

**DRAFT MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, 22 JULY, 2008 -- 5:30 P.M.
CITY COUNCIL CHAMBERS**

Commissioners present:

Mr. Jason Pearson (Chairman)
Mr. Michael Farruggio (Vice-Chairman)
Ms. Cheri Lewis
Mr. Hosea Mitchell
Mr. Michael Osteen
Ms. Genevieve Keller (arrived at 6:30 p.m.)
Mr. Dan Rosensweig

Commissioners Not Present:

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

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS
Ms. Missy Creasy
Mr. Brian Haluska
Mr. Nick Rogers
Ms. Mary Joy Scala
Ms. Ebony Walden

City Council Members Present:

Mr. Dave Norris, Mayor
Mr. Julian Taliaferro, Vice Mayor
Ms. Holly Edwards
Mr. Satyendra Huja

Also Present

Ms. Francesca Fornari, Assistant City Attorney

II. REGULAR MEETING

Mr. Pearson called the meeting to order at 5:32 p.m. He then thanked Staff for their work in preparing the agenda. He particularly recognized Ms. Creasy and Ms. Fornari.

A. COMMISSIONERS' REPORTS

Mr. Mitchell had nothing to report.

Ms. Lewis stated the City/County Joint Housing Task Force had been meeting frequently and should be coming out with some recommendations about affordable housing in September. She noted she had received a comment from a member of the public about the acronyms used in notices and on the agenda; Ms. Lewis asked that the Commissioners use the full terms of planning and zoning items whenever possible.

Mr. Osteen had attended the Board of Architectural Review on 15 July. At that meeting the Board recommended approval of the Historic Conservation District Ordinance. Mr. Osteen noted the death of Gene Foster on 21 July.

Mr. Farruggio had nothing to report.

Mr. Rosensweig had attended an MPO Technical Committee meeting earlier in the day where a report had been received from VDOT on the new travel demand modeling system.

B. CHAIR'S REPORT

Mr. Pearson attended the Thomas Jefferson Planning District Commission meeting on 17 July. Progress was being made in the search for a new executive director for the TJPDC.

C. DEPARTMENT OF NDS/STAFF REPORTS

Ms. Creasy stated the mailings for the August meeting had been sent. Anyone who is unclear about the letter can call Neighborhood Development Services. Ms. Creasy stated she would be attending a meeting in Fluvanna County about Verizon wireless.

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

Ms. Carla Mullin, of 621 St. Charles Avenue, encouraged the Commission to think about exterior accessory apartments. She had previously been before the Commission to talk about this and noted that the three projects she had brought to their attention were out of scale with the neighborhood.

E. CONSENT AGENDA

1. List of site plans and subdivisions approved administratively
2. Minutes -- June 10, 2008 -- Pre-meeting
3. Minutes -- June 10, 2008 -- Regular meeting
4. Minutes -- June 24, 2008 -- Work session

Ms. Lewis noted the June 10, 2008 Regular Meeting minutes had not yet been received and stated she was not prepared to vote on them.

Ms. Lewis moved to approve the items on the Consent Agenda including the list of site plans and subdivisions approved administratively during the month of June and the minutes from the June 10th and June 24th work sessions. Mr. Farruggio seconded the motion. Mr. Pearson called a vote by acclamation. The motion carried unanimously.

F. BROOKWOOD PHASE VI

1. Entrance Corridor Review

2. Site Plan

Mr. Pearson closed the Planning Commission meeting and convened the Entrance Corridor Review Board at 5:49 p.m.

Ms. Scala gave the Staff report. On May 13, 2008 the ERB accepted the applicant's request to defer the Brookwood Phase VI units adjacent to 5th Street as well as the parking lot behind the units. The proposed townhouses on 5th Street are shown in a grouping of five units, all with similar facades and front and rear porches. The north unit has a wraparound porch. All units are two stories, entered on the first level from both 5th Street Extended and the rear parking lot. The building materials are mostly consistent with the EC Corridor that leads to the City's Downtown and Ridge Street historic district. The applicant agreed to replace the vinyl railings with painted wood railings. The only issue left on the materials are the windows; the applicant is proposing the same type of vinyl windows used in previous sections of Brookwood. Based on previous statement from the ERB, staff recommends that windows visible from 5th Street should preferably be a quality material, preferably vinyl or aluminum-clad wood, with simulated divided lights with muntins permanently affixed on the exterior. All other materials are very appropriate. The general design and arrangement of the buildings on site is very compatible with the EC Corridor. The landscape plan is nicely done. Staff recommends the change in windows since these units are so close to 5th Street. The applicant has cited cost and the use of screens as mitigating factors in window choice.

Mr. Keith Lancaster, of 1613 Meadowbrook Heights Road, stated the units had been redrawn as a modification of the Willoughby Town Park. He stated two parking spaces which had been of concern to the Board had been removed. Additional plantings had been placed between the units and parking area. He felt the plan met the character of the corridor.

Mr. Pearson called for questions of the applicant. There were none. Mr. Pearson then called for discussion by the ERB.

Mr. Osteen felt good about the changes. He stated he had met with Mr. Lancaster and Mr. Armstrong. Mr. Osteen had had problems with the previous scheme and those had been addressed by the applicant. He stated he was comfortable with where the project was now. Mr. Osteen felt the Board should be consistent with all issues. He thought the windows were an important element which the Board should be striving for. Mr. Osteen felt they should be asking for a divided light window which had some expression of the character that they were trying to emulate throughout the corridor.

Mr. Farruggio expressed his agreement with Mr. Osteen. He thought the character of the neighborhood would be experienced by folks walking on the sidewalk and riding bicycles up the road which lends to the need for divided windows.

Ms. Lewis agreed with her colleagues.

Mr. Farruggio moved to approve the Entrance Corridor certificate of appropriateness for the five townhouse units on 5th Street Extended with the following condition that the windows on units 50-54, fronting on 5th Street Extended, should be a quality material, preferably vinyl or aluminum-clad wood, with simulated divided lights with muntins on the exterior and interior with spacer bars. Ms. Lewis seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson adjourned the Entrance Corridor Review Board and reconvened the Planning Commission at 6:02 p.m.

Mr. Haluska gave the staff report. The site plan reflects the changes requested for the Entrance Corridor Review. Staff recommends approval conditioned on compliance with all staff comments.

