

DRAFT MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

WEDNESDAY, 13 SEPTEMBER, 2006 -- 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. Karen Firehock (Chairman)

Mr. Jon Fink (Vice-Chairman)

Mr. Craig Barton

Mr. Michael Farruggio

Ms. Cheri Lewis

Mr. Bill Lucy

Mr. Kevin O'Halloran

Mr. David Neuman, Ex-officio, UVa Office of the Architect

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy, AICP

Ms. Ashley Cooper

Mr. Brian Haluska, AICP

City Council Members Present:

Mr. David Brown, Mayor

Mr. Kendra Hamilton, Vice Mayor

Mr. Kevin Lynch

Mr. Dave Norris

Also Present

S. Craig Brown, City Attorney

I. REGULAR MEETING

Ms. Firehock convened the meeting at 6:34 p.m. She stated there had been changes to the published agenda:

SP-06-9-11: An application for an amendment to or revocation of a Special Use Permit, with waivers, for 3 University Circle would be discussed, but would not be a public hearing because the stop work order issued by the City had been appealed to the Board of Zoning Appeals and the Planning Commission may not take any action on an issue which is under appeal.

ZM—06-9-12: A petition to rezone from R-1S Residential to Planned Unit Development, with proffers, property at Rialto Street had been withdrawn by the applicant.

ZT-06-9-15: An ordinance to amend Chapter 34 (Zoning) of the Code of the City of Charlottesville, 1990, as amended to establish an affordable dwelling unit program had been removed because the Planning Commission have not had adequate time to discuss it. The Commissioners were in support of affordable housing and would discuss it at a work session to make further refinements to the ordinance.

ZT-06-9-16: An ordinance adding a new section 34-1107 to Article IX, and amending and reordaining Section 34-1200 of Article X of Chapter 34 (Zoning) of the Code of the City of Charlottesville, 1990, as amended, relating to portable storage containers would not be discussed because the Commission was waiting to receive further comments from the POD manufacturers who had requested the changes to the ordinance.

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

Ms. Firehock called for matters from the public not on the formal agenda.

Ms. Karen Dogal, of 20 University Circle, stated the University Circle residents had met to discuss Watson Manor. The unanimous decision of the residents was that the use of the property for the advanced studies of culture is appropriate. However, what was going on with the property is inappropriate. A letter had been prepared for the Commissioners itemizing the situation.

B. MINUTES

August 8, 2006 -- Regular Meeting

Mr. Fink asked that "ration" in the second sentence of page 8 be changed to "ratio." Ms. Lewis asked that the phrase "although it could not serve as a basis for denial, she was disappointed" be added after the word "noted" on the second line from the bottom of page 6. Mr. Farruggio asked that the third paragraph on page 5 note that he and Mr. O'Halloran had said sidewalks were required. Ms. Firehock noted that the letter "t" was missing from the word "the" in the third sentence down on page 4. Ms. Lewis moved to approve the minutes with revisions noted. Mr. Fink seconded the motion. Ms. Firehock called for a vote by acclamation. The motion passed, 4-0-3; Ms. Firehock, Mr. Barton, and Mr. Lucy abstained from voting.

C. LIST OF SITE PLANS AND SUBDIVISIONS APPROVED ADMINISTRATIVELY

Ms. Lewis moved to approve the list of site plans and subdivisions approved administratively from August 1st of '06 to August 31st of '06. Mr. Farruggio seconded the motion. The motion carried unanimously.

D. COMMISSIONERS' REPORTS

Ms. Lewis wanted to call attention to the pending launch of the Thomas Jefferson Community WorkForce Housing Fund on 28 September at 10 a.m. on the steps of Venable School. She stated this was the first community housing fund in the state of Virginia. It is a public and private partnership between the City of Charlottesville, the Chamber of Commerce, CAAR, the Charlottesville/Albemarle Community Foundation as well as other entities and people.

Mr. Farruggio had no report as his committees had not met.

Mr. Lucy stated the Board of Architectural Review has been having full agendas. The Chair and Vice Chair of the BAR had met with the two Council members to discuss how the BAR handles demolition requests under certain circumstances. Mr. Lucy expressed concern that little attention was being given to adaptive use.

Mr. Fink had no report to give as he had been out of the country. He stated the MPO Tech committee had met and he asked if Mr. Tolbert had attended. Mr. Tolbert stated the MPO was looking at a trail project that would connect Downtown with North 29.

Mr. O'Halloran stated the Board of Zoning Appeals had met but he had been out of town.

Mr. Barton stated none of his committees had met.

E. CHAIR'S REPORT

Ms. Firehock stated the Community Development Block Grant Task Force had met but she was unable to attend. She stated she was working with her graduate students at the University of Virginia to assist the City of Charlottesville in looking at its environment and unique habitats. There would be a public meeting on 8 November at the Design Center to showcase the students' ideas.

Ms. Lewis asked the Chair if Mr. Neuman could share a short report.

Mr. Neuman stated a letter had been sent to the County Executive and the City Manager seeking appointments of a delegate from the Planning Commission to serve on the University's Master Planning Council; meetings would begin in October. Mr. Neuman also stated he had supplied a letter to the Commission from Leonard Sandridge, the Executive Vice President/Chief Operating Operator of the University, that stated they did not cut the tree at 3 University Circle and it was not a University project.

