

DRAFT MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

TUESDAY, 14 JULY, 2009 -- 5:30 P.M.

CITY COUNCIL CHAMBERS

Commissioners present:

Mr. Jason Pearson (Chairman)

Mr. Michael Farruggio (Vice-Chairman)

Ms. Cheri Lewis

Mr. Michael Osteen

Mr. Dan Rosensweig

Mr. Bill Emory

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

Commissioners Not Present:

Ms. Genevieve Keller

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy

Mr. Brian Haluska

Mr. Nick Rogers

Ms. Ebony Walden

City Council Members Present:

Mr. Julian Taliaferro, Vice Mayor

Ms. Holly Edwards

Mr. Satyendra Huja

Also Present:

Mr. Richard Harris, Deputy City Attorney

II. REGULAR MEETING

Mr. Pearson convened the meeting at 5:34 p.m.

A. COMMISSIONERS' REPORTS

Mr. Rosensweig had nothing to report from the MPO Tech Committee. However, he wanted to express his gratitude to Cheri Lewis who was attending her last meeting as a Planning Commissioner. He stated Ms. Lewis had given eight years to the Commission and City of Charlottesville during a period of unprecedented scale of zoning and planning activity. He noted her dedication and perseverance and her attention to detail. He commended her for being consistently prepared and for bringing to the Commission a foundation of knowledge and research.

Mr. Farruggio stated PACC Tech had not met yet. The Parks and Recreation Committee had met. The Onesty Family Aquatic Center was now open. He noted there was also an athletic field study being done. He reported Forest Hills park was under construction, as was the Smith Aquatics Center. Farmers in the Park on Meade Avenue was going well.

Mr. Osteen had nothing to report as he had not been able to attend the Board of Architectural Review meeting.

Ms. Lewis asked to defer her report until right before the Joint Public Hearings.

Mr. Emory had nothing to report.

B. UNIVERSITY REPORT

Mr. Neuman stated the PACC Tech would be meeting 16 July at 3 p.m. in the County Office Building. Men noted many of the University's construction projects would wrap up over the summer.

C. CHAIR'S REPORT

Mr. Pearson stated the Thomas Jefferson Planning District Commission had met and been preceded by an open house which was well attended. The new Executive Director, Steve Williams, provided a presentation based on his previous work on The Impact of Rapid Growth. The TJPDC had also had a presentation from Meredith Richards of Cville Rail.

D. DEPARTMENT OF NDS/STAFF REPORTS

Ms. Creasy stated the July work session would focus on land use and economic development particularly in industrial areas. She noted the yard sale item would be scheduled for a work session in the near future if it became initiated during this meeting.

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

There were no matters from the public.

F. CONSENT AGENDA (Items removed from the consent agenda will be considered at the end of the regular agenda)

1. Site Plan and Subdivision approval list
2. Minutes -- April 14, 2009 -- Regular meeting
3. Minutes -- May 12, 2009 -- Regular meeting

4. Minutes -- June 9, 2009 -- Pre-meeting

5. Minutes -- June 9, 2009 -- Regular meeting

6. Minutes -- June 23, 2009 -- Work Session

7. Request for initiation of zoning text and map amendments -- The purpose of initiating these amendments is to allow formal consideration of the applications. These items will be scheduled for future public hearings if initiated:

a. Yard Sale Regulations

Mr. Pearson stated items 3 and 5 had not yet been received and would be pulled from the agenda. Mr. Rosensweig asked that item 7 be pulled from the Consent Agenda. Ms. Lewis sought clarification from her colleagues as to the wording of the motion on page 9 of the April minutes as to whether the time of 6 a.m. as written was correct since the debate had been centered around 5 a.m. Mr. Harris offered his recollection that the Staff recommendation had been 3 o'clock, the applicant had wanted 5 o'clock, and at that point it was realized they would be asking the applicant to be closed from 5 a.m. to 6 a.m. and discussion then centered on why tell them to close that one hour, so the motion was adjusted. Mr. Pearson stated that was his recollection as well.

Ms. Lewis moved to approve the Consent Agenda, numbers 1, 2, 4, and 6 as presented on their agenda. Mr. Farruggio seconded the motion. The motion carried unanimously.

