

DRAFT MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

TUESDAY, 10 APRIL, 2007 -- 6:30 P.M.

CITY COUNCIL CHAMBERS

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

Mr. Jon Fink (Chairman)

Mr. Bill Lucy (Vice-Chairman)

Ms. Cheri Lewis

Mr. Michael Farruggio

Mr. Hosea Mitchell

Mr. Michael Osteen

Mr. Jason Pearson

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

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy

Ms. Ashley Cooper

Mr. Brian Haluska

Ms. Ebony Walden

Mr. Martin Quinn, Civil Engineer

City Council Members Present:

Mr. David Brown, Mayor

Ms. Kendra Hamilton, Vice Mayor

Mr. Kevin Lynch

Mr. Julian Taliaferro

Also Present

S. Craig Brown, City Attorney

II. REGULAR MEETING

Mr. Fink called the meeting to order at 6:33 p.m.

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

Mr. Fink called for matters from the public not on the formal agenda. There were none.

B. COMMISSIONERS' REPORTS

Mr. Farruggio stated the Neighborhood Federations had not met in the past month. He had been out of town when the MPO Tech Committee met. Mr. Farruggio stated the 250 Bypass Meeting had been cancelled and rescheduled; he would be attending it. The Parks and Recreation Advisory Committee had met and talked about the idea of having a multi-generational facility with an indoor pool, basketball courts, and other activity rooms for the community. The major point of discussion had been whether the City wanted to join with the YMCA in building a facility.

Mr. Pearson had not been able to attend the Downtown Design Review Committee meeting nor the Thomas Jefferson Planning District Commission meeting. Mr. Pearson wanted to highlight an E-mail the Commissioners had received from a City resident which raised issues related to the CIP process including the fact there are neighborhoods in the City where it is difficult to come up with a volunteer manager to organize a process to apply for CIP funds let alone implement that process.

Mr. Lucy had attended the City and Schools CIP meeting in which the potential for accelerating the handicapped disability access was discussed.

Mr. Osteen stated he had been unable to attend the BAR meeting. He stated the Streetcar Task Force met in subcommittees. Mr. Osteen had also been unable to attend the Downtown Design Review Committee but understood they had come to a final consensus on the issues to be debated; that document had been circulated to the Planning Commission and BAR and was on the agenda for a formal work session 1 May.

Ms. Lewis had attended the Housing Advisory Committee meeting at which the regional housing report of the Thomas Jefferson Planning District Commission had been reviewed. She noted that the Albemarle County Planning Commission had voted to recommend denial of Biscuit Run, identifying traffic issues affecting the City as a major reason for denial. She informed the Commission that the North Downtown Neighborhood had identified parking as a critical issue. Ms. Lewis also asked the status of the Wayfinding Plan.

Mr. Mitchell had nothing to report.

Mr. Neuman apologized for not being present at the March CPC meeting as he had been giving a presentation at the County Planning Commission. Mr. Fink sought the status of the South Lawn project. Mr. Neuman stated the infrastructure phase was underway. Mr. Farruggio wanted to know what was going on with the pedestrian ramp. Mr. Neuman stated it was a temporary disabled access ramp which led to a temporary bus stop.

C. CHAIR'S REPORT

Mr. Fink stated the Board of Zoning Appeals had met in March. The Eastern Connector Committee had met and scheduled public hearings. The Charlottesville and Albemarle Planning Commissions would hold a joint meeting on 22 May to examine holistic issues, community issues: how to work together in a more coherent fashion. Mr. Fink was looking forward to having these meetings on a quarterly basis. Mr. Fink thought this was one of the most positive steps he had seen since he was a Planning Commissioner on how they could work together for community issues. He stated he was to have another lunch meeting with Mr. Tolbert, Ms. Marcia Joseph, Chair of the Albemarle County Planning Commission, and Mr. Wayne Cilimberg, Albemarle County Director of Planning, in which the agenda for the 22 May meeting would be set. Mr. Fink stated this was National Architecture Week. Mr. Fink noted the City had received a Distinctive designation from the National Trust for Historic Preservation.

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

D. CONSENT AGENDA

1. Steep Slope Waiver -- 1115 Wertland Avenue

2. Minutes -- March 13, 2007 -- Regular Meeting

3. Minutes -- March 27, 2007 -- Work Session

Ms. Lewis stated she had asked Mr. Lucy to add to the minutes his comments about possibly Meade Avenue being an area they may want to look at in the way of designation. Mr. Lucy stated he had given the draft comments to Ms. Creasy. Mr. Fink noted a clarification on the Steep Slope Waiver that the Staff recommendation should be amended to read: "Staff recommends approval of the waiver of the steep slope ordinance as shown on the site plan for this project with the following conditions." Ms. Lewis noted for the record the conditions of the Staff recommendation were the storm water conveyance system be decentralized for environmental reasons, and that they recommend cast-in-place retaining walls instead of modular.

Ms. Lewis moved to accept the Consent Agenda items and adopt the Steep Slope Waiver and the minutes from the March meetings. Mr. Lucy seconded the motion. Mr. Fink called a voice vote. The motion carried unanimously.

Recognizing there was not a quorum of Councilors present, Mr. Fink called for a brief recess at 6:51 p.m.

Mr. Fink reconvened the meeting at 6:56 p.m. He stated the items in the Joint Public Hearings would be heard out of order.

IV. JOINT PUBLIC HEARINGS

F. JOINT PUBLIC HEARINGS

2. ZT-07-04-13: An ordinance to amend and reordain Section 34-480 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to allow for additional uses by right, by provisional use and by special permit in the M-1 Industrial Zoning District. Report prepared by Missy Creasy, Planning Manager.

