15: Amendment to the Comprehensive Plan, Chapter Three, Demographics, Housing and Education and the Key Actions portion of Chapter Fourteen to include data updates from the 2000 U.S. Census and revised comments on the status of actions.

Mr. Tolbert gave the staff report. The Comprehensive Plan adopted in 2001 had been based on 1990 Census data; the numbers would be updated when the 2000 Census information was available. The list of Vocational and Training Facilities needed to have CATEC included; The Miller School needed to be substituted for The Einstein School.

Ms. Lewis stated that Memory and Company School of Cooking was no longer in existence and should be struck from the list.

Ms. Johnson Harris stated that the location of the Alternative Program on page 8 should be changed from Charlottesville High School to 715 Henry Avenue.

Mr. O'Halloran felt the report should include the median housing price in the discussion of housing.

Ms. Hughes felt the projected enrollment growth for the University of Virginia was not 200 to 300; she thought the growth rate has been less than 100 students per year.

Ms. Johnson Harris asked that the language on page 10 be clarified regarding "special needs." Ms. Lewis suggested that the phrase "catering to special needs" be struck.

Ms. Lewis opened the public hearing. With no one wishing to speak to the matter, Ms. Lewis closed the public hearing.

Mr. Fink moved that they adopt CP-04-8-15, which is an amendment to the Comprehensive Plan, Chapter Three, Demographics, Housing and Education with the revisions added. Ms. Firehock seconded the motion. The motion carried unanimously.

2. Closing of Rougemont Avenue, Leander Avenue and alleys between Avon and Rialto Streets: Petitions to close the 60 foot Rougemont and 60 foot Leander Avenue right of ways and two ten foot alleyways a distance of approximately 480 feet between Avon and Rialto Streets.

Mr. Tolbert gave the staff report. The application was submitted by two property owners. Applications came from MGR Development and from Moore's Creek Land, LLC. Moore's Creek runs through the center of the right of way on Leander which seemed to have been platted without the benefit of a topographical map. Leander is an unimproved right of way. Rougemont is closed between Avon and Sixth Street. The alley proposed for closure runs to the rear of the properties fronting on Palatine. The requests were: to close Leander from Avon Street to Rialto; Rougemont from Rialto to Avon Street; and the portion of the alley on the MGR property. MGR was dedicating an easement back to the property owners as part of its development. Staff recommends these be vacated. No value was included because no value accrues to the properties by closure.

Mr. Lynch sought clarification for not keeping Leander in the City inventory. Mr. Tolbert stated it had been evaluated based on what good it would do the City to keep it; there was no reason.

Mr. David Toscano, of 628 Evergreen Avenue, was present as a representative of MGR Development. He stated the developer was proposing the development of a private park near the creek bed. Mr. Toscano explained that the alleyway would be deeded back, not as an easement, but as the fee simple title.

Ms. Lewis opened the public hearing.

Mr. Peter Manno, of 1600 Rialto Street, wanted to know which road the development traffic would use.

Mr. Tolbert explained the PUD had no ability to take access to Avon Street; the proposal was to come into Palatine, come to Rialto and cul-de-sac with right of way left for the ability to tie into Rialto if it's ever opened.

Mr. John Woodruff, of 711 Rockland Avenue, expressed concern that Palatine was a small street. He wondered if it would be expanded to facilitate the traffic that would be coming from the development. Mr. Tolbert stated it would not. The traffic generation at peak hour would be less than 20 cars.

With no one else wishing to speak to the matter, Ms. Lewis closed the public hearing.

Mr. O'Halloran moved to approve the site plan before the Commission. Ms. Johnson Harris seconded the motion. Ms. Lewis asked if they wanted to make it conditioned on the conveyance back of a fee simple ownership of the alley. Mr. Toscano stated that was a contractual obligation; he further stated they would be glad to give the Commission a copy of the deed that would show the conveyance occurs. Ms. Lewis offered the condition as a friendly amendment. Mr. O'Halloran and Ms. Johnson Harris accepted the friendly amendment. Ms. Lewis called the question. The motion carried unanimously.

3. M-04-10-19: A petition to rezone, with proffers, from R-1S Residential to Planned Unit Development (PUD), the property at 701-707 Palatine Avenue and Avon Street. This property is further identified on City Real Property Tax Map Number 59 as parcels 361, 361.4, 361.5 and 361.6, having approximately 192 feet of frontage on Palatine Avenue, 126 feet of frontage on Avon Street and containing approximately 24,192 square feet of land or .56 acres. The general uses allowed in the R-1S zoning are single-family detached residential. The general uses called for in the Land Use Plan of the Comprehensive Plan are single family residential.