Ms. Firehock sought information from the Commissioners about possibly starting the Work Session at 7 to allow Mr. Barton's attendance. Ms. Lewis would not be able to attend at 7. Mr. O'Halloran and Mr. Fink stated they would not be able to attend. Ms. Firehock stated she would send out an E-mail to see if there were any other possible dates or times for a work session. Mr. Farruggio suggested they stay with the original date and time -- the 20th at 5:30.

Ms. Lewis, wanting to publicly acknowledge their service, stated that Mr. Barton, Mr. O'Halloran, and Ms. Firehock would be truly missed on the Commission. She stated they had been important, pivotal members and great colleagues and great leaders. Ms. Lewis stated she would truly miss them. Mr. Fink agreed they would be missed. Ms. Firehock stated it had been a pleasure to serve. Mr. O'Halloran stated he had enjoyed his time very much and looked forward to remaining involved. Mr. Barton thanked Ms. Lewis for her comments; he stated he had learned as much from working with her as she claimed to

have learned from working with him. Mr. Farruggio stated he had learned a lot from the three Commissioners.

L. DEPARTMENT OF NDS/STAFF REPORTS

Mr. Tolbert stated he would not be at the October meeting.

Mr. Tolbert stated they were interviewing for Planning Manager over the next two days and hoped to have a decision in the next week. Read Brodhead, a former Zoning Inspector, had been selected earlier in the day to be the new Zoning Administrator.

Ms. Firehock reiterated that several items had been removed from the agenda.

II. JOINT PUBLIC HEARINGS

F. JOINT PUBLIC HEARINGS

-- **Three Party Agreement Review of the South Lawn Project:** A presentation of the South Lawn project on Jefferson Park Avenue on the Grounds of the University of Virginia. This is a request to obtain input on the master plan for the southern sector of the University containing the College of Arts and Sciences as outlined in the three party agreement between The University, the City of Charlottesville and the County of Albemarle. Report prepared by Ashley Cooper, Neighborhood Planner.

Mr. Neuman and Mr. Ed Ayers, Dean of the College of Arts and Sciences, gave a presentation of the South Lawn Project. They were joined by John Ruble, of Moore Ruble Yudell, the principal designer, and Cheryl Martin and Walter Hood, Landscape Architects.

Ms. Cooper gave the staff report. She stated there had been several changes to the project since the packet they had received. She stated she had considered the project as if it were a Special Use application. In the originally submitted materials, there had been issues with pedestrian circulation and disabled access and usage. Those issues were addressed in later designs as shown in the presentation. Still of concern was the pedestrian access at JPA. Staff was concerned about what the public would see of the terrace from street level. Staff also had issue with accessibility to the site especially for the terrace area during non-business hours; Mary Hughes and Julia Monteith had spoken with Staff and informed Staff they were working on accessible routes on the northern side of JPA. Ms. Cooper commended the University for their work with the neighborhood on this project. All of Staff's contacts with the Neighborhood Association had been very positive. Staff felt the discussion should be focused on how the project is appearing from the public realm and more information was needed on safety aspects and lighting.

Ms. Firehock called for questions of Staff and then the applicant.

Ms. Firehock wanted to know how high the terrace was above the road. Mr. Neuman stated it was 17 and-a-half feet which is the state statute.

Ms. Firehock asked if the sunlight and shadow falls had been considered. Mr. Neuman stated they had done a shadow study already.

Mr. Farruggio asked if they had considered removing access from the north side so there would be no reason to cross. Mr. Neuman stated they had looked at all possible options. He further stated moving access down to Hospital Drive could be a problem for ambulance traffic.

Mr. Farruggio asked if any student housing element had been considered in this project. Mr. Neuman stated they had not since he had been there. He stated student housing, although a core element of the Academical Village, complicates the design of the project.

Ms. Firehock opened the public hearing.

Mr. Eugene Foster, of 6 Gildersleeve Wood, stated the degree of cooperation and information which the neighborhood had gotten from the University had been terrific and unprecedented. He stated the neighbors were being listened to and responded to in an intelligent way.

Mr. Gerard Deily, of 1309 Carter Lane, spoke about the impact on transit issues. If the City did develop the street car project and extended it to JPA, it would require 19 feet of clearance to allow for the necessary trolley wires.

With no one else wishing to speak to the matter, Ms. Firehock closed the public hearing. She then called for discussion from the Commissioners.

Mr. Farruggio stated there was a need for more information about the under bridge experience. He stated the City Police should be brought into discussion as they would have jurisdiction of the street below the bridge. He also expressed concern about the north side sidewalk and bike routes.

Mr. Fink stated it would be important to have some wayfinding signs. He also felt it was important to incorporate the sidewalk on the north side of JPA.

Mr. Barton stated he had a unique position in having been appointed by the Dean of the School of Architecture to serve with Ed Ayers on a committee charged with looking out for the archaeological interest of the site. He stated the project had gotten significantly better as it has been reworked. He further stated the pedestrian circulation is a way of making the modern cultural landscape; an extraordinary amount of sensitive and thoughtful work had gone into the landscape. Mr. Barton stated the Commission would not allow a project to be designed in which there were incomplete systems for water or utilities, therefore, a project with an incomplete pedestrian network ought not be allowed to move forward until all portions of that network are put in place. He stated the willy-nilly development of the medical campus did not lead him to have any confidence that there will be the kind of connections that one might hope for and ask the University to develop in terms of its master planning strategies. Mr. Barton expressed disappointment that as the City was asking developers to think creatively about mixing uses in building, mixing uses on site and which other universities are working to develop, this was a monocultural.