Ms. Creasy gave the staff report. At the March Planning Commission meeting, it was requested that staff evaluate the M-1 Industrial uses within the Matrix to determine if additional uses that are currently not noted could be appropriate in the M-1 District. Staff took a review of this and is proposing a number of changes. A number would be by-right and there are items that would be by special permit as well as one by provisional use. The review took into account the zoning map, existing and future land use maps, as well as the current and pre-2003 zoning ordinances.

Mr. Fink called for questions of staff.

Ms. Lewis wanted to know if there was a definition of "consumer service businesses" in the Code. Ms. Creasy stated there was. She then provided the definition: Consumer service business means a business primarily engaged in the provision of a service in the nature of a personal or household convenience -- including acupuncturist; beauty salons, print shops, et cetera. This definition does not include any business offering a service to the public, where such business is separately listed by name within the use matrix for any zoning district.

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

Ms. Lewis commended Staff for putting this together as quickly as they did.

Mr. Lucy thought it clarified what is permitted in the district and should be approved.

Mr. Lucy moved that the Planning Commission approve the proposed changes to the M-1 Industrial matrix uses as described by Staff in the memo in item ZT-07-04-13, Section 34-480 of the Code of The City of Charlottesville. Mr. Mitchell seconded the motion. Mr. Fink asked Ms. Creasy to call the roll. The motion carried unanimously.

1. ZM—07-03-06: (Carlton Road) A petition to rezone from M-1 Industrial to Downtown Extended Corridor, for the property at the corner of Meade Avenue and Carlton Road with a proffer. The proffer limits building height to that permitted in the M-1 Zoning District (maximum of 85 feet). The application is to create opportunities for uses not allowed within Industrial zoning. This property is further identified on City Real Property Tax Map Number 56 as parcel 19 having 150 feet of frontage on Carlton Road and containing approximately 27,007 square feet of land or 0.62 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Industrial Uses. Report prepared by Ashley Cooper, Neighborhood Planner.

Mr. Fink asked the City Attorney to comment on these two applications. Mr. Brown stated these were related. He advised the Commission not to look on them as an either/or proposition as both would go to City Council with a recommendation.

Ms. Cooper gave the staff report. This had been reviewed by the Commission on 13 March. Concerns had been expressed about the potential height allowance within the Downtown Extended Corridor. The applicant has come forward with a proffer to restrict this property's height to 85 feet with the rezoning.

Mr. Fink called for questions of staff.

Ms. Lewis sought confirmation this was truly one tax map parcel. Ms. Cooper confirmed this was one tax map parcel.

Mr. Pearson wanted to know if the applicant had suggested limiting the density. Ms. Cooper stated while that had been a concern expressed by the Commission, they had only required a proffer about height.

Mr. Fink opened the public hearing. He then recognized the applicant.

Mr. Charlie Lewis, of 4357 Chris Greene Lake Road, stated he would be more than willing to proffer the density also to abide by the M-1 district. Mr. Fink stated the Commission could not ask the applicant for proffers; if the applicant wanted to make the proffer, the Commission would have to defer this to the next meeting to consider the proffer. Mr. Brown, citing City Code -- "Preliminary proffers may be modified by an applicant, orally or in writing, at the public hearing; however, where proffers are made for the first time ... or are substantially modified"-- stated the Commission needed to defer.

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

Mr. Farruggio realized the property owner's intent, but stated that intent did not affect the future land use. He stated the density was an issue for him. He could not go forward with that kind of density on this corridor.

Mr. Pearson concurred with the sentiments expressed by Mr. Farruggio. He stated it made sense to defer the matter.

Ms. Lewis stated that when considering a rezoning, the Standard of Review asks the Commission to ask whether the existing zoning is reasonable, and then evaluate whether the proposed zoning classification is reasonable. Other factors to look at are existing use, character of the subject property, adjacent properties, suitability to property for various uses, zoning classifications of the current adjacent properties, trends, et cetera. She would not favor rezoning even with the proffers that have been so generously given by the applicant. She did not think this was appropriate for the Downtown Extended as it was bringing downtown to Meade Avenue which had never been discussed with the neighborhoods. She did not think this was an appropriate property to entertain a very intense use as Downtown Extended Zoning would give it.

Mr. Mitchell stated this was not a site which should bear an increased density.

Mr. Farruggio moved to defer this. Mr. Mitchell stated there were still issues with the property and an additional proffer would still meet with significant resistance. Mr. Mitchell seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

3. ZT-07-04-12: An ordinance to amend and re-ordain Section 34-600 and 34-602 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to allow for variation in the mixed use percentage by Special Use Permit in the Downtown North Mixed Use Zoning District. Report prepared by Missy Creasy, Planning Manager.

Ms. Creasy gave the staff report. This is a text amendment request from the applicant, Tenth and Market LLC. This was submitted for consideration to allow for further flexibility in the percentage of residential required for a mixed use development containing up to 43 dwelling units per acre by Special Permit in North Downtown. The zoning ordinance currently requires no less than 25 percent and no more than 75 percent for mixed use developments containing up to 43 dwelling units per acre. This

request has a provision for the change only by special permit; the CPC would be looking at specific applications and determining whether the mixed use was appropriate or not.

Mr. Fink stated the concept of mixed use was to create dynamic street life. He added they needed to look carefully at what a minimum threshold is.

Mr. Pearson sought clarification that the text under consideration was specifically for the Downtown North District. Ms. Creasy stated these were specific to Downtown, Downtown Extended, and West Main North Corridor.