Mr. Pearson called for questions of Staff. There were none. Mr. Pearson called for questions of the applicant. There were none. Mr. Pearson called for comments. There were none.

Ms. Lewis moved preliminary site plan approval of the site plan for Brookwood Phase VI conditioned upon compliance with all staff comments. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

As it was not time for the Joint Public Hearing to begin, Mr. Pearson called for item J.

J. 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.

1. Indoor Recreation Facilities in Residential Districts -- An ordinance to amend and re-ordain Section 34-420, 34-480 and 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to establish a two categories under Recreational facilities for indoor facilities. One category would be for specific to city owned or city school owned property and the other to private facilities. The amendment would also be to allow indoor facilities to be located on city owned or city school owned property by right in residential zones.

Ms. Creasy gave the staff report. Charlottesville Parks and Recreation is in the process of renovating multiple city sites. In the plan review process, it was discovered that indoor recreation facilities were not allowed within residential districts. This made all recreation sites on city property nonconforming, an oversight from the 2003 Zoning Ordinance; this request will resolve that concern. A category for indoor facilities specific to city owned, public owned and school owned properties as well as having an additional category for private property is being proposed.

Mr. Pearson called for questions.

Ms. Lewis wanted to know if this would be available by right rather than by Special Use Permit. Ms. Creasy confirmed that. Ms. Lewis wanted to know if there was any consideration towards doing this by Special Use Permit. Mr. Tolbert stated Special Use Permit had been considered, but none of these would be built without City Council's authorization so it would be a waste of the process.

Mr. Farruggio moved to initiate a proposed amendment to the city's zoning ordinance, to wit: amending Article 3, Division 7 concerning the ability to locate indoor recreation facilities in residential districts. This initiation is based on the reasoning of good planning practices, especially in regards to public health and convenience. Mr. Mitchell seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson called a brief recess at 6:16 p.m.

Mr. Pearson reconvened the meeting at 6:31 p.m. Ms. Keller arrived at 6:30 p.m.

III. JOINT PUBLIC HEARINGS

G. JOINT PUBLIC HEARINGS

1. **SP-08-06-09** -- (100, 102, 104 Oakhurst Circle) An application for a special use permit for the property at 100, 102, 104 Oakhurst Circle. This is a request to allow for increased density from 21 units per acre

to 32 units per acre and a reduced front yard setback from 25 feet to 12 feet. The submitted site plan proposes the conversion of the two existing apartment buildings to a bed and breakfast, and the renovation of one existing building which will have five apartments. This property is further identified on City Real Property Tax Map number 11 as parcels 1, 2, and 3 having approximately 340 feet of frontage on Jefferson Park Ave and 170 feet on Oakhurst Circle and containing approximately 48,352 square feet of land or 1.11 acres. The zoning of this property is currently R-3 with Historic Overlay and general uses called for in the Land Use Plan of the Comprehensive Plan are for Two Family Residential.

Ms. Walden gave the staff report. She stated the report was incorrect; the proposed density was actually 33 dwelling units per acre on 1.08 acres. The applicant proposes the retaining one existing building for 5 apartments, a new 30-unit apartment complex, a 24 room bed and breakfast, and the realignment of the JPA/Emmett intersection adjacent to the site. The Special Use Permit for 33 dwelling units per acre is 12 units more than allowed by right. The added density is reasonable, but the appropriateness is debatable due to the surrounding properties. What the applicant proposes would be harmonious with the entrance corridor and would enhance it. The development is on the corner of two very different areas. The increase in density will likely increase the number of cars onto JPA and into this intersection. To help alleviate this, the applicant proposes providing bikes for bed and breakfast guests, a car available for car sharing, and rent reductions for resident who do not have cars. While great solutions, it would be hard for the City to enforce. Staff recommends the inclusion of bicycle storage facilities on site. The proposed realignment of the intersection has traffic and pedestrian improvements. The intersection realignment is consistent with the City's goals to provide more pedestrian and bicycle friendly environments. The average setback is 33 feet; however, one building would require a 12 foot setback. Staff felt that was reasonable and appropriate. Letters of concern had been received from two residents of the neighborhood. Staff believes this to be a good development with a lot of practices that promote sustainability: reusing water, providing pedestrian and bicycle improvements and traffic improvements. Staff's reservations are that this is another increase in density in an area that was not rezoned to University Medium Density or University High Density. Thirty-five units together with a 24 bedroom bed and breakfast is a fairly intense use of the site. Staff recommends approval with conditions.

Mr. Pearson called for questions of staff.

Mr. Osteen sought clarification that the bed and breakfast was by right. Ms. Walden stated it was. Mr. Osteen sought clarification that uses allowed by-right in the R-3 zone were bed and breakfast, convents, monasteries, houses of worship, health clinics, educational facilities, libraries and day care facilities. Ms. Walden confirmed that. Mr. Osteen asked if the applicant built one of each of those on site, the density of residential units would not change. Ms. Walden stated they would have to meet setbacks. Mr. Osteen felt the density was impacted by the by-right uses coupled with the units.

Mr. Osteen noted he owns property on Oakhurst Circle and lives on Gildersleeve Wood. He stated he was able to participate in this transaction fairly and objectively in the best interest of the public.

Ms. Lewis wanted to know if they could consider the bed and breakfast under the Special Use Permit application. Ms. Walden stated they could take the whole development into consideration; however, they could not put limitations on the bed and breakfast.

Mr. Rosensweig wanted to know if there had been any study on the effect of changing the intersection during special events at the stadium. Ms. Walden did not think that had been considered.

Ms. Keller wanted to know if the entire project could be converted to a bed and breakfast. Ms. Walden stated it could.

Mr. Farruggio wanted to know if there had been any talk about the wall around the property as to when it was built and the character it adds to the neighborhood since this was an historic area. Ms. Walden was not sure this had been reviewed by the BAR. Mr. Farruggio sought clarification that the current plan called for the demolition of the wall. Mr. Osteen stated they were demolishing the existing wall and putting back a wall where they needed it that would replicate the original.

Mr. Pearson recognized the applicant.

Mr. Neal Deputy, of Neal Deputy Architects, stated this was an exciting project to be working on. He thanked Ms. Walden and the BAR for their support. He also thanked the JPA and Oakhurst Circle/Gildersleeve Wood Neighborhood Associations. He stated the proposal had three components: the bed and breakfast, the new apartments, and the realignment of the intersection. He stated the site was currently nonconforming. He stated the 12 foot setback was not out of character with other properties on Oakhurst Circle which had 7-foot and 11-foot setbacks.