G. Site Plan -- Oakhurst Circle

Ms. Walden noted that during the earlier meeting the Commissioners had asked the applicant to provide some visual representation of where the building overhanging was; she provided that to the Commissioners. Ms. Walden then gave the staff report. This is a preliminary site plan for the redevelopment of four parcels located at 100, 102 and 104 Oakhurst Circle and 1616 JPA. The site plan proposes the conversion of two of the existing apartment buildings and one single family residence into a 27 bedroom bed and breakfast, retaining one of the units currently there, and the construction of a 36 unit apartment complex with parking garage under it and the realignment of the JPA/Emmett intersection. On January, 5, 2009, City Council approved a Special Use Permit was for 32 dwelling units per acre and a reduced setback to 12 feet. As a condition of the SUP, the applicant was required to provide bike racks; they have provided nine. A second condition was the intersection realignment; plans were submitted which were reviewed and approved by the City Traffic Engineer. Staff recommends approval.

Mr. Bill Chapman was present on behalf of the applicant.

Mr. Osteen wanted to know the reason behind the location of the handicap spot on Oakhurst Circle. Mr. Chapman explained that was where the existing conditions were closest to grade.

Mr. Pearson called for comments from the Commissioners.

Mr. Osteen commended the applicant and designers for going out of their way to make this a successful project from their perspective as well as the neighborhood's.

Mr. Farruggio expressed appreciation for the work put into meeting their concerns.

Mr. Farruggio moved to approve the site plan for Oakhurst Circle. Mr. Emory seconded the motion.

F. CONSENT AGENDA

7. Request for initiation of zoning text and map amendments -- The purpose of initiating these amendments is to allow formal consideration of the applications. These items will be scheduled for future public hearings if initiated:

a. Yard Sale Regulations

Mr. Pearson noted that Craig A. Fabio, Zoning Inspector, had provided a report to the Commission during the Planning Commission pre-meeting. He then called on Mr. Rosensweig since he had requested the item pulled from the consent agenda.

Mr. Rosensweig expressed concern about the process of initiating zoning text amendments since there was a sense among some that they were over regulating things that perhaps don't need to be regulated. He explained he had a number of concerns about over regulating yard sales. He reminded the Commissioners they would have to look to see whether passing this ordinance served the general welfare; he was not sure it did.

Mr. Farruggio agreed that once they got the ball rolling, they did feel pressure to adopt the amendment. He did not agree with charging someone five dollars to put up a sign to have a yard sale.

Mr. Emory stated he looked forward to receiving more information from Mr. Fabio about this.

Mr. Fabio clarified that the issue was not to deter people from having yard sales but to stop businesses that were being run from homes under the guise of a yard sale every weekend. He stated there was no plan to have a fee until there was a comprehensive change.

Ms. Lewis stated she was in favor of initiating this but would want to make sure that this was narrowly tailored so they were not over regulating behavior or conduct that is not objectionable and does not need to be regulated. Ms. Lewis did want to know which districts would be regulated.

Mr. Rosensweig agreed that this had to be narrowly tailored.

Mr. Farruggio moved to initiate the proposed amendment to the City Zoning Ordinance, to wit amending any and all articles found to be applicable to yard sale permits. Mr. Osteen seconded the amendment. Ms. Lewis noted the Commission should look comprehensively at the Temporary Outdoor Sales statute as well. Ms. Lewis offered friendly amendment that temporary outdoor sales be reviewed as well. Mr. Farruggio accepted the friendly amendment. The motion carried unanimously.

Mr. Pearson noted the Commission would be losing Ms. Lewis and would also soon be losing Mr. Farruggio. He stated the application process for the empty Commission seats would still be open for a few more days.

Mr. Pearson recognized Ms. Lewis to give her Commissioners' Report.

Ms. Lewis read a prepared statement reflecting on her eight years as a Commissioner. She thanked former mayor Blake Caravati and former City Councilor David Toscano for persuading her to apply. She stated the current Commissioners she served with were the most qualified, hard-working, and most passionate she had ever served with. She thought the current Neighborhood Planners were the most

esteemed group she had seen. She commended Jim Tolbert for his work in carrying out a vision for the City in the past decade. She expressed her fascination by the faithful participation in the public in all of the Commission's matters. She stated they were fortunate to be a community where people care enough to contribute to the public discourse.