Mr. Lucy stated having a LEEDs building was desirable. He stated it was unfortunate to have a bridge design explicitly chosen without regard to what might be called for in a streetcar system.

Ms. Firehock commenting about the teaching opportunities that were present in the feature that was reminiscent of a stream, wondered what kinds of educational signage would be available for a self guided tour. She echoed Mr. Farruggio's comments about the City police and safety. She expressed concern about the tunnel feeling. She wanted to know where police call boxes would be placed. She

encouraged the University to think about uses of the building that would encourage people to spend time there and encourage a mixture of town and gown.

Mr. Lynch echoed the thanks to the University for working with the neighborhood. He stated it might be helpful to get some of the numbers from studies that the University may have conducted about sidewalks on the north side.

Mr. Brown also appreciated the University's efforts, not only in working with the neighborhood, but also in working with the City to become more sustainable. He expressed his support for the recommendations made by Ms. Cooper. Mr. Brown stated a committee had been appointed to look at the West Main corridor and whether a street car could be created there; the cost for that section was close to prohibitive.

Ms. Hamilton congratulated the University for taking so much time and care and thought in dealing with the Kitty Foster site.

Ms. Lewis stated Council would be reviewing this matter and asked that they ask for more information on the experience under the terrace. She thought that photometric studies were important. She was concerned about bike and pedestrian access on the north side and asked that the University look to resolve the Commission's requests in that regard.

-- **SP-06-9-10:** An application for a special use permit for a boarding/rooming house on the property at 322 Fourteenth Street Northwest. This is a request for the conversion of a single family dwelling to a boarding/rooming house to allow for up to nine occupants. This property is further identified on City Real Property Tax Map 4 as parcel 287, having approximately 60 feet of frontage on Fourteenth Street Northwest and containing approximately 9104 square feet of land or 0.209 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Two Family Residential of 12-14 units per acre. Report prepared by Ashley Cooper, Neighborhood Planner.

Ms. Cooper gave the staff report. This is in the Venable neighborhood, zoned Residential/University High Density. This is an existing historic structure at the corner of Fourteenth and John Street. Mr. Keith Woodard has applied to use this property as a boarding house. It has a history as a boarding house since being built in the 1920s. The application is for eight residents in what is considered a single dwelling unit. Under the by-right underlying zoning, there is a maximum of 64 units per acre on this site which gives a potential of 13 dwelling units with up to 52 residents. The applicant would like the structure to have six bedrooms and eight residents. He had submitted a request to potentially add two more parking spaces. Ms. Cooper stated the site could have a duplex by-right which would have the same number of residents and parking requirements. Staff felt this was an appropriate special permit for this property because this house is in an historic district. Staff recommends approval and suggested conditioning approval of the additional parking spaces which would require Board of Architectural Review approval since it was an exterior change of the historic property.

Mr. Barton sought clarification of the stipulations affecting a boarding house. Ms. Cooper stated the City definition was based on the common kitchen facilities.

Mr. Farruggio wanted to know how easily the house could be converted to a duplex. Ms. Cooper stated the historic designation only applied to changes to the exterior of the property so changes could be made with a building permit and complying with the Building Code.

Mr. Farruggio wanted to know how the amount of residents would be enforced. Mr. Tolbert stated there were Zoning Inspectors to investigate complaints of noncompliance.

Ms. Lewis asked if the Commission had to act on the request for additional parking at this time. Staff stated they could condition that at this time if they so chose.

Ms. Firehock recognized the applicant.

Mr. Keith Woodard, of 224 Fifteenth Street, stating he had nothing to add to Ms. Cooper's presentation, was present to answer any questions.

Mr. Fink wanted to know if a dormer would be added to the back of the building. Mr. Woodard stated that was the intention.

Mr. Barton wanted to know if the applicant was confident he could meet Code. Mr. Woodard stated he had met with Tom Elliot, Building Code Official.

Ms. Firehock opened the public hearing.

Mr. Gerard Deily, of 1309 Carter Lane, stated rooming and boarding houses were a desirable means of providing affordable housing for people, especially those in entry level jobs.

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

Mr. Fink stated he liked the project since it kept the visual integrity of an historic structure and kept the single-family look in an area which had been transitioning. He stated he could support the application.

Mr. O'Halloran stated that, given this did not increase the number of residents allowed by-right, he could support this as well. He thought this was a creative solution to a challenging problem.

Ms. Lewis echoed the comments of her colleagues. This template for group housing was something she hoped other owners in the University area could replicate.

Mr. Farruggio stated he wholly supported this, but did have concerns about the parking issue and the number of residents. He expressed a desire for four parking spaces of a pervious nature in the backyard. Mr. Fink stated there was a fair amount of grade to the site and he did not see how that could be physically possible without doing significant site work.

Mr. Barton stated this was a creative way of providing additional benefits to the area. He did have concerns about the way in which a single-family dwelling was being converted into a multi-family dwelling with particular challenges for safety especially in egress and the potential hazards for an antique electrical wired system. He asked that, in future, applications have a review and report by the Building Inspector with respect to whatever conditions will need to be in place in order to meet Code.