Mr. Pearson called for questions of the applicant.

Ms. Keller wanted to know what hours the valet parking would be available. The applicant clarified that it would be a staffed B&B and the staff would be responsible for parking the cars.

Ms. Lewis, citing City Code, wanted to know who the innkeeper would be and whose principal residence this would be. The applicant stated an innkeeper would not be hired for approximately 24 months. Ms. Lewis stated her understanding that Mr. Deputy would be the innkeeper. The applicant stated Mr. Deputy did have plans to live somewhere on site. He stated there would be multiple people operating as the innkeeper and at least one of them would be living in the building.

Mr. Pearson opened the public hearing.

Ms. Jane Foster, of 6 Gildersleeve Wood, stated she had written to the Commissioners. She stated the Zoning Administrator had said this did not fit the description of a bed and breakfast. She expressed concern about the traffic. She thought this was a bad precedent.

Mr. Tom Petro, owner of 1616 Jefferson Park Avenue, hoped the Commissioners would look not only at the components of the project but also at the effect it would have on the block. He stated he would have the only remaining single-family home on the block and wanted to know how he would coexist with an 86 unit apartment on one side and a 30 unit apartment building on the other.

Ms. Mary Pryor, of 7 Gildersleeve Wood, read a prepared statement in opposition to the proposal due to traffic concerns.

Ms. Gail McIntosh, of 9 Gildersleeve Wood, expressed her agreement of what had been stated by Ms. Foster and Ms. Pryor.

Ms. Sue Kiser, of 1 Gildersleeve Wood, read a prepared statement requesting the denial of the Special Use Permit.

Ms. Nina Barnes, of 12 Gildersleeve Wood, stated they had been pleased about what they had heard about the bed and breakfast but added they had been told there would be only eight to ten rooms. She stated the Board of Zoning Appeals had ignored the concerns of the neighborhood.

Ms. Nancy Haynes, of 114 Oakhurst Circle, expressed her agreement of what had been said by her neighbors. She was concerned that a 24 unit B&B was not a bed and breakfast but instead was a motel or hotel.

With no one else wishing to speak to the matter, Mr. Pearson closed the public hearing. He then called for comments from the Commission.

Mr. Mitchell asked for clarification of what they were being asked to approve and how the bed and breakfast related to what they were approving. Ms. Walden stated the applicant was requesting an increase in density of 33 dwelling units per acre and reduction of setback from 25 feet to 12 feet. She stated the bed and breakfast was on the site and its impact could be discussed in relation to the impact of this development. She stated the Commission did not have any discretion whether the bed and breakfast would go there because it is by right, nor could they discuss the number of bedrooms in the bed and breakfast.

Mr. Farruggio stated he appreciated and agreed with idea of the project; however, he did not support increasing the density and reducing the setbacks. He thought the project was adjoining an antique neighborhood and he thought the considerations for the density of the project affect it in several ways. He did not think this conformed with the Comprehensive Plan in regards to density. He did not think this was harmonious with the existing pattern of use in the neighborhood. He thought this would impact the neighborhood in regards to parking and traffic. He did not think the pedestrian and bike connections would be safer. He thought there were potentially adverse impacts that were not being mitigated from anything he had seen.

Ms. Keller expressed agreement with Mr. Farruggio's statements. She expressed concern about the requests for increased density which the Commission saw every month since they had said density was a lofty goal. In 2003, areas in the City were identified where the density should occur; the Commission was being asked to whittle away at that.

Ms. Lewis cited the factors of Section 34-157(4) of the City Code: traffic or parking congestion; noise, lights, dust, odor, fumes, vibration, and other factors; displacement of residents; discouragement of economic development activities; undue density of population or intensity of use; reduction in the availability of affordable housing; impact on school population; destruction of or encroachment upon conservation or historic districts; and conformity with laws. She found four strikes against this proposal including whether the proposed use or development was harmonious with existing patterns of development in the neighborhood and whether the proposed use will conform to the City's Comprehensive Plan, whether the proposed use or development will be in harmony with the purposes of the specific zoning district, in addition to the problems with the factors of item 4. Ms. Lewis stated she could not support the increase in density or the setbacks.

Mr. Mitchell stated he did have issues with the density. He stated recommending approval of this would be inconsistent with the Comprehensive Plan.

Mr. Rosensweig stated he did not have a problem with the setback as it seemed appropriate for that space in order to let the applicant address the street in a way that would promote pedestrian activity. He thought the project would bring too intensive usage to the Circle.

Mr. Osteen agreed with the comments of his colleagues. He felt Mr. Deputy and Mr. Chapman could come up with an appropriate development plan and management plan for this property. He stated he could not support the plan which was before the Commission.

Mr. Pearson agreed with Mr. Mitchell and Ms. Keller.

Mr. Pearson then recognized Mr. Chapman.

Mr. Chapman stated his understanding of the Comprehensive Plan was that it encourages development via Special Use Permit to build walkable sites. He stated the Board of Architectural Review had twice supported increased density and reduced setbacks on the site.

Ms. Lewis was not persuaded that development by right couldn't be accomplished with the current setback.

Ms. Lewis moved to recommend denial of this Special Use Permit application for increased density of 33 dwelling units per acre at Tax Map 11, Parcels 1, 2 & 3 referred to as Oakhurst Inn and Apartments on the basis that the proposal would not serve the intent of the general public welfare due to the application not meeting criteria 1, 2, 4 and 5 of Section 34-157 of the Code of the City of Charlottesville. Mr. Farruggio seconded the motion. The applicant requested a deferral. For the record, Ms. Lewis withdrew her motion.

2. SP-08-06-10 -- (Grove Square 2) An application for a special use permit for the property at 999-1001 Grove Street. This is a request to allow for an increase in the allowable retail area to 5,000 (4,000 square feet allowed by right) and an increase in the side setbacks from 5 feet to 9 feet 6 inches on Grove Street and 8 feet 9 inches adjacent to the railroad. This property is further identified on City Real Property Tax Map Number 30 as parcel 170, having approximately 98 feet of frontage on Roosevelt Brown Boulevard containing approximately 20,865 square feet of land or 0.479 acres. The zoning of this property is currently Cherry Avenue Corridor and M-I and general uses called for in the Land Use Plan of the Comprehensive Plan are for Industrial and Single Family Residential.