Ms. Lewis expressed concern about the language of the proposed amendment as it seemed to eliminate the percentage requirement. Ms. Creasy stated that was meant to point to Section 34-602. Ms. Lewis felt the 25/75 percentages should remain in Section 34-600.

Mr. Fink called for questions of staff from City Council.

Ms. Hamilton sought clarification that this was in response to a single building, that the Code for the entire City was being changed for the convenience of a single applicant. Ms. Creasy stated this had been brought forth by an applicant.

Mr. Fink recognized the applicant.

Ms. Tara Boyd, of 726 Monticello Avenue, was present with Mr. Joe Knobe, of 204 East Jefferson Street. Ms. Boyd was present as the agent for the applicant. She stated they did not want the Commission to throw out the 75/25 percentage. This was meant to be a release valve to allow the Planning Commission and Council to vary this mix if it was determined to be in the City's best interest. She stated the Commission needed to consider: whether the change in the Zoning text comports with the Comprehensive Plan; whether it comports with the purpose and intent of the Zoning Ordinance and public welfare; and whether it satisfies a community need. Ms. Boyd stated the Downtown North District is the only mixed use district that does not allow residential only density above 21 dwelling units per acre. Ms. Boyd noted that the 2007 Comprehensive Plan notes that, within the High Street District, new development is having trouble meeting the mixed use codes causing development to stagnate in that district.

Mr. Fink called for questions of the applicant or representative.

Ms. Hamilton sought clarification that the applicant was afraid the market would not support selling the units with the amount of commercial space required. Mr. Knobe stated that was correct.

Mr. Fink opened the public hearing. With no one wishing to speak to the matter, Mr. Fink closed the public hearing and called for comments from the Commission.

Mr. Lucy felt the first floor should be the main focus if the intent of mixed use was continuous pedestrian traffic. However, he felt that should not be the goal in this district. He agreed that financing mixed use projects has been a significant problem. Mr. Lucy felt they should be changing the 75 percent requirement for residential and not adopt this language as proposed.

Mr. Fink suggested the Commission tread carefully. He stated the Comprehensive Plan was a snapshot in time and was an evolving document. He felt the applicant had made a compelling argument.

Mr. Farruggio took to heart that the applicant may be having a problem with the percentages. He stated this may be a problem in the future. Changing the percentage did not sit well with him. He felt this was setting precedent by allowing a departure from what they had in the past.

Mr. Mitchell stated the idea of flexibility seemed right but the idea of the chance of offering a double bonus gave him heartburn. He wondered if this was too complex and should be worked on in a work session.

Mr. Lucy stated he also liked the idea of a work session.

Ms. Lewis stated she had distilled this down to whether this was about one applicant who meets a variance of five percent and was it warranted to change an entire district. She thought that when a mixed use building was well programmed it could be successful. She thought they should create a good rule they could stick with. Ms. Lewis stated she would not be in favor of granting this text amendment at this point.

Mr. Pearson agreed they should make a good rule and stick to it rather than having release valves of special conditions.

Mr. Fink stated release valves were a natural consequence of zoning as things evolved in the City. Mr. Fink stated he was not inclined to change the rules under which this project had been granted; he believed the market would take care of itself over time.

Mr. Mitchell reiterated his desire to defer this to a work session. He moved that this be deferred to a work session at some date to be determined by the Chair. Mr. Lucy seconded the motion. Mr. Fink stated that Ms. Creasy had informed him the topic could go to a work session, but action needed to be taken on this request. Ms. Lewis stated she found a denial in order here. Mr. Farruggio stated he could not support deferring this at this time. Mr. Lucy stated that to the extent this required a clean action he thought declining it would be an appropriate action. Mr. Mitchell stated this was a broader issue than what was presented to them. He further stated if the motion was withdrawn, then the Commission did need to spend a lot of time talking about this. Stating that peoples' lives are affected by market conditions and giving more thought to this would be helpful to the City and community, Mr. Mitchell then withdrew his motion. Mr. Fink stated they were well aware of the risks undertaken by entrepreneurs to create a more beautiful City; the Commission was very supportive of those efforts.

Mr. Farruggio stated he has spoken to some of the developers in sessions like this and one of the things they repeatedly say they want are clear rules they can read beforehand, understand what they are getting into, and move forward with it. Mr. Farruggio moved that they deny this amendment tonight. Ms. Lewis seconded the motion. Mr. Fink clarified it was amendment ZT-07-04-12. Mr. Brown stated for purposes of transmitting this to Council, the Commission may want to state a summary of the basis for their recommendation. Mr. Farruggio restated his motion was to deny ZT-07-04-12 as he was inclined to believe this is the best interest of the public in that area, he believed that they had already changed from 21 to 43 dwelling units an acre based on the fact this was going to be a mixed use development set at 25 percent, and for the purposes of the intent of the Comprehensive Plan for having residential and businesses mixed together in the downtown area to allow people to walk to work more often and not use single occupancy vehicles, et cetera. Ms. Lewis added that she believed incorporating this text amendment into Code would not necessarily constitute good zoning practice. Mr. Pearson seconded the

restated motion. Mr. Mitchell wanted to know when they would be able to talk about this more at a work session. Mr. Fink stated they should be able to look at it once a recommendation to approve the Comprehensive Plan was made to City Council. Mr. Pearson stated there were several, if not all, on the Commission who shared Mr. Mitchell's concern about this issue. He stated some areas of the Mixed Use Corridor Zoning District code have not lived up to its intent. Mr. Pearson pushed for an early date for discussion as well. Mr. Mitchell suggested it be discussed in July. Ms. Creasy called the roll. The motion carried unanimously.