Ms. Firehock stated she could be supportive of adding more parking, but she thought there was a line between adding more parking and paving everything around the building.

Mr. Barton moved to recommend approval of this application to allow a Special Use Permit in the R-UHD, Residential-University High Density District, for the boarding house/rooming house at 322 Fourteenth Street Northwest with the following conditions: administrative site plan approval and Board

of Architectural Review are required for any changes to existing parking; and boarding house use is limited to a maximum six bedrooms and eight residents. Mr. Barton stated he was unsure the first condition met Ms. Lewis' request and added he would consider a friendly amendment if she would like to make an adjustment. Mr. O'Halloran seconded the motion. Ms. Lewis asked that it be modified to require four parking spaces total on site and that shall be reviewed by Staff or BAR. Ms. Lewis stated there was additional language the City Attorney would like them to add and she offered a friendly amendment that this approval is based on the finding that the proposal meets the criteria for a Special Use Permit and would serve the interests of the general public welfare and good Zoning practice and good dental hygiene. Mr. Barton and Mr. O'Halloran accepted the friendly amendments. Mr. Fink offered a friendly amendment that pervious pavement be used. Mr. Barton and Mr. O'Halloran accepted this friendly amendment as well. The motion carried unanimously.

-- **SP-06-9-11:** A Special Use Permit for 3 University Circle.

This matter had been withdrawn. Ms. Firehock called upon Mr. Tolbert to explain the withdrawal.

Mr. Tolbert stated a Special Use Permit had been approved previously for this site. The Special Use Permit had several conditions, one of which was a condition that every effort be made to preserve a large beech tree on the site. The condition further said if the tree died, there was a planting plan that would be implemented. There was a tree preservation plan presented along with that in which the applicant said they would make attempts to preserve the tree. Last month the tree was destroyed by the developer. The tree is no longer there. A Stop Work Order has been put on the project for violation of the site plan while NDS attempts to determine what other action could be taken. When the Stop Work Order was placed, the developer was in the process of building a retaining wall that was holding up the neighbor's property; this was allowed to continue so it wouldn't damage the neighbor's property. Also, the building had been jacked up and NDS allowed them to continue with foundation work to stabilize the building, especially with Hurricane Ernesto projected to affect the area. An ENS Stop Work Order was also issued. NDS advised the applicant to apply for an amendment to the Special Use Permit. A revised landscape plan was submitted but no application was made. The applicant withdrew the application and filed an appeal with the Board of Zoning Appeals appealing Mr. Tolbert's placement of the Stop Work Order. This item had been advertised for potential revocation of the Special Use Permit. Working with the City Attorney, it was decided the decision for revocation needed to be made by the Commission and not by Staff putting the matter on the agenda. The appeal of the Stop Work Order stays any action the Commission can take until the appeal is satisfied. Mr. Tolbert stated the Commission could, through a motion, ask Staff to advertise a potential revocation of a Special Use Permit for the November agenda after the Board of Zoning Appeals meeting in late October.

Mr. Fink sought clarification the Commission had the authority to revoke the Special Use Permit. Mr. Tolbert stated they could after it was properly advertised. Mr. Brown, the City Attorney, stated it was not explicit in the enabling legislation; however, the City's position was that an entity with the authority to grant a Special Use Permit had the implied authority to revoke one if conditions within the Permit had not been met.

Ms. Firehock, echoing the comments made by the City Attorney, stated this was not just a tree and the City's policy should be taken seriously. She stated this was an emotional issue.

Ms. Lewis stated the issue of preservation of this tree was discussed extensively at the June, 2004, meeting. The Commission had made preservation a requirement despite the Applicant's desire to remove the tree. Preservation was not "if you can preserve it" but was "don't remove the tree." She stated her disappointment and stated this was an egregious, purposeful violation of an important covenant and sets a bad precedent in the City. Noting the letter circulated that day and signed by Leonard Sandridge, Executive Vice President of the University of Virginia, that disclaimed the University's involvement in this project, she appreciated the letter being sent to clarify the relationship between the developer and the proposed occupant and use of the building. She expressed her support for a motion proposing revocation of the Special Use Permit pending the BZA's actions.

Ms. Firehock stated this was definitely the body to take on the recommendation of revocation since these were the Commissioners who had taken part in the original decision to grant the Special Use Permit even though future Commissioners will be voting on the issue.

Mr. O'Halloran stated he had been following this issue since 2003 and the project was in his neighborhood. He stated he felt conflicted over the matter since he had been in support of the project as they had been led to believe it would be executed preserving the four-foot diameter beech tree which would be impossible to replace. He stated people were also upset about the lack of respect shown by the developer for the process. He stated Mr. Turner's action flew in the face of all that was done by the Commission and was a huge insult to the time they devoted over the years. Mr. O'Halloran stated they could not overlook what Mr. Turner did. He felt the only solution was to revoke the Special Use Permit with the hope that another developer could come along and perhaps fulfill the original intent.

Mr. O'Halloran moved that they instruct Staff to advertise a public hearing in November on this issue.

Mr. Lucy wanted to know the implications of revoking the Special Use Permit. Mr. Tolbert stated the property was zoned R-1/U and it could have any use allowed under that designation. Mr. O'Halloran stated that use was single-family residential, no more than three unrelated people. Mr. Lucy, asking if that meant the developer could then proceed with that R-1 use and the tree still gone, what could the Commission require. Mr. Tolbert stated it would be a by-right R-1 use. Mr. Fink asked if it would be the restoration of the existing structure only. Mr. Tolbert stated the developer was back to square one and was only allowed to use the property in any fashion as allowed by-right in R-1/U.