Ms. Walden gave the staff report. This second phase of the Grove Square project proposes to develop the MU-CH, Cherry Avenue Mixed Use Corridor portion of the site. The plan proposes to demolish the existing office building and construct a 4-story, mixed use project with commercial, office, and residential uses. Once complete, there will be four residential units, 26,150 square feet of office space, and 8,275 square feet of commercial space. The applicant is allowed by right to have retail establishments of up to 4,000 square feet each; however, having one retail establishment over 4,000 square feet requires a Special Use Permit. Not knowing the type of retail establishment specifically for which increased square footage is being allowed is a shortcoming of this application. Staff believes the request is reasonable and will reconfigure the allotment of retail space internally. This is one of the first developments in this Mixed Use Corridor and the applicant's proposal is consistent with the character

and uses of development desired along this corridor. Staff recommends approval. Ms. Walden noted for the record the applicant had met with Ms. Lewis, Mr. Farruggio, Mr. Mitchell, and Mr. Rosensweig to discuss any impacts.

Ms. Valerie Long was present on behalf of the applicant with the architects, John Matthews and Rosalyn Keesee. The project includes ground floor retail, several floors of office and two half-stories of residential. The applicant was seeking a Special Use Permit for flexibility with regard to the size of the retail space in the building and to enable increases in the maximum setbacks. She expressed concern that final site plan approval and preparation of construction drawings would keep the applicant from commencing construction within the 18 month period so they were asking relief from that time limit.

Mr. Pearson called for questions from the Commission.

Ms. Keller wanted to know what could be accomplished with an additional 1,000 square feet of retail space. Ms. Long stated they had been looking at restaurant use.

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

Mr. Pearson noted for the record that he lives close to this development but he did feel that he could still be objective, fair, and work in the public interest in the Commission's deliberations.

Mr. Farruggio also disclosed that Mitchell Matthews Architects was working on a non-profit which he chaired. He felt he could be objective, fair, and work in the public interest.

Ms. Lewis wanted to know if an applicant had ever asked for an approval period extension before. Mr. Tolbert stated he had discussed that with City attorneys in the past. This was not an area that could be varied by the Commission. Mr. Tolbert stated City Council could deal with it if it was an issue. He stated it may also be a state code issue and was not prepared to give a detailed answer on it.

Mr. Osteen thought the request for modifications was very appropriate. He stated he did not have a problem with the setback modifications.

Mr. Farruggio concurred with Mr. Osteen.

Ms. Lewis also concurred with Mr. Osteen.

Mr. Rosensweig concurred with Mr. Osteen. He stated this was an excellent proposal. He appreciated the way the applicant had taken pains to address the street.

Ms. Keller thought this was a very well presented projected and thought all the requests were reasonable.

Mr. Farruggio moved to recommend the approval of this Special Use Permit application at 999-1001 Grove Street for an increase of the allowable retail space to 5,000 square feet for one establishment with the following conditions, exceptions and/or modifications: an increase in the Grove Street side yard from 5 feet to 9 feet, 6 inches and an increase in the side yard along the railroad lines from 5 feet to 8 feet, 9 inches and Planning Commission Approval of the Preliminary Site Plan. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

3. SP-08-06-11 -- (Grove Square 3) An application for a special use permit for the property at 910-916 Grove Street and 909-911 King Street. This is a request to allow for an increase to the allowable retail area to 5000 (4,000 square feet allowed by right), to permit approximately 27 percent of the GFA for parking (approximately 2 percent over the 25 percent allowed as an ancillary use), to increase the side yard setbacks along King Street from 5 feet to 11 feet, 4 inches and to adjust the rear yard from 20 feet to 10 feet. This property is further identified on City Real Property Tax Map Number 30 as parcels 75-78, 84 and 85, having approximately 150 feet of frontage on Roosevelt Brown Boulevard containing approximately 22,172 square feet of land or 0.509 acres. The zoning of this property is currently Cherry Avenue Corridor and general uses called for in the Land Use Plan of the Comprehensive Plan is for Single Family residential.

Ms. Walden gave the staff report. The site currently contains vacant land and a parking lot. The plan proposes to construct a 4 story, mixed use building with 20 residential units and 6,330 square feet of ground floor commercial space. The applicant has submitted a Special Use Permit application for increased commercial space, increased percentage of parking and increased yard regulations. The proposed zoning can be reasonable and appropriate. The impacts on the neighborhood related to these requests are not significant. The development is consistent with the Mixed Use Zoning in this area and the desired type of development in this corridor. The request for an increase in retail area is similar to the previous application; this is not an unreasonable request. In this zone, a parking garage is allowed as an ancillary use which can be up to 25 percent of the gross square footage of the development; the proposal is 27 percent. Staff supports this request. The requested setback is also supported by Staff as it provides a buffer between the single family zoning and residences on King Street. The rear setback reduction is not supported by Staff. Staff recommends denial or approval conditioned on a 10 foot landscape buffer on the adjacent property owned by the applicant in order to meet the intent of the buffer requirements.

Mr. Pearson called for questions from the Commissioners and Councilors.

Mr. Huja wanted to know if affordable housing had been addressed. Ms. Walden stated there had been talk about it, but no proposal had been developed.

Ms. Lewis wanted to know if the Commission could be more specific about what was meant by the inclusion of bike storage facilities in the garage. Ms. Walden stated they could put a number on the condition; the maximum for this project would be ten.

Ms. Valerie Long stated the property line on the south side was fairly irregular which made for a challenge in complying with the setback. The rear setback abuts another property owned by Grove Street Properties and which should be the fourth phase of the Grove Street project. The applicant proposes that the easement would provide that the buffer would stay in place for so long as that property is zoned residential. The increase in parking allows for three additional spaces. All parking would be on site and underground. The architects had determined there was room for four bike lockers without losing any parking spaces. She cited the criteria for exceptions and modifications as conditions of permits under Section 34-162(a)(1) and (2) stating that the requested modification was desirable and consistent with the Zoning Ordinance principles. She stated affordable housing had not been proposed at this time because they were not sure what the regulations, requirements, and expectations were.

Mr. Pearson called for questions of the applicant.

Mr. Farruggio wanted to know if the elevator would be large enough for a bicycle to be accommodated. It would.

Mr. Rosensweig sought clarification that 50 was the actual number of parking spaces that would go into that built form. Ms. Long stated 41 spaces were required per the ordinance. Mr. Rosensweig thought three of the parking spaces would be better suited as bike lockers.