Mr. Tolbert gave the staff report. The property consists of four lots, one of which contains an older duplex. The applicant proposes eight units, two of which would be the renovated duplex. Four units would face Avon Street but all would be accessed by Palatine. Under current zoning the applicant could construct three additional single-family homes, each of which could have an accessory apartment. Staff finds the application consistent with the Comprehensive Plan's recommendations regarding density. Staff feels the PUD will allow a higher quality of development than if it were developed by right. A sewer line runs along Avon Street; the applicant proposes to leave that area undeveloped as a buffer between Avon and the properties. The four units fronting Avon would have pedestrian bridges across the ravine. Adequate on site parking is provided. Staff recommends approval of this rezoning request.

Ms. Lewis called for questions of staff.

Ms. Hamilton sought clarification of the percentage of open space proposed and asked if a site plan had been submitted showing how 60 percent could be achieved. Mr. Tolbert stated there was a conceptual plan showing a great deal of open space. He also stated the proposal far exceeded the 15 percent required; he did not think there was 60 percent.

Ms. Lewis recognized the applicant.

Mr. Jim Moore, of 1213 Hazel Street, president of JW Moore Homes, stated there were 15 two-family units within a two block area of the proposal. By right development would require four driveways and curb cuts on Palatine. The PUD would have a Homeowners' Association. The six new units would be

sold; the existing duplex would be rental units. The units would range in price from \$200,000 to \$230,000. The units would have garages.

Ms. Firehock liked the pedestrian bridges. She suggested the applicant choose a retention garden rather than a retention pond.

Mr. Barton asked that the applicant put together a landscape plan which would show the scrub trees that would be removed and the specimen trees which are proposed to remain.

Ms. Lewis asked how far the townhouses were set back from Avon Street. Mr. Moore stated the closest was at least 40 feet back. Ms. Lewis noted for the record that two of the townhouses were in the Entrance Review.

Ms. Lewis opened the public hearing.

Mr. John Woodruff, of 711 Rockland Avenue, spoke in opposition of the proposal. He stated that a 28 unit PUD had been approved in October which would add to the high density and putting stress on Palatine. He felt Palatine Avenue was very small and could not support the traffic and congestion.

Ms. Molly Cliborne, of 711 Rockland Avenue, spoke in opposition of the proposal. She did not want to see the project approved as it did not seem to fit in with the neighborhood.

Ms. Janet Starosta, of 802 Rockland Avenue, spoke in opposition of the proposal. She expressed concern about the traffic and the parking.

Ms. Jean Cooper, of 1406 Rialto Street, spoke in opposition of the proposal. She did not think Avon and Rialto could handle more traffic.

Mr. Peter Manno, of 1600 Rialto Street, spoke in opposition of the proposal. He felt the traffic situations were being considered as a whole. He did not think it was practicable to develop the first lot.

With no one else wishing to speak to the matter, Ms. Lewis closed the public hearing and called for comments from the Commissioners.

Mr. Fink felt there was an advantage to the application in that there would be three less curb cuts than in by right development.

Ms. Firehock liked the applicant's interest in environmentally sustainable storm water detention.

Mr. Barton thought there was a lot to commend the application. He felt more parking could be on site.

Mr. Fink concurred with Mr. Barton. He wondered if they could approve the PUD with the condition of seeing a site plan with four additional parking spaces located on property.

Mr. O'Halloran concurred.

Mr. Lucy disagreed with the other Commissioners in trying to put more parking on site as it was not environmentally sound nor was it sound in terms of traffic movement.

Ms. Johnson Harris moved to recommend approval of this application to rezone property from R-1S to PUD on the basis that the proposal would serve the interests of the general public welfare and good zoning practice. Ms. Firehock seconded the motion. Mr. Fink asked if the Commissioners would like to entertain the applicant looking at additional on site parking and conditioning this motion with that. Ms. Firehock was not in favor of trying to add more asphalt than absolutely necessary to any site plan. She did not believe there was a problem with stacking the parking as has been proposed. Ms. Johnson Harris supported Ms. Firehock's statement. Mr. O'Halloran also supported Ms. Firehock's statement. Mr. Higgins called the question. The motion passed, 5-2; Mr. Barton and Mr. Fink voted against.