Mr. Fink stated if the process goes forward another developer will pick this up and complete the project in a professional manner that is respectful to the direction offered by the Commission.

Mr. Barton echoed Mr. O'Halloran's comments to express his frustration with the egregious disregard for the amount of time and effort put in by the Commissioners, but also the rule of law with respect to how development proceeds forward. Mr. Barton stated that, in his mind, this was a criminal act and this was a developer who should not be allowed to build on this particular property; he clarified this was not a legal opinion since he was not an attorney. He stated there was a bond and element of trust required between the development community, the public, and the Planning Commission as the representative or appointed body which is asked to review and approve projects. He stated that bond was broken and there was no recourse except to say that there was no longer any opportunity for this particular developer to build on this site.

Mr. Fink reminded the Commissioners a motion had been made. Ms. Lewis stated it was an honor to second the motion. Mr. Lucy wanted to know if there were any alternatives such as fines, revoking the bond, or any other options. Mr. Tolbert stated that while it was on appeal to the BZA, there were no options; after that, NDS would consult with legal counsel. Mr. Fink sought clarification of any recourse the City had if the BZA overturned Mr. Tolbert's ruling. Mr. Craig Brown stated the City's only recourse in that event would be to appeal the BZA decision to Circuit Court. Mr. Fink asked Mr. O'Halloran to repeat his motion. Mr. O'Halloran stated he would like to make a motion to instruct the Planning Staff to advertise a public hearing on the revocation of the Special Use Permit for 3 University Circle for the Planning Commission's regular meeting in November of 2006. Mr. Barton seconded the motion. Ms. Lewis stated this was a big step for the Commission because the applicant, at the time, worked very hard with the neighborhood to get their support. She thought this plan of development was one of the most beautiful, outstanding plans of development for renovation of an historic property that they had ever seen in the City. She further stated her belief that this was one of the most beautiful houses in the City and this would have been a nice completion to it and a nice use of it. She stated she did not support this lightly but the circumstances have completely altered and limited their options; they must act in light of what has gone on. Mr. O'Halloran expressed his agreement for Ms. Lewis' statements. Ms. Firehock stated the City had made every effort to make itself available to the applicant including an E-mail that was sent offering to have the Chair and Staff meet with the applicant. She stated she was in the process of driving from New Mexico to Charlottesville when the tree was taken down. She stated the applicant was very direct and willful in this act; it was not a misunderstanding. It was clear what the City intended and what they were required to do and the applicant blatantly disregarded the law. Ms. Firehock stated she was very much in favor of the Commission taking this issue up in November should the BZA appeal not be upheld. Mr. Barton suggested that, given the potential pending legal case, they should limit their comments at that point. He stated the level of frustration had been expressed clearly and unequivocally and they had a motion to instruct Staff as to the limits of their oversight at this moment; additional comments should wait until a public hearing. Mr. Lucy stated he would support the motion; however, it seemed unlikely they had 100 percent of the story. Mr. Fink stated the applicant had had every chance to come back before the Planning Commission where they could have collaboratively looked towards a workable decision; Staff invited the applicant to come back before the Commission and the applicant refused to do so. Ms. Lewis asked the Chair to call the question. The motion carried unanimously.

-- **ZM—06-9-13:** A petition to rezone from R-1S Residential to Planned Unit Development, with proffers, for the property along Hanover Street. This application is an amendment and addition to the Paton Street Planned Unit Development. The application is to allow for increased density to provide mixed income and allow for a mix of single family dwellings of different types. This property is further identified on City Real Property Tax Map 23 as parcel 92 having 240 feet of frontage on Hanover Street and containing approximately 59,150 square feet of land or 1.358 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Single Family Residential of 3-7 units per acre. Report prepared by Brian Haluska, Neighborhood Planner.

Mr. Haluska gave the staff report. He stated there were no proffers included; that had been listed in error. The proposal is for 23 additional units on the parcel in question; 16 units had been already approved for Phase I. The overall density would be 11 units per acre across the entire PUD. The property would be divided into four lots. The parking would exceed the amount required by right.

Mr. Farruggio wanted to know the largest size of the trees that were being removed. Mr. Haluska did not know the answer to that at the time.

Mr. Lucy sought clarification as to the density of the project. Mr. Haluska stated it was 23 units on 1.32 acres.

Continuing his staff report, Mr. Haluska stated this was different than the original PUD. In analyzing this, he had looked at the by-right configuration of this area; based on lot configuration there would be eight to ten by-right units. The applicant had tried to meet the intent of the ordinance by providing a development that is aligned with the PUD ordinance. Staff recommends approval.

Ms. Firehock called for questions for Staff from the Commissioners.

Ms. Lewis asked if there had been any changes since the preliminary review. Mr. Haluska did not know of any.

Mr. O'Halloran wanted to know if there had been any public comment at meetings which were held. Mr. Haluska stated the meeting had been more for informational purposes. Staff had received some telephone calls expressing concern about the concentration of low income housing in one area of the neighborhood.

Ms. Hamilton sought clarification of what was being done with the alley. Mr. Haluska stated it was a proposed one way access with parking.