III. JOINT PUBLIC HEARINGS

H. JOINT PUBLIC HEARINGS

1. P-09-06-11 -- (101 & 103 South First Street) An application for a special use permit for the property at 101 and 103 South First Street. This is a request to allow a dance hall within the Downtown Corridor. This property is further identified on City Real Property Tax Map Number 28 as parcel 19 having approximately 227 feet of frontage on South First Street and containing approximately 18,382 square feet of land or 0.4220 acres. The zoning of this property is currently Downtown Corridor with Historic Overlay and general uses called for in the Land Use Plan of the Comprehensive Plan are for Mixed Use.

Mr. Haluska gave the staff report. This property was previously the Gravity Lounge. He stated the key impact the Commission needed to look at was noise, lights, dust, odor, fumes, vibration, and other factors which adversely affect the natural environment including quality of life for the surrounding community. He noted the space was somewhat under ground; adjoining units in the building were commercial in nature and were vacant during the peak activity hours of this application.

Correspondence had been received from a business owner on the Downtown Mall about the adequacy of the facility to support larger crowds. Several exterior lights do not appear to be operational; staff suggests the application be conditioned on making the existing lighting operational. Staff recommends approval with the condition provided in the gave the staff report: "There shall be no audible noise, detectable vibration or odor beyond the confines of the building in which the club is located, including transmittal through vertical or horizontal party walls, between the hours of 1:00 a.m. and 8:00 a.m."

Mr. Emory sought clarification of the wording of the proposed motion noting the application was for a private club. Mr. Haluska noted that was an error and should be changed.

Mr. Rosensweig noted the proposed motion restricted audible noise, detectable vibration or odor between the hours of 1 and 8 a.m., but the establishment would be open until 2; he wanted to know why they could not allow them to do what they do. Mr. Farruggio suggested the time should curtail before people who live downtown would go to sleep as opposed to after the club closes. Mr. Haluska expressed his understanding that these type of businesses begin winding down at 1; the intent of this section was to have performances wrap up prior to 2 a.m.

Ms. Lauren McRaven was present on behalf of First Street Ventures. She stated they did not intend to be open later than 2 o'clock. She confirmed that business tends to taper off around 1.

Mr. Pearson opened the public hearing. With no one wishing to speak to the matter, he closed the public hearing and called for discussion among the Commissioners.

Ms. Lewis suggested the time frame of the proposed motion be changed from 1 o'clock to 2 o'clock. Mr. Farruggio expressed concern that this would be doing a disservice to those folks living on the Mall. Ms. Lewis cited Section 34-541: "The area within this zoning district is the entertainment and employment

center of the community and the regulations set forth within this district are designed to provide appropriate and convenient housing for persons who wish to reside in proximity to those activities."

Ms. Lewis moved to recommend approval of this application for a special use permit in the Downtown Corridor zone for the proposed dance hall to be located at 101 and 103 South First Street to permit a dance hall, with the following conditions: there be no audible noise, detectable vibration or odor beyond the confines of the building in which the dance hall is located, including transmittal through vertical and horizontal party walls, between the hours of 2 a.m. and 8 a.m. Mr. Osteen seconded the motion. Mr. Emory wondered if the provision of 34-1174(3) should be included in the wording of the approval. Mr. Harris noted that did not necessarily apply to Special Use Permits, but could be added if the Commission wished to do so and could show it was a reasonable condition. Mr. Emory sought clarification that Mr. Harris thought the motion should be left as stated; Mr. Harris did. The motion carried unanimously.

2. SP-09-06-12 -- (900 & 902 Harris Street) An application for a special use permit for the property at 900 and 902 Harris Street. This is a request to allow for outdoor storage/open storage yard within the Industrial Corridor. This property is further identified on City Real Property Tax Map Number 34 as parcels 6 and 7 having approximately 93 feet of frontage on Harris Street and containing approximately 25,003 square feet of land or 0.574 acres. The zoning of this property is currently Industrial Corridor and general uses called for in the Land Use Plan of the Comprehensive Plan are for Industrial.