Mr. Pearson suggested the unexcavated area be developed into a bike storage room which could accommodate one bicycle per bedroom. Ms. Long stated she was sympathetic to the need to have a space for bicycles and thought it was a wonderful idea.

Mr. Pearson opened the public hearing. With no one wishing to speak to the item, Mr. Pearson closed the public hearing and called for comments from the Commissioners.

Mr. Farruggio thought they should encourage much greater than four bike lockers. He was leery of bike racks on the street; they were great for a short visit but not the way to store a bicycle long term for residences.

Mr. Osteen did not think the number of bike spaces should be compromised.

Mr. Rosensweig felt if there was room for a room, Mr. Pearson's suggestion was good. Mr. Rosensweig wanted to know what mechanism the Commission could use to make a suggestion to Council about affordability. Ms. Creasy noted legislation has come forward that allows some flexibility in requiring affordable units with rezonings and Special Use Permits when the request is above the density that is required by right. Ms. Creasy stated this application was not for an increase in density and they could not require affordable housing but would welcome the applicant considering that and bringing that forward.

Mr. Farruggio moved to recommend the approval of Special Use Permit application 910-916 Grove Street and 909-911 King Street for an increase in the for an increase of the allowable retail space to 5,000 square feet for one establishment and to allow 27 percent of the GFA of the building to be used for parking with the following conditions, exceptions and/or modifications: a) the Planning Commission Approval of the Preliminary Site Plan; b) increase in the King Street side yard from 5 feet to 11 feet, 4 inches; c) reduction of the rear yard from 20 feet to 10 feet on the condition that a 10 foot screen 2 landscaped buffer bound by a landscaped easement be provided by the adjacent properties at 918 Grove Street and 913 King Street and dedicated to this development; and, d) inclusion of a bicycle storage facility securing a minimum of 20 bicycles and other mechanisms to encourage alternative means of travel, on the basis that the proposal would serve the interests of the general public welfare and good zoning practice. Mr. Pearson, noting there were 71 beds for the unit, offered a friendly amendment that the storage facility be for 40 bicycles. Ms. Creasy stated they needed to allow the applicant the opportunity to explore this. Mr. Farruggio suggested wording it as between 20 and 40 bicycles. Mr. Pearson agreed. Ms. Fornari reiterated what Ms. Creasy said and preferred the Commission achieve consensus on this point with the applicants. Mr. Farruggio stated he would like to hear from the applicant in reference to his original suggestion of 20. Ms. Long stated they were comfortable and agreeable to the condition of 20 to 40 spaces. She stated Mr. Matthews would take a harder look at the plans and could at least squeeze 20 spaces in. Mr. Pearson stated his friendly amendment would be to change 20 to 20 to 40. Mr. Farruggio accepted the modified friendly

amendment. Ms. Lewis seconded the motion. Ms. Lewis offered a friendly amendment that, before it got to Council-level, the applicant consider the provision of affordable housing in this development; she noted this was as a recommendation to Council and not a requirement. Mr. Farruggio stated that as much as he wanted them to look into affordable housing, he saw no way of connecting it to the application and therefore could not accept the friendly amendment. Mr. Rosensweig stated he would like to hear from the applicant as to whether they would consider that before going to Council. Ms. Long said they were willing to speak with the owners and discuss the issue. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson called for a brief recess, whereupon the meeting stood recessed at 9:22 p.m.

Mr. Pearson reconvened the meeting at 9:34 p.m.

Mr. Pearson stated that the mayor had informed him that, for any public hearing item for which the public hearing begins after 10 p.m., City Council would hold a public hearing on that item at the City Council hearing at which that item is held so that anyone who is unable to stay to provide public comments there would be a second chance to make comments on that item.

4. ZT-08-06-12 -- Telecommunications Facilities -- An application to amend and re-ordain §§34-1070 through 1099 and 34-1200 of the Charlottesville City Code (1990) as amended (Zoning Ordinance) to make changes to the regulations to Telecommunications Facilities. These changes include the following: allowances for alternative and monopole towers in residential zones by special permit; allowances for attached facilities visible from an adjacent street or property in residential zones; allowances for waivers or modifications to setbacks and separation of uses for all telecommunication facilities; general housekeeping changes; additional definitions and changes to permit application requirements.

Ms. Creasy gave the staff report. The City received a request on behalf of Verizon Wireless and the Fry's Spring Beach Club seeking an amendment to the City's zoning ordinance to allow personal wireless service facilities to be located on properties used for non-residential uses within residential zoning districts. Specifically, Verizon seeks an amendment allowing for, by special use permit only, monopoles and alternative communication towers on such properties. The Planning Commission voted to initiate study of this request based upon public purpose and good zoning practice at the June 10 meeting, and it is coming forward for consideration at this time. This is also under the jurisdiction of the Federal Telecommunications Act of 1996. No State or local government can be regulated based on the environmental effects of radio frequency emissions. Staff reviewed this based on conformity to the comprehensive plan which does not make specific reference to the location of telecommunications facilities in residential areas. The development should be sensitive to the history of the community. Ms. Creasy cited Goal II, Objective B of the Land Use chapter: "Ensure compatibility of land use in all decisions affecting land use, and update the Land Use Plan on a citywide basis with current land use data. Pay special attention to residential neighborhood protection, affordable housing, and coordination with Albemarle County and the University of Virginia." Staff also considered the intent of the Zoning Ordinance and general welfare of the community. Tower structures are only allowed in B-3 Commercial, M-I Industrial and the Industrial Corridor. Staff also considered the need and justification for an ordinance change. The ordinance change proposed is intended to allow facilities in residential areas with the intent of providing this service. Other cellular carriers who provide service to the community have been able to do so within the regulations currently in place. The fourth criteria considered was the affect on property, public services and facilities. The applicant has indicated the importance of line of sight

facilities for the network they are developing. They have indicated that facilities which are visible are needed to meet their goal. The City has outlined the desire to minimize adverse impacts of facilities through the purpose and intent of the current ordinance. The communications facilities currently allowed in residential areas more closely meet the intent of compatibility than those being proposed in this request. The residential areas in the City of Charlottesville contain height restrictions that assist in maintaining community character. The low density residential areas have a 35 foot limitation while those in higher density residential areas may allow up to 50 feet of height. The height allowances for telecommunications facilities are higher than the structure height currently allowed in residential areas at 40 feet to 150 feet depending on the type of structure. The height restrictions imposed on residential areas are meant to maintain the character of the community. A number of public comments have been received and were included in the Commissioners' packets. Many of the concerns focused around placement of facilities on school parcels. The Planning Commission held a work session on June 24 to gain additional information. Verizon submitted a follow up packet to address the concerns expressed by the Planning Commission at that meeting. Staff does not feel this request should move forward at this time. The community made a determination when it enacted the telecommunication ordinance as to the most appropriate areas to place PWSFs, which included the most intensely zoned areas in the city. There are a number of less intense areas of the city which do not have allowances for these facilities, which staff feels should be explored prior to impacting residential areas, which are the absolute least intensive uses in the city. The requirements currently in place meet the purpose and intent of the telecommunications ordinance for the community, and to allow these changes in the residential areas would not move the community closer to the intent.