Mr. Farruggio wanted to know if the garage apartments were single resident units. Mr. Haluska stated they could contain two residents.

Ms. Firehock recognized the applicant.

Mr. Overton McGehee, with Habitat for Humanity, was present with Bruce Hogshead and Martha Joseph. First, he thanked the three Commissioners who would be leaving for their service and their support of affordable housing. Mr. McGehee thanked the City for its participation in Builder Blitz. He stated the Fifeville neighborhood had expressed two concerns in the past: they wanted more owner occupied housing; and they wanted more housing that would be affordable to the residents of the neighborhood. He stated they were proposing nine to 11 market rate units, 18 Habitat units which would be sold to families who earn between 25 and 65 percent of area median income, and ten to 12 units which would be sold to families earning between 65 and 110 percent of area median income. Piedmont Housing Alliance would help identify the families.

Mr. Fink wanted to know what the market rate units would sell for on a square foot basis. He was told they would sell for 190 a square foot.

Mr. McGehee stated the Neighborhood Association had voted to recommend the project. He stated the fourplex had been chosen for those people who may be a family of one.

Mr. Farruggio asked the applicant what the largest three trees were that would be lost. Ms. Joseph stated there were 14 inch hemlocks and 16 inch walnuts.

Ms. Firehock wanted information about the trees which would go in the project. Ms. Joseph stated there was no planting list yet, but they would put in trees that are bigger than are normally requested.

Ms. Hamilton asked if they could shift the location of the cottages and save the trees as there appeared to be some "wiggle" room near the mulch path. Ms. Joseph stated they could look into that.

Mr. Norris commended the applicant for the project and the commitment to affordable home ownership opportunities to residents of the Fifeville neighborhood. He wanted to know what kind of strategies were planned to fulfill that commitment. The applicant stated they could possibly designate some of the units as being restricted to families from Fifeville.

Ms. Firehock opened the public hearing.

Ms. Neesha Boischa, a member of the Fifeville Neighborhood Association, spoke in support of the project. The Neighborhood Association had approved 39 units on the site and supported a ratio of one-third market rate and two-third affordable. She expressed concern that the affordability ratio had changed and stated she would be discussing that with the Neighborhood Association.

With no one else wishing to speak to the matter, Ms. Firehock closed the public hearing. She called for discussion from the Commissioners.

Mr. Fink stated the project meets many of the needs for Charlottesville. He stated it was an excellent mix of product types; the City had a need for units for a family of one. He was in support of the proposal.

Mr. Farruggio applauded Habitat for Humanity for its work. He thought the project was a fantastic preliminary concept. However, he did have some concerns. He was concerned that eight of the 23 buildings would be multi-family attached in a neighborhood that is all single-family attached. He was concerned about the loss of a 30 inch pecan, 24 inch pecan, and a 48 inch maple from the middle of the site and the 60 inch, 36 inch and two 40 inch poplars from the bottom of the site.

Mr. Barton stated the point of a PUD was to give a clear sense of the intention of the development without making the developer go through a full blown engineering study. Mr. Barton thought this project was somewhat incomplete and might benefit from being tabled until a more accurate site plan with a more accurate tree survey could be presented. He expressed his support for the Habitat project and the work that has been done, but he could not support this project at this point in time.

Mr. Lucy stated his support of the concept and the variety of types and market rate and affordable housing. He expressed his agreement with the points raised by Mr. Farruggio and Mr. Barton.

Mr. O'Halloran liked the project and wanted to see it succeed but was concerned about the placement of some of the buildings. He was concerned about the change in mix between market rate and affordable housing. He suggested Habitat and the developer talk more about this with the Neighborhood Association.

Ms. Firehock stated she liked the mix of income types. She stated there was a lot more multi-family dwellings in the Fifeville Neighborhood than one might first realize. She thought the Neighborhood Association deserved additional time to discuss with Habitat what was being done to make this work financially. She appreciated that Habitat was the first applicant to fill out the Low Impact Worksheet. She expressed a desire to see more trees preserved.

Mr. Barton moved to defer this project until the next regularly scheduled meeting of the Charlottesville Planning Commission; deferring the project at this time would be to see greater precision in the

conceptual site plan with respect to preservation of the natural features on the site, specifically preserving a greater number of the mature trees and discuss with the neighborhood. Mr. Fink seconded the motion. The motion carried unanimously.

Ms. Firehock called for a brief recess at 10:12 p.m.

Ms. Firehock reconvened the meeting at 10:20 p.m.

-- **SP-06-9-14**: An application for a special use permit for higher density residential development on the property at 201 and 215 Avon Street. This would allow for the construction of 116 units on this site instead of the 50 allowed by right (200 units per acre instead of 87 units per acre). This property is further identified on City Real Property Tax Map 58 as parcels 1 and a portion of parcel 2, having approximately 92.5 feet of frontage on Avon Street and containing approximately 25,265 square feet of land or 0.58 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Industrial Uses. Report prepared by Brian Haluska, Neighborhood Planner.