Ms. Hamilton left the meeting.

4. Huntley Planned Unit Development -- Reports prepared by Ashley Cooper, Neighborhood Planner.

A. Public Hearing: **ZM—07-04-09**: (Huntley PUD) A petition to amend the PUD (Planned Unit Development) for the properties located off Stribling Avenue, Huntley Avenue, Sunset Avenue and Morgan Court to allow grading variations from the approved site plan. These properties are further identified on City Real Property Tax Map Number 18A as parcels 33, 46, 51-92, 93-125 and 126-160 having frontage on Stribling Avenue, Morgan Court, and Huntley Avenue and containing approximately 971,388 square feet of land or 22.3 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Single and Two Family.

B. Actions Required (In order of motion)

i. Steep Slope Waiver Request

ii. PUD Amendment

iii. Site Plan Amendment

Ms. Cooper gave the staff report. The Commission would be considering three separate requests that have been submitted for review regarding the Huntley Planned Unit Development (PUD) property located off Stribling Avenue and Sunset Road. Mr. Paul Beyer, representing Huntley of Charlottesville, is requesting a Steep Slope Waiver to perform grading activities on a 4.3 acre portion of the 22.8 acre site. Because this grading request significantly changes aspects of the site plan including the approximate limits of clearing for this project and the topography of the site, the City has required the applicant to submit a Site Plan Amendment and an Amendment to the PUD Zoning. The Huntley PUD was originally approved in 2002 for the allowance of 110 clustered lots in the first two phases of development and a third phase which would include the renovation of the historic Huntley Hall and the development of that property. One of the main challenges of this site is the topography. The concept of the Huntley PUD was to cluster lots along two new roads and to allow for 33 percent open space to maintain existing tree canopy and to buffer Moore's Creek, which is adjacent to the southern border of this property. Road grades were required to be less than 10 percent. To achieve that goal, roads were designed to follow the topography. Extensive grading was required for the construction of Morgan Court and Huntley Avenue. In planning the development for the mid to lower portion of Huntley Avenue, the owner realized that grades in this area are severe and, in order to build homes on the lots as is, individual lot excavation and massive retaining walls behind the homes would be necessary. Proposed changes include the removal of trees which had been indicated for preservation, removal of dirt and reduction of slopes, an updated and more extensive planting plan, and a biofilter vegetated swale designed to absorb storm water and reduce the run-off. These changes do not impact the approved concept of the Huntley PUD. The

changes are substantial enough to warrant amendments to existing documents. The applicant is requesting a waiver from Section 34-1120(b) of the City Code, relating to the protection of critical slopes, to allow for grading and development in areas of the property with existing slopes greater than or equal to 25 percent. The Huntley property is characterized by extreme topography throughout, however this request is concerning approximately 4.3 acres that is located in the central portion of the site. The portion of the site under question has a topographic change of approximately 60 feet. The applicant proposes to grade the hillside to reduce the overall slopes of the land with the intent of eliminating the need for retaining walls and extensive excavation on individual lots. Twelve trees would need to be removed. Staff recommends approval of the waiver of the steep slope ordinance. The original zoning must be amended as the applicant proposes to address the approximate limits of clearing. Areas currently off limits to grading and clearing activities would be impacted by the application. The 4.3 acre portion of the site is completely contained within private lots of this development; there is no open space in this portion. The applicant proposes to plant 62 new large canopy trees in the backyards of the lots for this property and 39 street trees. Staff recommends approval of this amendment to the Huntley PUD rezoning. In 2002, City Council determined that the PUD zoning was appropriate for this property. This amendment does not change the concept of the development as it was approved. The primary change is the removal of 12 trees. A majority of this area has already been graded and the remaining trees are relatively small and at risk of damaging existing or future homes. The proposed amendments to this site plan could provide long term benefits of more gentle slopes, a robust planting plan and less stormwater run off. The site plan amendment shows those changes which have been discussed. The final site plan for the Huntley PUD was approved on March 3, 2004. This proposed amendment to that plan specifically addresses changes to the grading plan for a portion of the site, changes to the approximate limits of clearing, removal of trees, updates to the Erosion and Sediment Control Plan, a landscape plan which shows new trees to be planted in this area, as well as a vegetated biofilter swale to increase absorption and reduce stormwater runoff. Staff needs additional information on the landscape plan and the vegetated swale. Staff recommends approval of this preliminary site plan with the condition that all remaining staff comments are adequately addressed by the applicant. Staff has received public comments. The Huntley Citizens Task Force was developed to monitor the project. Their primary concerns are: the health of Moore's Creek as an impaired waterway and how this project can help or harm that waterway; and about the tree canopy.

Mr. Fink called for questions of Ms. Cooper.

Mr. Pearson wanted a comparison of the original PUD with the proposal as to which would have the more negative impact on Moore's Creek. Ms. Cooper stated Staff was excited about the potential for best management practices on the site.

Mr. Lynch wanted to know what would dictate the steep slope waiver only to the portion of the site and not allow it on the whole site. Ms. Creasy explained the steep slope waiver was contingent to the site plan; however, she suggested the motion be clarified that it was specific to the site plan.

Mr. Fink recognized the applicant.

Mr. Paul Beyer, of 201 Huntley Avenue, was present to answer questions.

Mr. Neuman wanted to know how much of the slope would be taken off site. Mr. Beyer stated it would be 50,000 cubic yards; some top soil would be preserved.