Mr. Rogers gave the staff report. In May, Staff was approached by Southside Builder Supply Corporation about storing masonry materials on their new location's fenced in yard. The Zoning Administrator determined that use would be outdoor storage, which is only permitted in the Industrial Corridor zone by Special Use Permit. The key issues before the Commission are: traffic, noise, screening. Staff believes limiting the business hours would mitigate the traffic and noise impacts. Additionally, Mr Rogers stated that the screening of the stored materials from the right of way was a possible condition for granting the Special Use permit.

Ms. Lewis wanted to know how the provisional use permit of Section 34-1173 applied to this. Mr. Rogers explained it had been helpful for him to look at how such a land use's impacts would be mitigated in a more conventional sense.

Ms. Lewis wanted to know why an S-3 screen as suggested under Section 34-872(b)(1) -- All outdoor storage and loading areas shall be screened from view from public rights-of-way and adjacent residential districts -- was not recommended in the Staff report. Mr. Rogers stated he had not because there were no adjacent residential districts adjacent just to the property line.

Mr. Darryl Dorman, Vice President of Southside Builders Supply, stated the property was totally surrounded by other industrial sites. Most deliveries were made from the Richmond office. He did not see using more than 50 percent of the lot for storage space.

Mr. Osteen wanted to know if the property would be fenced. Mr. Dorman stated it would and was currently fenced.

Mr. Pearson opened the public hearing. With no one wishing to speak to the matter, Mr. Pearson closed the public hearing and called for discussion among the Commissioners.

Mr. Farruggio thought this was a perfect use and was harmonious with existing patterns of use and development in the neighborhood. He also stated it conformed with the Comprehensive Plan and all applicable building codes. He thought this would encourage economic development in the city.

Mr. Emory suggested the applicant plant some trees to help with screening and to mitigate the heat island effect created by the storage of masonry materials.

Mr. Osteen stated he liked the idea of two trees but thought the nature of what the applicant had planned was totally appropriate. He saw no need for any further stipulations.

Mr. Farruggio moved to recommend approval of this application for special use permit in the IC –

Industrial Corridor zone for Southside Builders Supply, a proposed outdoor storage use, at 900 and 902 Harris Street to permit storage of masonry materials. Mr. Osteen seconded the motion. Ms. Lewis offered a friendly amendment as Staff had recommended that deliveries to the site occur between the hours of 7 a.m. and 6 p.m.; she also offered a friendly amendment of with no noise audible beyond the property line outside of those hours. Mr. Farruggio stated he would accept the friendly amendment if it was about deliveries but not about noise. Ms. Lewis stated the noise issue was real and the Commission could condition approval of a Special Use Permit on narrowly tailored conditions that go to mitigate the adverse impacts on adjacent neighborhoods and adjacent properties. Mr. Pearson asked the applicant to speak to the nature of the business operations. Mr. Dorman stated the business hours were 7 a.m. to 4 p.m. He noted any deliveries they received would be between 4 and 6. Ms. Lewis modified her friendly amendment to note that deliveries to the site are restricted to the hours of 7 a.m. to 7 p.m. and no audible noise beyond the property outside of those hours. Mr. Farruggio accepted the modified friendly amendment. Mr. Dorman asked if the hours could begin at 6 a.m. due to the arrivals of out of state trucks. Mr. Farruggio asked if Ms. Lewis would accept 6 a.m. to 8 p.m.; she would. Ms. Creasy called the roll. The motion passed, 5-1; Mr. Emory voted against.

Mr. Pearson called for a brief recess at 7:35 p.m. He reconvened the meeting at 7:42 p.m.

3. ZT-09-06-13 -- An ordinance to amend and reordain Section 34-971 of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) relating to off street parking by dividing the current Parking Exempt Area into three categories: (1) the Urban Core Parking Zone; (2) the Corner Parking Zone; and (3) the Parking Modified Zone and enacting requirements for the provision of parking for new construction and additions in those zones. In addition, all properties that are partially included in the current Parking Exempt Area shall be completely subject to the replacement regulations.