HEARD IN CONJUNCTION WITH:

G. SITE PLANS

201 and 215 Avon Street -- 12 Residential units

Mr. Haluska gave the Staff report. This property was formerly the location of Lethal Wrecker. The proposed use is a nine-story mixed use building. The property is zoned Downtown Extended which allows a nine-story building by right. The Special Use Permit portion is specifically for density. Two hundred units per acre is the maximum allowed in the zone by Special Use Permit. Supporting documentation accompanying the application mentioned the size of the units. With 87 units per acre, the average unit would be 3,800 gross square feet. With 200 units per acre, it would be roughly 1,900 square feet. The applicant proposes a 100 space parking deck. The project is in the North Downtown Architectural Control District. The Board of Architectural Review has reviewed a preliminary submission from the applicant and members had expressed concerns about: the mass and articulation of the building as well as its relationship to the existing Beck Cohen building which is a contributing structure to the District; the design of the building as it relates to the retail/commercial component. The applicant is trying to bring this in as a LEED certified building on the platinum level. The applicant is requesting a waiver of the required setbacks on Avon and South Street. The building shell is not up for debate; it is a by-right development.

Mr. Fink expressed surprise that there were no elevation drawings provided.

Mr. Barton sought clarification of the mix of uses proposed for the building. Mr. Haluska stated the applicant was proposing a commercial use of a spa and facility. The mix of the use, as required by Downtown Extended zoning, was to be 25 percent of the gross floor area. The break down of usage was included on the cover sheet of the site plan. Mr. Haluska also explained that the use must be open to the public and not just ancillary to the residential use of the building.

Mr. Farruggio wanted to know if there had been any discussion of affordable housing. Mr. Haluska stated there had not.

Mr. Norris wanted to know if the developer had reached out to the neighborhood. Mr. Haluska did not know.

Ms. Firehock recognized the applicant.

Mr. Randy Croxton, of Croxton Collaborative Architects, apologized for not bringing visual materials as he had for the BAR. He provided the Commissioners with examples of the early massing of the project. He stated landscaping and the use of trees is an important element. He stated the site was being cleaned up. The building would have sky gardens as part of the LEED plan. He stated the mass of the building would not increase by increasing the density.

Ms. Firehock called for questions of the applicant.

Mr. Farruggio asked if affordable housing had been taken into consideration. Mr. Croxton stated it had not. He stated this was intended to be luxury housing.

Mr. Fink wanted to know how much LEED certification would add to the cost of the building. Mr. Croxton stated his firm had built other buildings for the same cost as comparable non-green buildings.

Mr. Farruggio wanted to know what it would take to do affordable housing in this project. Mr. Croxton stated that was not his call as he was working on a program which was presented to him.

Mr. Barton asked if the facade of the building would screen the parking area. Mr. Croxton made use of photographs to explain the facade of the building.

Mr. Brown wanted to know if there would be any shading issues due to the height of the building. Mr. Croxton stated there were not.

Ms. Firehock opened the public hearing.

Mr. Chris Gensic, of the Belmont Neighborhood Association, stated this was technically in Belmont and the Neighborhood Association had never been approached by the developer.

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

Mr. Lucy stated the first floor uses were a challenge. He stated this was an important project to support.

Mr. Farruggio, stating that the LEED rating and density was great to support, however, he did have concerns about the parking and the affordability.

Mr. Fink expressed his excitement with the project as a whole and hoped it could become a teaching tool for the development community. He expressed concern about the economic viability of the commercial space.

Mr. Barton stated he could not support this since less than 25 percent was being used for public use. Mr. Tolbert stated the mixed use definition for this district: No less than 25 percent and no more than 75 percent of the gross floor area of a mixed use building or development shall be designed and occupied for residential use. Mr. Barton stated the parking area should not be included in determining the 25 percent. Mr. Fink stated the parking is needed to support the retail space. He did not feel 100 spaces

was adequate in this parking exempt area. Mr. Barton felt this set a terrible precedent in terms of calculating mixed use.

Ms. Lewis stated the commercial use did not even satisfy the underlying zoning. Mr. Tolbert asked that they allow the applicant to explain what he had included in the calculation. Mr. Croxton stated he had included: the spa and health club; the 10,000 square feet of cisterns, micro turbines and other support systems for the building; the sky gardens; and the pergola on the upper level, which is also part of the health club. Mr. Fink stated the applicant was no where near the necessary percentage.

Mr. Barton stated he could not support it as it was now, but he could understand Mr. Croxton's interpretation.

Ms. Lewis felt they should gather information and get an interpretation of how the space is allocated under the ordinance. She stated she was reluctant to defer the application but thought they had to. She asked that the applicant consider some affordable housing elements.

Mr. Lucy felt it would be useful to defer and ask Mr. Tolbert and Staff to make calculations and advise the Commission in terms of what was required under the ordinance.

Mr. Fink moved that they defer application SP-06-9-14 and Site Plan, 201 and portion of 215 Avon Street. Mr. Barton seconded the motion. Ms. Lewis stated they would like Staff and the City Attorney's Office to work with the applicant to identify just what portions are commercial and residential space. The motion carried unanimously.

Ms. Firehock commended the applicant for their efforts to build a green building in Charlottesville and did not want them to be prematurely discouraged by the confusion of the ordinance.

-- **ZT-06-9-17:** An ordinance to amend Chapter 34 (Zoning) of the Code of the City of Charlottesville, 1990, as amended to add "restaurants" as a permitted use in the M-1 Zoning District, Section 34-480 Use Matrix, Commercial Districts.

Mr. Tolbert gave the staff report. Restaurants had been left out of M-1 when it was adopted in 2003. Staff recommended restaurants be included.