Mr. Fink wanted to know what caliper of tree would be replanted. Mr. Beyer explained the 100 trees would meet the City standard of two inches. Mr. Rick Beyer stated the trees would not be of the same caliper as those coming out.

Mr. Fink opened the public hearing.

Ms. Katie Kellett, of 2411 Jefferson Park Avenue, read a prepared statement in opposition of the proposal and asked the Commission to reject the steep slope waiver.

Ms. Andrea K. Wieder, of 2331 Highland Avenue and a member of Huntley Development Task Force, stated the crux of the matter was the developer thought retaining walls would be ugly and his lots would look much better without them. She suggested the Commission reject the waiver.

Ms. Peggy King, of 2607 Jefferson Park Circle, spoke in opposition of the proposal.

Mr. James King, of 2607 Jefferson Park Circle, asked the Commission to consider the precedent they would be setting. He asked them to reject the zoning request.

Mr. Michael Petrus, of 209 Todd Avenue, stated this does set a dangerous precedent.

With no one else wishing to speak to the matter, Mr. Fink closed the public hearing.

Ms. Lewis sought clarification of what was needed for the final site plan. Ms. Cooper stated there was a list of items remaining which needed to be given to the applicant.

Mr. Fink sought feedback from the Engineer. Mr. Quinn thought the stormwater swale was a good thing in that it would amend the soil and promote infiltration. Some areas of the swale exceed permissible velocities.

Mr. Farruggio wanted to know if there were additional recommendations from Engineering Staff for the proposal. Mr. Quinn stated there would be. Mr. Fink wanted to know if this was something which could condition the application. Mr. Brown, the City Attorney, stated conditions needed to be tied in to the steep slope waiver.

Mr. Brown, the Mayor, sought clarification of trees that had been promised to be planted. Mr. Rick Beyer stated those trees were in this area under discussion.

Mr. Pearson stated the major comment from the public seemed to be a distrust of the liability of the developer to act on their promises. Mr. Tolbert stated NDS had learned a lot during the last six years; there had not been a Steep Slopes Ordinance and there was no stream protection. If those had been in place when the development had been proposed, there might be three or four houses on this acreage rather than 110. Mr. Tolbert stated he had no reason not to trust what they say and stated the applicant has a significant bond in place.

Ms. Lewis stated the issues she had with the steep slope waiver related to the site plan and they prevent her from considering the rezoning. She stated she would support deferring this matter. She felt the comments received by Ms. Cooper should be forwarded to the applicant. Ms. Lewis wanted to see a final grading plan.

Mr. Farruggio stated his concerns with the steep slope waiver were: the drainage bioswale; there was a need for additional bioswales; more than 60 trees should be planted and they should be of four inch

caliper; the City Engineer should make broader and safer recommendations for the entire project; and future tree protection requirements should be in place.

Mr. Lucy sought clarification as to whether Mr. Farruggio's reasons were for deferral or for conditioned approval. Mr. Farruggio stated these were conditions for approval. Mr. Fink stated he would entertain a motion. Mr. Farruggio so moved. Mr. Pearson seconded the motion. Mr. Fink asked Mr. Farruggio to make the motion with its contingencies. Mr. Farruggio moved that they approve the steep slope waiver request with the following requirements: one, that the drainage bioswale in the middle of the section in question be constructed and designed to a higher quality as approved by the City engineer to include more diverse trees and more trees planted on the outside of it that will not affect the bioswale; two, that additional drainage bioswales be included on the entire property to remediate past impacts of damage done; three, that at minimum 140 four inch caliper trees be planted throughout the property, again to replace and remediate past damage; four, that the City engineer recommend a broader and safer schedule for the entire property; and five, that future tree protection be detailed including topsoil and topsoil protection for the entire site. Mr. Fink asked Mr. Farruggio to be more specific on requirement four. Mr. Farruggio explained that was based on the affirmative response to his question of the City engineer as to whether he could make broader or better recommendations. Mr. Pearson seconded the restated motion. Ms. Lewis was unsure if she could support this motion without more details based on the past history of this development. At the behest of the City Attorney, Mr. Farruggio amended his motion to include that these conditions are deemed necessary to protect the public health, safety or welfare and to insure the development will be consistent with the purpose and intent of these critical slope provisions. Mr. Pearson seconded the amended notice. Mr. Tolbert stated his understanding of the motion was that bioswales be retrofitted based on past actions. Mr. Farruggio stated the whole site could use some remediation. Mr. Tolbert stated the only thing subject to review and approval was the approximately four acres. Mr. Tolbert stated that given the nature of the comments, Staff would prefer a deferral. Mr. Farruggio withdrew his motion.

Mr. Farruggio moved to defer all actions -- the Steep Slope Waiver, the PUD Amendment, and the Site Plan Amendment -- from ZM—07-04-09. Mr. Fink sought clarification from the City Attorney if the motions needed to be separate; Mr. Brown stated since it was for deferral, one motion would suffice. Ms. Lewis seconded the motion. Ms. Creasy called the roll. The motion passed, 6-1; Mr. Pearson voted against.

Mr. Fink called for a brief recess, whereupon the meeting stood at recess at 10:14 p.m.

Mr. Neuman left the meeting at this time.

Mr. Fink reconvened the meeting at 10:25 p.m.

5. 1707 Jefferson Park Avenue -- Reports prepared by Ebony Walden, Neighborhood Planner and Mary Joy Scala, Design and Preservation Planner.