Mr. Steve Blaine, present on behalf of Verizon Wireless, gave a PowerPoint presentation.

Mr. Pearson called for questions from the Commissioners.

Mr. Farruggio wanted to know if this was being viewed as alternative tower support structures rather than monopole support structures. Mr. Blaine urged the flexibility for this applicant and others to be able to do what is appropriate.

Mr. Pearson opened the public hearing.

Ms. Pat Cheeks, of 1604 Jamestown Drive, strongly urged the Commission to deny this Special Use Permit for the telecommunications facility especially on schools. She was disturbed that the Commission could not consider health concerns in their decision making. She asked that they consider the probable reduction to property values, aesthetics in the area, and the corporate use of schools.

Ms. Tiffany Stoffer, of 1026 Cottonwood Road, was present as a representative of the Fry's Spring Board of Directors. They expressed their support of a possible tower on their property. She stated there was insufficient cell phone reception at the Fry's Spring Beach Club.

Mr. Pat Healey, of 641 Harris Road, agreed with Ms. Stoffer. He stated his belief that this community needed this kind of service. He encouraged the Commission to approve this.

Ms. Amanda Lotus, of 219 Montrose Avenue, spoke in opposition of the proposal due to health concerns.

Ms. Colette Hall, of 101 Robertson Lane, spoke in opposition of the proposal. She expressed concern about property values as well as health concerns.

Mr. Steve Russell, of 1614 Brandywine Drive, reiterated his opposition of the proposal. He did not feel Verizon or Fry's Spring had presented a compelling argument for changing the zoning.

Mr. Andrew Gilmore, of 2005 Greenbrier Drive, also spoke in opposition of the proposal. He thought the towers were incompatible with schools and a residential area.

Ms. Valerie Long, of 1716 Yorktown Drive, stated she had worked as a land use lawyer representing wireless telecommunications carriers in this area and had learned a lot about these issues over the past nine years. She noted she was a parent of an Greenbrier Elementary School student. She spoke in favor of the proposal as a moderate and reasonable approach which would allow the City to retain complete control over whether it decided to approve any applications.

Mr. Carson Clark, of 2001 Greenbrier Drive, spoke in opposition of the proposal as he felt it did not meet the intent of the Zoning Ordinance. He thought the equipment sheds would impact the look of the neighborhood.

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

Mr. Farruggio wanted to know if now or in the near future towers in a residential community were necessary for our lifestyle or the public convenience. Mr. Blaine maintained that this license frequency was necessary to provide the coverage that the FCC determined had to be provided to sustain the license.

Mr. Farruggio wanted to know if 1900 megahertz was going to be replacing frequencies in the future. Mr. Pearson noted he had discussed this with staff and that if the Commission's considerations moved into technical issues, staff did not currently have enough technical information at staff level to provide the Commission with guidance and if those technical issues become determinative for the discussions, it would be advisable to continue the discussion to a future date.

Mr. Farruggio wanted to know if the towers were only ten feet over the treetops or if alternative tower support structures were used would that suffice. Mr. Blaine thought that if carriers had that flexibility, that could work. Mr. Farruggio noted there was nothing in the zoning that limited the towers over existing structures or treetops. He noted that was a critical factor for him. He stated he would feel safer if it was already limited to only ten feet higher.

Mr. Mitchell felt there was much the Commission did not know and that they needed help.

Mr. Farruggio agreed more guidance would be helpful.

Mr. Rosensweig agreed with his colleagues. He stated he had not heard enough to go against Staff reports.

Ms. Lewis did not find this to be in conformity with the Comprehensive Plan. She did not think it was good zoning practice without further study or looking more closely at the map. She stated there was no justification for changing the ordinance. Ms. Lewis was not compelled by what any other jurisdiction in Virginia was doing. She stated they were committed to preserving the residential neighborhoods. She

stated they may care more than Hampton, Albemarle, Louisa, Greene, Fluvanna, and Madison do about the natural environment. Ms. Lewis stated they cared about what happens in the build environment. She stated she did not support this and was not certain she could in the future without more information, especially compelling information.

Ms. Keller stated she valued the staff report, but was tending towards a yes vote. She stated she was less concerned with the aesthetic. She did want more information.

Mr. Osteen agreed it was something that would have to be addressed in the future but he did not think he knew everything he needed to know to make a decision.

Mr. Pearson wanted to know what type of information the Commission still wanted.

Ms. Lewis stated they had not discussed equipment sheds, fencing, easements, repair and maintenance. She also wanted to explore why these were not being considered for B-1 or Mixed Use districts.

Mr. Mitchell wanted more technical details as well.

Mr. Farruggio also wanted to know why this wasn't considered for B-1 and Mixed Use. He also wanted more information on the possibility of never having to cut the tops off of trees to make this work.

Ms. Lewis suggested they learn more from liked-sized communities of a similar density. She also wanted to know more about removal issues.

Mr. Norris wanted to know if there was an opportunity to prohibit these towers on school grounds. Mr. Pearson stated that in order to justify any exclusion or inclusion of a specific nonresidential use within a residential zone, the Commission would need to articulate the reasons why this use should be treated differently based on specific planning principals.

Ms. Lewis stated she would like to see encouragement for collocating it in residential areas as well as other districts.

Ms. Lewis suggested the Commission follow the work plan devised by Mr. Pearson and Ms. Creasy. She thought it required some study and time as well as possibly a consultant.

Mr. Mitchell agreed they needed to go outside since they did not have the intellectual resource to do this.