Ms. Lewis called for a brief recess at 8:37 p.m. She reconvened the meeting at 8:44 p.m. The next two public hearings would be combined.

4. ZT-04-10-20: An ordinance to amend and reordain Section 34-272 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 designations. This ordinance would create a seventh major architectural design control district, District G, known as the Oakhurst-Gildersleeve Neighborhood Architectural Design Control District. This district would include all of the properties on Oakhurst Circle and Gildersleeve Wood as well as all properties on Valley Road from JPA to 407 Valley Road, all properties on the north side of Maywood Lane, all properties on Valley Circle and properties on the east side of JPA from Maywood Lane to Oakhurst Circle.

5. ZM-04-10-21: An ordinance to amend and reordain the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, by adding a seventh major Architectural Design Control District consisting of the following properties:

Tax Map/Parcel #	Address
110001000	100 OAKHURST CIRCLE
110001100	OAKHURST CIRCLE
110002000	102 OAKHURST CIRCLE
110003000	104 OAKHURST CIRCLE
110004000	1616 JEFFERSON PARK AVE
110005000	106 OAKHURST CIRCLE
110006000	108 OAKHURST CIRCLE
110007000	1618-22 JEFF PK-103 VALLEY
110008000	105 VALLEY ROAD
110009000	110 OAKHURST CIRCLE
110010000	2 GILDERSLEEVE WOOD
110011000	6 GILDERSLEEVE WOOD
110012000	8 GILDERSLEEVE WOOD
110014000	111 VALLEY ROAD
110014100	113 VALLEY ROAD
110015000	12 GILDERSLEEVE WOOD
110016000	9 GILDERSLEEVE WOOD
110016100	209 VALLEY ROAD
110016200	207 VALLEY ROAD

110016300	205 VALLEY ROAD
110017100	7 GILDERSLEEVE WOOD
110018000	5 GILDERSLEEVE WOOD
110019000	3 GILDERSLEEVE WOOD
110020000	1 GILDERSLEEVE WOOD
110022000	114 OAKHURST CIRCLE
110023000	116 OAKHURST CIRCLE
110024000	118 OAKHURST CIRCLE
110025000	120 OAKHURST CIRCLE
110026000	122 OAKHURST CIRCLE
110031000	409 VALLEY ROAD
110032000	411 VALLEY ROAD
110034000	411 VALLEY ROAD
110035000	503 VALLEY ROAD
110036000	505 VALLEY ROAD
110039000	507 VALLEY ROAD
110040000	513 VALLEY ROAD
110041000	515 VALLEY ROAD
110042000	521 VALLEY ROAD
110042100	523 VALLEY ROAD
110043000	525 VALLEY ROAD
110044000	VALLEY ROAD
110045000	VALLEY CIRCLE
110046000	536 VALLEY ROAD
110048000	540 VALLEY ROAD
110049000	140 VALLEY ROAD
110050000	139 VALLEY ROAD
110051000	550 VALLEY ROAD
110052000	552 VALLEY ROAD
110053000	1700 JEFFERSON PARK AVE
110053100	1708 JEFFERSON PARK AVE
110053200	554 VALLEY ROAD
110054000	1712 JEFFERSON PARK AVE
110055000	1714 JEFFERSON PARK AVE
110056000	1718 JEFFERSON PARK AVE
110057000	110 MAYWOOD LANE
110058000	111 MAYWOOD LANE
110059000	113 MAYWOOD LANE
110060000	122 MAYWOOD LANE
110061000	128 MAYWOOD LANE
110061100	126 MAYWOOD LANE
110062000	117 MAYWOOD LANE
110063000	119 MAYWOOD LANE
110064000	VALLEY CIRCLE



110065000	VALLEY CIRCLE
110066000	1 VALLEY CIRCLE
110067000	7 VALLEY CIRCLE
110068000	VALLEY CIRCLE
110069000	VALLEY CIRCLE
110070000	528 VALLEY ROAD
110071000	526 VALLEY ROAD
110072000	524 VALLEY ROAD
110073000	520 VALLEY ROAD
110074000	1712 VALLEY ROAD
110076000	516 VALLEY ROAD
110077000	514 VALLEY ROAD
110078000	510 VALLEY ROAD
110079000	506 VALLEY ROAD
110080000	502 VALLEY ROAD
110082000	500 VALLEY ROAD
110083000	407 VALLEY ROAD