A. Public Hearing: **SP-07-04-10:** (1707 Jefferson Park Avenue) An application for a special use permit for increased density on the property at 1707 Jefferson Park Avenue. This is a request to allow 12 residential units (approximately 46 DUA) which is an increase in the density by right. Changes to the height, parking, and set back modifications have also been requested. This property is further identified on City Real Property Tax Map Number 16 as parcel 9, having approximately 90 feet of frontage on

Jefferson Park Avenue and containing approximately 11,390 square feet of land or 0.26 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Multifamily Residential.

B. Actions Required (In order of motion)

i. Steep Slope Waiver Request

ii. Preliminary Entrance Corridor Review (Changing to Role as Entrance Corridor Review Board)

iii. Special Use Permit

Mr. Fink introduced Ebony Walden as the newest Neighborhood Planner.

Ms. Walden gave the staff report. The Commission would be considering three separate requests regarding 1707 Jefferson Park Avenue: a Steep Slope Waiver, Entrance Corridor preliminary discussion, and a Special Use Permit Application. The site is a vacant property fronting on both Jefferson Park Avenue and Montebello Circle. Ninety-nine percent of the site contains steep slopes causing a 50 foot elevation change. The site has 19 trees ranging from eight inches to 40 inches in caliper. The applicant proposes to build a four-story, 12 unit rental apartment building with parking on the lower level and on Jefferson Park Avenue. A handicapped accessible unit would be accessed from Montebello Circle. The Special Use Permit is for increase height and density and for reduced setbacks. Trackside Properties II, LLC, is requesting a waiver from Section 34-1120(b) of the City Code, relating to protection of critical slopes, to allow for grading and development in areas of the property with existing slopes greater than or equal to 25 percent slopes. A waiver is needed to build anything on this site. The developer proposes to remove 11 of the 19 trees on site. The impact on the critical slopes include grading and soil excavation to construct the apartment building and retaining walls which would go around three sides of the building. To reduce the impact of development, the applicant proposes to push the building to the front of the site so it will front on Jefferson Park Avenue. Staff recommends approval with the condition that a tree conservation checklist be submitted. In the Special Use Permit, the applicant is requesting: increased density; to increase height; to reduce setbacks to ten feet; and to waiver off street parking requirements to have a handicapped parking space fronting Montebello Circle. The applicant proposes to double the density as allowed by right. Staff recommends approval of the Special Use application with conditions. Staff recommends a reduction in front and side yard setbacks to ten feet. Staff also recommends a waiver of the off-street parking requirement to allow the accessible space fronting Montebello Circle

Ms. Scala gave the Entrance Corridor staff report. The applicant must obtain a Certificate of Appropriateness in addition to the Special Use Permit. The applicant is requesting preliminary discussion regarding the entrance corridor design review. If the special use permit is approved, then, at a later date, the applicant will submit his final Entrance Corridor application for approval. The proposed building will be somewhat taller than surrounding structures. The proposed setback will make the mass and height more prominent. This building must be compatible with the Corridor as a whole. The roof is flat with a large overhang that makes it more traditional. The fourth floor has been stepped back to reduce the streetwall height. A covered pedestrian bridge in the back will connect the handicapped parking to the top floor of the structure. The building consists of a stone veneer, horizontal cedar siding, with a wood screen across the JPA side of the building. A standing seam metal shed roof will be over the main JPA entry. There is good connectivity in the site design. Staff opinion is that this building can be

designed to be an attractive addition to the entrance corridor and can be made compatible in mass, scale and height with other buildings on the corridor. Details are needed on the colors and materials as well as window construction details. Public concerns include height, setback, and materials, specifically the cedar siding. Real stucco has been suggested as an alternate material. The ERB should discuss whether the design concept is appropriate, or could be made appropriate with changes and should make a formal recommendation to City Council regarding any adverse impacts of the special use permit proposal on the Entrance Corridor district, and reasonable conditions that, if imposed, would mitigate any such impacts.

Mr. Fink called for questions of Ms. Walden or Ms. Scala.

Mr. Fink wanted to know if the building was moved back, was the main concern that it would expose the parking. Ms. Walden stated the main concern for not moving the building back was it would create a greater retaining wall effect.

Mr. Fink recognized the applicant.

Mr. Robby Noll, managing partner of the development, was present with Mr. Fred Wolf, of Wolf-Ackerman Design, Mr. Bryan Smith, the civil engineer, and Mr. Ian Wren. Mr. Noll stated the biggest challenges with the site have been topography and its position between a lower density area and a higher density area.

Mr. Wolf gave a PowerPoint presentation on the project.

Mr. Fink called for questions of the applicant.

Mr. Farruggio sought clarification of the proposed bike lockers. Mr. Wolf stated the collection of perforated metal frames would sit underneath the covered area at the end of the bridge.

Mr. Farruggio wanted to know how the E&S would work with the water coming down the hill. Mr. Wolf stated the severity of the slope made it a raceway; he hoped what they were doing would catch and control it in a more manageable way. Mr. Smith thought the stormwater runoff would be improved.

Mr. Fink opened the public hearing.

Ms. Andrea K. Wieder, of 2331 Highland Avenue, demonstrated by way of a tape measure the distance of 17 feet. She expressed opposition to the increased density.

Ms. Ellen Contini-Morava, of 225 Montebello Circle, felt the building should not project onto Montebello Circle as it also fronted on JPA.

Ms. Nina Barnes, of 12 Gildersleeve Wood and president of the Jefferson Park Neighborhood Association, read a prepared statement in opposition to the proposal regarding the density, height, scale for the site, setback, and vehicular access from Montebello Circle.

Ms. Sally Brown, of 110 Shamrock Road, concurred with the previous speakers. She expressed concern about the proposed conservation of the trees and did not think they would be conserved.