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

Ms. Lewis moved to approve an ordinance to amend Chapter 34 of the Zoning ordinance of the City of Charlottesville to add restaurants as a permitted use in the M-1 Zoning District. Mr. O'Halloran seconded the motion. The motion carried unanimously.

-- **ZT-06-9-18:** An ordinance to amend Chapter 34 (Zoning) of the Code of the City of Charlottesville, 1990, amending and reordaining Section 34-662 of Article VI to further regulate mixed uses in the Cherry Avenue Corridor; and amending and reordaining Section 34-1200, definition for Mixed Use Development.

Mr. Tolbert gave the staff report. This is a two part ordinance. The first part of the ordinance would state that within the Cherry Avenue Corridor no residential uses shall be allowed on the ground floor of any mixed use building. The second part deals with the definition of Mixed Use Development: "Mixed Use Development means a building or project containing residential uses in combination with

commercial and/or institutional uses. No use that is or will be merely accessory to or ancillary to a residential use shall qualify as a commercial or industrial use for purposes of this definition." Mr. Tolbert stated he had been reminded by Staff that the Downtown Extended District did allow Mixed Use Height bonuses and the definition may want to read: "Mixed Use Development means a building or project containing residential uses in combination with commercial and/or institutional uses or ground floor retail with office or institutional uses. No use that is or will be merely accessory to or ancillary to a residential use shall qualify as a commercial or industrial use for purposes of this definition." The change was not substantial enough to require advertising it.

Ms. Firehock opened the public hearing.

Mr. Chris Gensic, of 1014 Boling Avenue, stated that sometimes the ability to put affordable housing in a unit meant it was the units in the back of the building on the first floor, so if residential was excluded from the first floor, then the ability to create the affordable units may be hindered.

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

Mr. Tolbert stated they had been attempting to avoid a percentage.

Mr. Fink agreed that applying a percentage would be problematic with large buildings.

Ms. Firehock stated they would give Mr. Tolbert ten minutes to work on rewording the proposal.

III. REGULAR MEETING ITEMS (Continued)

G. SITE PLANS

1. 201 and 215 Avon Street -- 12 Residential units

Heard previously in conjunction with SP-06-9-14.

H. SLOPE WAIVER

1. Water Street Extended (East of 10th Street NE) -- Coal Tower Project -- Mixed use development

Ms. Creasy gave the staff report. The applicant seeks the waiver to allow for grading and development in areas of the property that have existing slopes greater than or equal to the 25 percent. Critical slopes make up 2.24 acres of the 10.656 acre development site, or 21 percent. The applicant proposes to construct approximately 315 residential units and five 50,000 square feet of commercial space. The site plan is still in process and the numbers are still moving. The proposed development would improve conditions on site in a socially and environmentally responsible. Staff recommends approval with the conditions that: the applicant explore innovative ways to handle storm water on site; provide additional opportunities for green space on the site; submit further details on construction of the retaining wall and construction sequencing as part of the site plan review.

Ms. Firehock recognized the applicant.

Mr. Dylan Baines stated there was 150,000 yards of dirt that would be disturbed.

Ms. Firehock asked if any consideration had been given to storm water and green space. Mr. Baines stated he thought they could meet staff's goals on storm water.

Mr. Farruggio asked that the applicant put five foot wide tree planting strips on the north and south side of Water Street Extended. Mr. Tolbert stated the property was not wide enough to allow for that.

Mr. Fink also wanted to see more trees put in.

Mr. Farruggio stated he could not support this as it was very urban.

Mr. O'Halloran respectfully disagreed with Mr. Farruggio. He was persuaded the applicant has done the due diligence to remediate the site.

Mr. O'Halloran moved that they accept the application for a waiver of the steep slope ordinance with the following conditions: that the applicant explore innovative ways to handle the storm water on site; provide additional opportunities for green space on site including offering ten percent more than the minimum required tree canopy; and submit further details on construction of the retaining walls and construction sequencing as part of the site plan review. Mr. Fink seconded the motion. Ms. Lewis offered a friendly amendment that the waiver was being accepted based on criteria 3 -- Due to the unusual size, topography, shape, location, or other unusual physical conditions of the property which would effectively prohibit or unreasonable restrict the use of the property. Mr. O'Halloran and Mr. Fink accepted the friendly amendment. Ms. Lewis expressed her support for the motion, but thought the steep slope ordinance was flawed. The motion carried unanimously.

Ms. Firehock recalled **ZT-06-9-18**.

Mr. Tolbert stated the City asked for deferral of Section 34-662 while going forward with Section 34-1200.

Mr. Farruggio moved to adopt the change to 34-1200 and moved to defer 34-662. Mr. Lucy seconded the motion. The motion carried unanimously.

I. OTHER PLANNING ITEMS

McIntire Road Trail Report

Mr. Chris Gensic, Trails Planner with the Parks Department, stated his task was to implement the bike/pedestrian plan by 2015. The City was working on a project with the County that would get people from Preston Avenue to Harris Street. They wanted to build a Monticello style trail before Christmas.

Mr. Farruggio moved to adjourn. Mr. O'Halloran seconded. The motion carried unanimously whereupon the meeting stood adjourned at 12:43 a.m., Thursday, 14 September, 2006.

Respectfully Approved,

James E Tolbert

Secretary to Planning Commission