Ms. Scala gave the staff report. Under the Executive Summary, the Planning Commission is being asked for a recommendation to add Oakhurst-Gildersleeve Neighborhood District as the seventh major historical preservation and architectural design control district in the City. On September 21, 2004, the Board of Architectural Review voted 7-0-1 to move the District forward as presented; the one abstention was by a Board member who owned property within the proposed district. They formed a subcommittee to discuss their level of review in future residential historic districts. The Oakhurst-Gildersleeve Neighborhood Local Historic District Study is the first of several planned studies of potential new ADC Districts in Charlottesville. A local district designation ensures that a property cannot be altered or demolished unless it first goes through a public review process. It also ensures that new development will be compatible with the character of the district. All of the properties within the district boundaries would be subject to the Board of Architectural Review for any exterior changes. The JPA Neighborhood Association supports the new designation. All property owners were notified. Some owners did not want their properties included; some wanted additional information.

There has been some controversy with the University of Virginia and property it owns in the proposed district. Staff recommends that the Planning Commission recommend to City Council that Oakhurst-Gildersleeve Neighborhood District be included under historic overlay zoning designation as a major historical preservation and architectural control district. Ms. Scala then gave a brief PowerPoint presentation.

Mr. Lynch left the meeting at 8:53 p.m. and returned to the meeting at 8:57 p.m.

Ms. Lewis opened the public hearing.

Ms. Jane Foster, of 6 Gildersleeve Wood, expressed gratitude to the City and Ms. Scala for considering the neighborhood for preservation. She stated the neighborhood was afraid of landlords buying the small houses and filling them with students and of the University with its plans.

Ms. Bonnie Riley, of 116 Oakhurst Circle, encouraged the Commission to support the proposal.

Ms. Nina Barnes, of 12 Gildersleeve Wood, read a prepared statement in favor of the proposal.

Mr. George Stone, a resident of Avon Street, spoke on behalf of a Maywood Lane property owner who resides in Kentucky. The property owner, Mr. H. W. Perkins, III, had expressed support of the concept of the historic district; the Oakhurst-Gildersleeve area is well known and should have the preservation. However, Mr. Perkins felt the inclusion of Maywood Lane was an error.

Ms. Jen Fariello, of 525 Valley Road, expressed her enthusiasm for the district.

Ms. Courtney Stanley, of 110 Oakhurst Circle and co-owner of 522 Valley Road, felt the inclusion of Valley Road and Maywood Lane provided a good buffer from UVa.

Mr. Fred Schroeder, owner of 122 and 222 Maywood Lane, wanted to see Maywood removed from the district.

Mr. Tim Velicki, owner of property on Maywood Lane, asked that owners of non-contributing properties be given the choice of inclusion in the district.

Ms. Louise Bibb, of 1545 Dairy Road and co-owner of property on Maywood Lane, read a prepared statement to the Commission in favor of the proposal.

Mr. Ben Ford, of 117 Amherst Commons, a representative of Preservation Piedmont, spoke in favor of the proposal. The district was initiated by the Oakhurst-Gildersleeve Neighborhood.

Ms. Janette Biggs, of 523 Valley Road, spoke in favor of the proposal.

Ms. Eugenia Bibb, of 1545 Dairy Road, spoke in favor of the proposal and the inclusion of Maywood Lane.

Mr. Dan Clark, of 118 Washington Avenue, asked that the Commission and Council approve the proposal without amendment.

Ms. Katherine Griffin, owner of 520 Valley Road, supported the inclusion of Maywood Lane and Valley Road as they were needed to slow the growth of UVa.

Ms. Nancy Spekman, of 114 Oakhurst Circle, spoke in favor of the proposal.

Mr. Art Keyser, of 1 Gildersleeve Wood, stated that the only opposition was from absentee owners; resident owners were trying to maintain the integrity of the neighborhood.

With no one else wishing to speak to the matter, Ms. Lewis closed the public hearing.

Ms. Lewis sought clarification of the criteria for designating a district. Ms. Scala stated the criteria to be considered by the BAR and Planning Commission were: the historic, architectural or cultural significance of a building, structure or site; association of any structure or site with any historic person, event, or renowned architect or master craftsman; overall aesthetic quality of the building, structure or site; age and condition; whether the building is of old or distinctive design, texture, and material; the degree to which distinguishing character qualities or material building, structure or site have been retained; and whether a building or structure or any of its features represents an infrequent or the first or last remaining example of a particular detail or type of architecture in the City; and whether a building or

structure is part of a geographically definable area within which there exists a significant concentration or continuity of buildings or structures.