Mr. Rosensweig wanted to know if they had the financial resources to contract an outside consultant.

Mr. Huja was not sure six months would allow for enough time or money to do what was necessary.

Ms. Fornari noted the FCC has a dispute resolution program where the industry and the locality can work on timing issues instead of ending up in court.

Mr. Farruggio moved to defer this for 60 days with study. Mr. Mitchell stated that would not do it. Mr. Farruggio rescinded his motion.

Mr. Blaine recommended they defer it to another work session and stated his client would provide the resources to help staff answer some of the questions in advance. He thought at least 60 days would be needed. Mr. Farruggio suggested 90 days.

Mr. Farruggio moved that in the October Work Session they address the concerns that they have; to defer this for approximately 90 days to the October Work Session. Mr. Pearson offered a friendly amendment that in the interim, if they had not outlined all the questions they have, that they would as rapidly as possible convey their questions to staff so that staff could communicate them and start to work on them in anticipation of that. Mr. Farruggio accepted the friendly amendment. Ms. Lewis seconded the amended motion. Ms. Keller wanted to know if he would accept a friendly amendment to involve the public in some substantial way in this work session since they would be relying heavily on the industry. When pressed for clarification by Mr. Farruggio, she stated she wanted recommendations from the public about ways that this could be incorporated into the community or not, potential locations, what they would want these to look like, or just some comment about whether this was something that the community was even interested in. Mr. Farruggio felt that was so broad and wide open, he was unsure. Mr. Pearson suggested they solicit public opinion in the intervening period. Mr. Farruggio suggested E-mails be sent to the neighborhood representatives and that the City Manager, at his next Neighborhood Federation meeting, cover this issue. Ms. Keller thought that would be a legitimate forum. Mr. Rosensweig expressed concern that 90 days would not allow them time to get an independent analysis. Mr. Farruggio felt it would give them more time and more information to make a vote. Ms. Creasy called the roll. The motion passed, 5-2; Mr. Mitchell and Mr. Rosensweig voted against.

5. ZM-08-06-13 -- (2115 Jefferson Park Avenue) A petition to rezone from R-3 Residential to NCC Neighborhood Commercial Corridor, the property at 2115 Jefferson Park Avenue. The application is to allow for future commercial use. These properties are further identified on City Real Property Tax Map Number 17 as parcel 88 having approximately 100 feet of frontage on Jefferson Park Avenue and 150 feet of frontage on Maury Avenue and containing approximately 13,242 square feet of land or 0.304 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Multifamily Residential.

Mr. Haluska gave the staff report. This is a rezoning application for the Fry's Spring Service Station. The existing commercial use of the property supports the rezoning application. The property's location, size and historic value make it ideal for reuse as a commercial property, rather than redevelopment into a multi-family residence. The intent and purpose of the proposed zoning district, the Neighborhood Commercial Corridor is as follows: "The intent of the Neighborhood Commercial Corridor district is to establish a zoning classification for the Fontaine and Belmont commercial areas that recognize their compact nature, their pedestrian orientation, and the small neighborhood nature of the businesses. This zoning district recognizes the areas as small town center type commercial areas and provides for the ability to develop on small lots with minimal parking dependent upon pedestrian access. The regulations recognize the character of the existing area and respect that they are neighborhood commercial districts located within established residential neighborhoods." The intent perfectly describes the type of businesses and activity that the City should be encouraging at the subject property. Staff recommends approval.

Mr. Steve Houchens was present on behalf of the property owners. The gas tanks had been removed from the ground. A purchaser was interested in the property and he had indicated he would be willing to talk about proffers. The applicants had gone before the Neighborhood Association and they were in support of this.

There were no questions for the applicant.

Mr. Pearson opened the public hearing.

Mr. Hardy Whitten, of 2521 Woodland Drive, reiterated the E-mail sent by the president of the Fry's Spring Neighborhood Association supporting the rezoning of the Fry's Spring Service Station as it would encourage the owners to keep the historic structure intact.

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

Ms. Lewis agreed with Staff's report that the current historic use of the property and other factors bode well for rezoning it to an appropriate commercial designation which it deserves.

Mr. Farruggio agreed with Ms. Lewis.

Ms. Keller moved to recommend approval of this application to rezone property from R-3 to Neighborhood Commercial, on the basis that the proposal would serve the interests of the general public welfare and good zoning practice. Mr. Farruggio seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

6. ZT-08-06-14 -- An ordinance to amend and reordain Section 34-273(b) of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance) relating to Individually Protected properties by creating an "overlay" zoning restriction without affecting the underlying zoning district designation. This ordinance would create minor design control districts status for the following:

- a. The structure and property at 134 10th Street NW (Former Coca Cola Bottling Works), Tax Map 31, Parcel 156.
- b. The original 1937 section of the former Monticello Dairy building and other wings identified as "J,K,L,M,N,O, and P" on a 1985 drawing titled "Old Monticello Dairy Property," and part of the existing parcel bounded by the rear wall of the designated building sections, the east wall of Section "J," and the areas in front of the building extending to Grady Avenue on the north, and extending to 10th Street NW on the west at 946 Grady Avenue, Tax Map 31, Parcel 60.
- c. The structure and property at 722 Preston Avenue (Coca Cola building), Tax Map 31, Parcel 38.
- d. The structure and property at 2115 Jefferson Park Avenue (Fry's Spring Service Station), Tax Map 17, Parcel 88.
- e. The Wachovia bank building (Former National Bank and Trust) at 901 Emmet Street and part of the existing parcel, described as a polygon containing the entire building including the rear canopy, and enclosed by a line drawn parallel to the Arlington Boulevard property line from the northeast corner of the rear canopy to the Emmet Street property line; a line drawn parallel to the Emmet Street property line from the northwest corner of the rear canopy to the Arlington Boulevard property line; and the existing property lines along Arlington Boulevard and Emmet Street that connect these two lines, Portion of Tax Map 1, Parcel 1.