ZM-09-06-14 -- 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 replacing the current Parking Exempt Area with three separate parking zones: (1) the Urban Core Parking Zone (areas between Market Street, Water Street, Ridge/McIntire and Avon/9th Streets); (2) the Corner Parking Zone (area in the current Parking Exempt Area west of 13th Street); and (3) the Parking Modified Zone, encompassing all remaining areas of the current Parking Exempt Area.

Mr. Tolbert gave the staff report. A parking study had been begun over a year before to look at parking issues in the downtown area. The study found the parking exempt zone has outlived its usefulness and should be changed. In its May work session the Commission had discussed keeping the parking exempt zone in the Corner District and in what has now been named the Urban Core Parking area; everything

else would be a Modified Zone. Required parking in the Urban Core Parking Zone, Corner Parking Zone, and the Parking Modified Zone may be provided either on site, within 1000 feet of the site, by payment into a City parking fund in an amount per space determined by the Economic Development Office, by making a one-time contribution for transit improvements equivalent to the cost of each required parking space, by construction of a transit stop on site if the location is desired by CTS or UTS, by purchasing bicycles or scooters for the use of building residents at a rate of one per every two required spaces with storage facilities provided on site, or by development of a Parking Management Plan and alternative ideas approved by the Planning Commission.

Mr. Huja wanted clarification on how the parking management plan would work. Mr. Tolbert explained the Commission's intent was not to be prescriptive as someone could walk in with a solution they had not thought of.

Mr. Pearson opened the public hearing.

Mr. Paul Wright, of 749 Exton Court thanked the Commission for looking at this and reconfiguring it so the Downtown area and The Corner were treated differently than the other exempt areas.

With no one else wishing to speak to the matter, Mr. Pearson closed the public hearing and called for discussion.

Mr. Farruggio felt they had had the best intentions when they started adding other ideas, but he now found conflict within the requirements. Requirements i, ii, iii, and iv were strong; however, he felt v, vi, and vii should be removed due to being too vague.

Mr. Osteen agreed that i, ii, iii, and iv were strong. However, he thought item v should be the development and implementation of a Parking Management Plan that includes items such as construction of a transit stop on the site, purchase of bicycles and scooters.

Mr. Tolbert stated the City Attorney suggested elimination v and vi and create a new v out of vii along the lines of "implementing alternative ideas equivalent in value approved by the Planning Commission" with examples to be determined.

Mr. Farruggio expressed support for Mr. Tolbert's statement. However, he wondered if the requirement of paragraph 3 should be for less than 20 parking spaces. Mr. Tolbert explained 20 is used throughout the ordinance to trigger different requirements.

Mr. Rosensweig thanked Mr. Tolbert and the staff for putting together such complicated ideas into something as coherent and useful as it was. He asked that an idea which had been mentioned previously be put in the document: In the Parking Modified Zone, the required spaces for affordable units be reduced to zero. Mr. Tolbert thought that was a phenomenal idea and asked that "affordable" be as defined by City Council policy.

Ms. Lewis moved to recommend approval of this zoning text amendment request to amend and reordain Section 34-971 of the Code of the City of Charlottesville, 1990, as amended, the Zoning Ordinance, by replacing the current parking exempt area with the regulations provided to the Commission in their packets for this meeting with the following changes: in 34-971(e)(3) a new sentence would be added to state "any affordable units as defined by City Council would be exempt from the regulations of this Chapter"; additionally, paragraph 4 as presented to the Commission would be revised