Dr. Brown left the meeting at 9:36 p.m. At this point there was no longer a quorum of City Councilors.

Mr. Fink thought they had a unique opportunity to recognize some wonderful structures, to create a buffer for the neighborhood and to recognize its significance.

Mr. O'Halloran concurred with Mr. Fink. He thought the neighborhood was a treasure. This is the kind of community they were trying to plan. He strongly favored keeping the proposed district in tact.

Ms. Johnson Harris also supported Mr. Fink and Mr. O'Halloran's comments. She felt the neighborhood was a piece of history and she thought it was important they continue to support the community.

Ms. Firehock concurred with her colleagues. She was not of the opinion the designation would put an undue burden on the investment property owners.

Mr. Barton felt there were two components to the district. He wished there was a stronger case for inclusion for the Maywood Lane-Valley Road component. He supported the boundaries of the district as drawn with some concern that they not send a signal to the consultant that this was an acceptable level of survey or study.

Mr. Lucy had difficulty understanding why the matter must be voted on and wanted more discussion on the strategy city officials had in mind for how the city would be evolving. His preference was for deferral until the December meeting.

Ms. Lewis expressed support for the designation of the district in the lines proposed. She expressed concern about the notice procedure for non-resident owners. She also had concern about the findings of the BAR sub-committee in how to treat the non-contributing properties and contributing properties. Ms. Lewis also expressed concern about how the consultant had decided to move forward with this neighborhood first when she was to have reported back to a subcommittee for them to decide how to proceed.

Mr. Fink and Mr. O'Halloran asked for clarification on how the decision had been made to move forward with the Oakhurst-Gildersleeve Neighborhood. Mr. Tolbert confirmed there had been a committee to select the consultant; he had not had the understanding that the committee would be involved in choosing which project came first.

Mr. Fink moved to recommend the adoption of an ordinance to amend and reordain Section 34-272 of the Code of the City of Charlottesville 1990 as amended relating to protected properties by creating a new overlay zoning designation, District G, known as the Oakhurst-Gildersleeve Neighborhood Architectural Design Control District, on the basis that the proposal would serve the interests of the general public and good zoning practice; and Public Hearing 04-10-21, I move to recommend the adoption of an ordinance to amend and reordain the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the City of Charlottesville, 1990, as amended, by adding Oakhurst-Gildersleeve Neighborhood Architectural Design Control District consisting of the attached list of properties including Valley Road, Jefferson Park Avenue, Maywood Lane, Valley Circle, and Gildersleeve Wood as well. Mr. O'Halloran seconded the motion. Mr. Barton felt the comments made by Mr. Lucy and Ms. Lewis regarding deferral are ones that warrant voting down the motion that has been put before the

Commission in favor of reviewing the revised conservation district ordinance that would come before them. While he supported the district in spirit and find it is generally meritorious, Mr. Barton felt the way in which it may be reviewed with respect to the criteria that the BAR will send is worth waiting for a month. Mr. Barton argued that they would vote the motion down, not because they don't support the district, but rather because the deferral is a strategic and well placed use of their time. Ms. Lewis stated she would not be voting for the district because she was concerned about the process; if properties were being designated, that required due process and notice to owners. Ms. Lewis further stated they could not designate properties and then tweak things later. Mr. Higgins called the question. The motion carried, 4-3; Mr. Barton, Mr. Lucy, and Ms. Lewis voted against.

### III. REGULAR MEETING ITEMS(Continued)

#### G. ECH REVIEWS

##### 1. Hardee's Restaurant -- 1150 5th Street, Southwest and Bent Creek Road

Ms. Cooper gave the staff report. This was an appeal by Boddie Noell to the administrative denial of a sign application submitted and reviewed in June 2004. They request a certificate for the replacement of existing signage as well as the addition of a backlit valance to the Hardee's structure. The signage are nonconforming within the entrance corridor; the signage can be refaced without doing structural repairs. The proposed signage color change to red and yellow with the new logos expands the nonconformity of the signage. The proposed signage is less appropriate for the location. The proposed directional signs appeared to be more advertising than directional.

Ms. Lewis sought clarification if the proposal fell within the normal maintenance provision of Section 34-1036, that they were changing copy only or if they were actually changing the sign. Ms. Cooper stated cabinet changes, where the structure of the sign was not being changed, had been allowed.

Mr. O'Halloran would not be in favor of the new backlit valance.

Mr. O'Halloran asked that they take the four signs one at a time.

Ms. Lewis recognized the applicant's representative.