Ms. Lewis sought clarification of any meetings between the applicant and the neighborhood. Mr. Noll stated they had met with the Neighborhood Association approximately three months prior to this public hearing. He stated they had also met with individual residents on an almost weekly basis. Mr. Noll stated

it was a challenge to not disturb a root base; however, he cited another of his developments which had preserved a sycamore of over 100 years. He thought it was possible to preserve specimen trees and stated they were committed to saving the trees.

Ms. Walden clarified that by-right the developer could have greater access to Montebello Circle.

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

Mr. Osteen, noting he was a resident of the neighborhood, stated this was a very difficult site. This is a site that would be appropriate to meet our needs of a denser, walkable city. Mr. Osteen thought it was to Montebello Circle's advantage that this building is moved forward. He thought this was a very creative project.

Mr. Fink commended the presentation by Mr. Wolf.

Mr. Farruggio concurred with Mr. Osteen. He thought this project would have less impact than what could occur on Montebello Circle.

Ms. Lewis was impressed that 67 percent of the site would be open space. Ms. Lewis stated a waiver might be appropriate when there are unusual physical conditions of a property which would effectively prohibit or unreasonably restrict the use of the property; 99 percent slope would meet that hurdle.

Mr. Pearson moved to recommend approval of this steep slope waiver for Tax Map 16 Parcel 9, 1707 Jefferson Park Avenue with the following conditions: submission of a tree conservation checklist to ensure the trees to be preserved would be protected during construction. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Fink closed the Planning Commission meeting and reopened the meeting as the Entrance Corridor Review Board.

Mr. Fink found the linear dimensions of the cedar siding to emphasize the height. He saw stucco as a more sympathetic tie-in to the historic properties in Gildersleeve Wood.

Mr. Lucy sought input from Ms. Scala about the proposed roof. Ms. Scala stated she would normally say a gabled roof would be better, but based on the height, she didn't think it would add to it. She also thought the overhang was a big improvement over the previous roof design.

Mr. Fink wanted to know how the setback was chosen. Mr. Wolf explained the setback was based on the need to manage and negotiate the slope by vehicles and get parking concealed as quickly as possible.

Mr. Pearson thought the applicant had done a good job with the setback. He had no problem with the setback as recommended.

Ms. Lewis concurred with Mr. Pearson.

Mr. Lucy concurred as well.

Mr. Osteen expressed a preference for the cedar siding.

Mr. Pearson moved to recommend to find that the project as proposed does not pose any adverse impact on the Entrance Corridor. Ms. Scala explained that the Commission needed to make a recommendation to City Council whether or not this Special Use Permit and the whole proposal would create adverse impacts on the Entrance Corridor District, and if so, how they would recommend those impacts be mitigated. Mr. Fink clarified that the Commission needed to discuss the Special Use Permit.

Mr. Fink ended the Entrance Corridor Review Board meeting and reopened the Planning Commission meeting.

Ms. Lewis did not think the density would impact the Entrance Corridor approval.

Mr. Fink stated he had entered the meeting thinking the density was inappropriate, but after the comments of his colleague and the public, he did feel this scale and massing would work in the City.

Mr. Osteen expressed concern about the density. He wondered if the building could have a narrower profile.

Mr. Pearson wanted to know if the Commission could require a bond to ensure the protection of the trees. Several Commissioners did not think that was possible. Mr. Brown, City Attorney, thought some kind of protection plan was an appropriate condition; he thought it could be bonded.

Mr. Osteen asked that there be some language in the proposal that the trees be stabilized and the ivy removed and do whatever was necessary to give them their best chance before construction starts.

Mr. Lucy moved approval of a Special Use Permit in the R-3 Multi-family residential district to allow increased density of 46 DUA and increased height of 50 feet at the street wall and 58.6 feet at the roof subject to the following conditions and exceptions or modifications: a, Preliminary Site Plan approval by the Planning Commission; b, Staff approval of the final site plan; c, Final ERB approval; d, Exception (a) 10 foot front and side yard setbacks; e, Exception (c) a waiver of the off street parking requirement in Section 34-972- 2 (c) to allow for a driveway, accessible parking space, and access to that space to encroach in the front yard of Montebello Circle; and, f, Exception (d) submission of a tree conservation checklist to ensure that the trees to be preserved will be protected during construction, which is the same language as the Steep Slope Waiver, and language as suggested by Mr. Osteen. Mr. Osteen stated he wanted arborist-recommended measures to ensure the future health of the tree be implemented prior to construction. Mr. Lucy accepted Mr. Osteen's amendment. Mr. Farruggio offered a friendly amendment that this approval be based on the finding that the proposal meets the criteria for Special Use Permit and would serve the interest of the general public welfare and good zoning practices. Mr. Pearson seconded the amended motion. Ms. Lewis thought the density was appropriate considering the proximity of this to the Medical Center and the University. She applauded the applicant for having contacted the Independence Resource Center to have them look at this project for accessibility issues. Mr. Pearson encouraged the applicant to find bicycle storage on both levels. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Fink reopened the Entrance Corridor Review Board meeting.

Mr. Pearson moved to find that the project as proposed in Special Use Permit application SP-07-04-10 does not impose adverse impacts to the Entrance Corridor. Mr. Lucy seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Fink called for a brief recess. The meeting stood at recess at 12:11 a.m., Wednesday, 11 April.

Mr. Fink reconvened the Planning Commission at 12:15 a.m.