to delete current subparagraphs v and vi, changing the number of vii to v and vii would be modified as follows: by implementation of alternative transportation ideas equivalent in value to options 1 through iv above and as approved by the Planning Commission; item 5 as submitted to the Commission would be revised in the third line to delete the words "locker for" and insert after the word "bike," "storage facilities to accommodate"; also scratch "one bike locker" and replace it with "storage facilities" -- for three separate parking zones, the Urban Core Parking zone, areas between Market Street, Water Street, Ridge/McIntire and Avon/9th Streets, the Corner Parking Zone, area in the current Parking Exempt Area west of 13th Street, and the Parking Modified Zone, encompassing all remaining areas of the current Parking Exempt Area on the basis that the change that the change would serve the interests of the general public and good zoning practice and would promote good dental hygiene. Mr. Farruggio seconded the motion. Mr. Pearson reminded Ms. Lewis that one version of the amended language had included in the revision of what was currently vii and would become v, some language about examples of what might be included in that plan that would be drawn from v and vi. Ms. Lewis modified her motion to say such as transit stops, the provision of bicycles and scooters along with storage facilities therefore. Mr. Farruggio seconded the amendment. Mr. Harris suggested Ms. Lewis amend her motion as to the section about affordable housing to note that the exemption would be for the provisions of this division so as not to exempt them from all of Chapter 34. Ms. Lewis amended her motion to revise the word "Chapter" to insert "division." Mr. Farruggio seconded the amendment. The motion carried unanimously.

Ms. Lewis moved to recommend approval of this request 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 replacing the current Parking Exempt zone with three separate parking zones: (1) the Urban Core Parking Zone (areas between Market Street, Water Street, Ridge/McIntire and Avon/9th Streets); (2) the Corner Parking Zone (area in the current Parking Exempt Area west of 13th Street); and (3) the Parking Modified Zone, encompassing all remaining areas of the current Parking Exempt Area. In addition, all properties that are partially included in the current Parking Exempt Area shall be completely subject to the replacement regulations, on the basis that this change would serve the interests of the general public welfare and good zoning practice and promote good dental hygiene. Mr. Farruggio seconded the motion. Ms. Lewis thanked Mr. Tolbert who, at the last work session, mapped out changes to what they were considering at the time; the changes were drastic changes which encompassed where the sentiments of the Commissioners were going. The motion carried unanimously. Mr. Pearson also commended Mr. Tolbert and staff. Mr. Tolbert noted this had been a great collaborative process in which the Commission had done a great job.

IV. REGULAR MEETING ITEMS (Continued)

I. Preliminary Discussion

Abundant Life Ministries Property (991 5th Street SW and 834 Prospect Ave)

Mr. Rosensweig recused himself from the discussion as he was the Executive Director of Habitat for Humanity of Greater Charlottesville and Habitat had an interest in this property.

Mr. Haluska gave the staff report. This preliminary discussion was for a potential rezoning; no application has been filed at this time. The applicant has looked into potential development of this

parcel for several years. The applicant is proposing multi-family housing and possibly some community space.

Mr. Kurt Keesecker, of Bruce Wardell Architects and project manager for the project, explained there would be a master planning process to address where buildings would sit on the site.

Mr. Farruggio wanted to know the proposed density of the project. Mr. Keesecker stated the Prospect Avenue parcel was about 1.24 acres; the parcel towards 5th Street was 1.76 acres. The by right density for the MR portion would be 37 units. The R-2 parcel could have 14 units.

Mr. Pearson commended Mr. Keesecker and his team on the quality of the submission.

Mr. Emory thought the PUD ordinance was written for this site. Mr. Keesecker stated it would have been more complicated to bring a development plan forward on a PUD while a rezoning seemed more straightforward.

Mr. Pearson clarified that if it seemed to the applicant the Commission was favorable toward a rezoning and they came forward for a rezoning which was approved, that could give them freedom for exploration.

Mr. Farruggio thought it was interesting and the applicant had done a good job. He expressed a preference for option two because it preserved the R-2 qualities on Prospect Avenue which was incredibly important to Mr. Farruggio.

Mr. Osteen stated he was interested in the mix of program present. He encouraged as aggressive an interpretation of zoning as possible to allow the program to work. He recommended the applicant to rezone the property and come for all the variances needed to make this happen.

Ms. Lewis did not have a preference and stated it would depend on the programming.

Mr. Emory wished the PUD would work for the applicant. He stated he would respond when he saw the plan.

Mr. Pearson thought option two seemed to be more of a straightforward request and it did not alter the character of Prospect Avenue. He stated he would be open to talking about option one.

Mr. Farruggio moved that they adjourn to the second Tuesday in August. Ms. Lewis seconded the motion. The motion carried unanimously whereupon the meeting stood adjourned at 9:04 p.m.