Mr. Jerry Kyle stated that Hardee's had been purchased by Carl's, a California company, eight years ago; six years ago, they began reimagining all the Hardee's. Mr. Kyle felt the proposed colors, while brighter than the current colors, were not offensive. The only change to the pole sign would be the new logo. The mansard sign would be the same size as existing, and would have the new logo. The current sign is three feet higher than the new Code indicates; the applicant is willing to lower the sign. The proposal is to replace the logo on the existing building sign. The applicant would be willing to give up the directional signs. The backlit valance around the building is representational of the industry. Mr. Kyle presented the Commission with photographs of: the neighboring Waffle House which had a valance which was wired for lighting, the adjacent gas station with a valance, and the Taco Bell also with a valance. Mr. Kyle stated the applicant would give up the directional signs, the illuminated valance, and would lower the pole sign to the height of the building.

Ms. Lewis reiterated the directional signs were withdrawn by the applicant. The applicant still sought a valance but would not illuminate it.

Mr. Fink could understand the rationale behind the valance but would not support it.

Mr. O'Halloran would not be in favor of adding the valance. The examples provided by Mr. Kyle were in place before the ordinance was adopted.

Ms. Firehock and Ms. Johnson Harris concurred with their colleagues.

Ms. Lewis stated she would oppose the valance due to the lack of specificity of dimensions.

Mr. Barton had a problem with the amount of text on the pole sign. He felt if the text was reduced to "Hardee's," and the color palette that was not unlike the current one, it might be acceptable.

Mr. O'Halloran felt lowering the sign was a reasonable compromise to the busyness of the proposed sign.

Mr. Barton felt that supporting the pole sign would make it hard to not support the mansard sign.

Mr. Fink stated his appreciation of the concessions of the applicant.

Mr. Fink moved to accept with the following conditions: the new lens for the pole sign given that the sign would be lowered to the height of the building; the mansard sign as it is illustrated. He moved to reject the "Fresh Fried Chicken" directional signs as well as the colored valance band of 110 feet. Mr. Barton offered a friendly amendment that the tops of the pole sign and the mansard roof sign shall be at the same height and neither shall extend beyond the ridge beam of the roof. Mr. Fink accepted the friendly amendment. Mr. Barton seconded the motion. Ms. Lewis had not found the color change to be that inappropriate. Ms. Lewis called the question. The motion carried unanimously.

## H. SUBDIVISIONS

1. Village Place -- Village Road and Highland Avenue  
Extended, Johnson Village -- 36 single-family lots

Mr. Higgins gave the staff report making use of maps to demonstrate the phases of Village Place. It is the first phase of the PUD. It is more of a conventional subdivision. Staff recommends approval of this preliminary.

Mr. Fink asked if there were any issues seen by staff. Mr. Higgins stated there were none at all.

Ms. Lewis recognized the applicant.

Mr. Don Franco, of the Kessler Group, was present on behalf of the applicant.

Mr. Barton sought clarification of what procedure would protect the trees which were to remain but were abutting the construction area. Mr. Franco explained that the section of the site in question was the high density area and little to no trees would be saved in that area. The goal was to preserve whatever trees they could on a temporary basis and come back and vegetate the rear of those lots with a buffer of trees.

Mr. O'Halloran moved to approve the subdivision as submitted. Mr. Fink seconded the motion which carried unanimously.

Ms. Lewis recalled Item I.

I. SITE PLANS

1. River's Edge PUD -- Chesapeake Avenue and  
Riverside Drive -- Phase I, five lots

Ms. Lewis stated the applicant was not in attendance and sought the pleasure of the Commission.

Mr. Fink sought clarification as to why the matter had been deferred. Ms. Lewis stated that not only had the applicant not been present at that time but a quorum of Councilors had finally been present at 7:19 p.m. Mr. O'Halloran thought the late arrival was unbelievably rude.

Ms. Lewis felt the applicant should contribute a significant amount of money to a reserve fund for the Homeowners' Association in anticipation that the biofilter would need maintenance in the event of flooding. Mr. Fink stated the area floods regularly.

Ms. Lewis asked if there were a motion to accept the site plan as submitted. Ms. Johnson Harris so moved. Mr. Fink seconded the motion. The motion carried unanimously.

Mr. Fink moved to adjourn. Mr. Barton seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 11:57 p.m.

RESPECTFULLY SUBMITTED:

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Jim Tolbert, AICP, Secretary

APPROVED:

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Cheri Lewis, Chair