V. OTHER PLANNING ITEMS

F. CARVER AT PRESTON -- 701 Preston Avenue -- Residential Condominiums

1. Actions required (In order of motion)

i. Steep Slope Waiver Request

ii. Preliminary Site Plan

iii. Entrance Corridor Review (Changing to Role as Entrance Corridor Review Board)

Ms. Cooper gave the staff report. Three applications have been submitted for The Carver Condominiums, located at 701 Preston Avenue. Dotson Development, LLC, is requesting a steep slope waiver for grading and development in areas of the property with existing slopes greater than or equal to 25 percent. The applicant is proposing a 50,000 square foot, four-story, 27-unit condominium building with 1,735 square feet of office space, and basement parking for 37 spaces including four handicapped parking spaces. The property is zoned Central City Corridor, which permits a maximum height of four stories and a maximum density of 43 dwelling units per acre by right. This is a by right development. Critical slopes make up 0.1 acres of the 0.672 acre site, or 15 percent. The applicant proposes to develop the site in conformance with current zoning requirements. Staff recommends approval of the waiver of the steep slope ordinance. The applicant proposes 42 dwelling units per acre. Staff needs additional information regarding landscaping as well as how the applicant would meet the 50 percent requirement of the setback being buffered through landscaping on the Dale Avenue side. Residents had expressed concern about increased traffic to the area as well as the impact on increasing property values. The neighborhood was also concerned about the massing in comparison to the neighborhood.

Ms. Scala gave the Entrance Corridor report. Some of the corridor's most significant buildings, including the Coca Cola building, the Monticello Dairy building, and the Legal Aid Justice Center, are large in footprint, although only two-story in height; this building will be taller. The main building entrance fronts on Dale Avenue. The development as presented addresses the criteria outlined in the Entrance Corridor regulations and the Central City Corridor Mixed Use zoning district. Whether the proposed building is compatible in massing is debatable, but the applicant has made an effort to articulate the building and has used appropriate materials. If the ERB agrees with staff, it should state that the severe difference in elevation is a mitigating reason why it is not necessary on this site to orient the facade to the corridor.

Mr. Fink called for questions of Ms. Cooper and Ms. Scala.

Mr. Fink expressed discomfort with the building's lack of relationship with the Entrance Corridor. He wondered how the building had made it this far considering what the corridor was going to become. Ms. Scala stated she had put a comment in writing about the connectivity and that the engineer had changed during the process.

Mr. Fink recognized the applicant.

Mr. Alex Dotson, of 2025 Woodburn Road, was present to answer any questions.

Mr. Farruggio commended the applicant on the project. However, he wanted to know why the building was not oriented on Preston Avenue. Mr. Dotson stated it was due to the terrain.

Ms. Lewis wanted to know if the applicant was familiar with the Entrance Corridor regulations. She did not believe the applicant could not make the project interact with the street. Mr. Floyd Sobolski, of MBJ Architecture, stated he was familiar with the regulations. He further stated it was his understanding that vehicular access was not permitted on Preston Avenue.

Ms. Lewis asked if the applicant had a rendering of this building in conjunction with the surrounding buildings. Mr. Sobolski had not had a chance to prepare one for the meeting due to a family emergency.

Mr. Lucy felt the Commission needed to revisit Preston Avenue because it was not West Main and had a different nuance.

Ms. Lewis felt this was a beautifully designed building but would like to see the rear elevation.

Mr. Pearson thought Mr. Lucy's points about this corridor were very well taken.

Mr. Fink felt Preston Avenue was a boulevard and connectivity should be addressed.

Mr. Farruggio thought the space along Preston Avenue could become a beautiful plaza.

Mr. Fink closed the Planning Commission meeting and opened the Entrance Corridor Review Board meeting.

Mr. Osteen expressed concern about the massing. He thought the building should be modulated and that it would be advantageous to break down the corners. He expressed concern about the windows.

Ms. Lewis stated the door opening seen from the Entrance Corridor looked unsubstantial.

Mr. Fink sought the consensus of the Commission as to the three matters of this proposal.

Ms. Lewis stated she had no issues with the steep slope waiver.

Mr. Pearson felt the design principles Facilitate Pedestrian Access, Maintain Human Scale in Buildings and Spaces, Create a Sense of Place, and Create an Inviting Public Realm would reinforce the comments of Ms. Lewis and Mr. Farruggio. Having read those principles, Mr. Pearson did not think the project was responding to the Entrance Corridor.

Ms. Lewis wanted to know if they could ask if the applicant wanted to defer. Mr. Fink suggested the applicant could defer the Entrance Corridor Review and the Preliminary Site Plan as they were interrelated.

Mr. Pearson suggested the applicant work with Staff to ensure closer correspondence between the building design and the Entrance Corridor guidelines.

Mr. Fink asked if the applicant wished to defer this portion of their application. Mr. Dotson thought so. Mr. Fink recommended they also defer the Preliminary Site Plan review. The applicant agreed.

Mr. Fink closed the ERB meeting and reopened the Planning Commission meeting.

Mr. Osteen wanted to know if the applicant had any intentions to landscape the property as part of the site plan. The applicant stated there would be additional landscaping.

Mr. Pearson moved to recommend approval of the Steep Slope Waiver for Tax Map 31 Parcel 18, 701 Preston Avenue at Carver. Ms. Lewis seconded the motion. Mr. Wolf call a voice vote. The motion carried unanimously.

Mr. Farruggio moved to adjourn. Mr. Pearson seconded the motion. The motion carried unanimously whereupon the meeting was adjourned at 1:19 a.m., Wednesday, 11 April, 2007.

Items from the agenda not discussed:

G. DEPARTMENT OF NDS/STAFF REPORTS

H. FUTURE AGENDA ITEMS