ZM-08-06-15 -- An ordinance to amend and reordain the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, by adding minor Architectural Design Control Districts for the following:

a. The property at 134 10th Street NW, further identified on City Real Property Tax Map Number 31 as parcel 156 having 150 feet of frontage on 10th Street NW and containing approximately 20,560 square feet of land or 0.472 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Multi Family Residential. The current underlying zoning, which will remain, is B-3.

b. A portion of the parcel at 946 Grady Avenue, further identified on City Real Property Tax Map Number 31 as parcel 60 having 450 feet of frontage on Grady Avenue and containing approximately 172,192 square feet of land or 3.953 acres. The original 1937 section of the former Monticello Dairy building and other wings identified as "J,K,L,M,N,O, and P" on a 1985 drawing titled "Old Monticello Dairy Property," and part of the existing parcel, bounded by the rear wall of the designated building sections, the east wall of Section "J," and the areas in front of the building extending to Grady Avenue on the north, and extending to 10th Street NW on the west are the only structure and portion of the parcel under consideration for this map amendment. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use. The current underlying zoning, which will remain, is Central City Corridor.

c. The property at 722 Preston Avenue, further identified on City Real Property Tax Map Number 31 as parcel 38 having approximately 175 feet of frontage on Preston Avenue and containing approximately 41,643 square feet of land or 0.956 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use. The current underlying zoning, which will remain, is Central City Corridor.

d. The property at 2115 Jefferson Park Avenue, further identified on City Real Property Tax Map Number 17 as parcel 88 having approximately 104 feet of frontage on Jefferson Park Avenue and 150 feet on Maury Avenue and containing approximately 13,242 square feet of land or 0.304 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Multi Family Residential. The current underlying zoning, which will remain, is R-3. (See #5 for additional information on the zoning of this property)

e. A portion of the parcel at 901 Emmett Street further identified on City Real Property Tax Map Number 1 as parcel 1 having approximately 2200 feet of frontage on Emmett Street and containing approximately 964,026 square feet of land or 22.131 acres. The Wachovia bank building (Former National Bank and Trust) and part of the existing parcel described as a polygon containing the entire building including the rear canopy, and enclosed by a line drawn parallel to the Arlington Boulevard property line from the northeast corner of the rear canopy to the Emmet Street property line; a line drawn parallel to the Emmet Street property line from the northwest corner of the rear canopy to the Arlington Boulevard property line; and the existing property lines along Arlington Boulevard and Emmet Street that connect these two lines, are the only structure and portion of the property under consideration for this map amendment. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Commercial Use. The current underlying zoning, which will remain, is Urban Corridor.

Ms. Scala gave the staff report. City Council must consider the recommendations of the Planning Commission and the BAR as to the proposed designation. The BAR recommended unanimously designation of all five properties. Charlottesville currently has eight ADC Districts and 66 individually designated historic properties that are not included in major design control districts. In January, 2008, City Council directed the BAR to pursue individually protected property designations for Council's

consideration even though some property owners may not be in agreement with it. The Coca Cola building is architecturally significant because it is able to incorporate traditional design elements while maintaining a simple, almost contemporary design reflective of its industrial use. The property owner, William Chapman, told the BAR that he does not wish to be designated. The BAR recommended unanimously that the building and the entire parcel for designation. The Monticello Dairy is architecturally significant because of its scale and presence, neo-classical design, and the amount detail given to an industrial use building. It was designed by Elmer E. Burruss. The BAR recommended unanimously designation of the older parts and part of the existing parcel, as outlined in the motion. The Charlottesville Coca-Cola Bottling Company is architecturally significant for its art deco industrial design. The property owner representative told the BAR that they did not want to take a position yet and that they own historic properties in other localities, and they asked for clarification on the importance of the additions. The BAR recommended unanimously the designation of the building and entire parcel. The Fry's Spring Service Station is both architecturally and culturally significant. The property owner representative told the BAR that they were opposed to designation at that point. They were interested in getting the property rezoned to a commercial use, and selling the property. The BAR recommended 7-0-1 designation of the building and entire parcel. The property at 901 Emmet Street is architecturally significant as a modern building that is able to take its design cues from older landmarks without becoming anachronistic. It was designed by Louis Scribner of Stainback and Scribner. The BAR recommended unanimously the designation of the building and part of the existing parcel delineated by the lease of the existing tenant.

Mr. Pearson opened the public hearing.

Ms. Emily Groom, of 4818 Chevy Chase Drive, Chevy Chase, Maryland, was present on behalf of Federal Realty Investment Trust. Generally speaking, Federal Realty was not in favor of recommending this for an IPP due to the economic value of the property.

Mr. Bill Chapman, of 132 Cameron Lane and owner of 134 10th Street NW, expressed his support for historic districts and thought they were great community assets; however, he did not want to become a patron of his building in order to make it a community asset.

Mr. Walker Richmond, of 211 Fifth Street SW, was present on behalf of the owner of the Monticello Dairy building. He stated they were respectfully requesting deferral of any action on the Monticello Dairy designation as the property owner was unable to attend the meeting and wanted an opportunity to be heard by the Commission.

Mr. Rob Woodward, of 1533 Jarman Lake Road, was present on behalf of the Coca Cola Bottling Company on Preston Avenue. He stated they embrace the historic designation of the building and thought it was an honor. However, they asked that the two additions to the building be recognized as non-contributing.

As there had been a request to continue or defer one of the items, Mr. Pearson did not want to close the public hearing until a decision was made on that.

Mr. Farruggio supported this and appreciated the detailed report. He stated he was inclined to have the older portion of the property at 134 10th Street NW be non-conforming so they wouldn't have to go through BAR to take that down.

Ms. Keller expressed concern about only designating portions of a building.

Mr. Osteen agreed with Ms. Keller's concerns.

Ms. Lewis expressed concern that two owners did not want their properties designated. She stated she was hesitant to designate a property if the owner and steward of the property was not prepared to cooperate in preserving it.

Ms. Keller thought they could nominate the two Coca Cola buildings and the Monticello Dairy as part of a multiple property nomination. The grouping would take on significance which one alone might lack.

Mr. Rosensweig agreed with the historical value of each property but did have concerns about a couple of them. He expressed concern that Barracks Road would be redeveloped at some point and they would need to ease the regulatory hurdle so that parcel could be redeveloped in a way that makes more sense in creating density in a very strategic spot. He was concerned about the Fry's Spring Service Station. He stated it was a beautiful building with unique architecture and was worth preserving but it was one of the places where historical preservation and forward thinking planning might not coexist particularly well.

Mr. Farruggio felt the gas station at JPA was worth preserving as it was a key element in and of itself. He felt each of the buildings had pieces that probably weren't contributing and didn't need to be there.

Ms. Lewis noted they had been requested by the applicant in B to defer the matter. She felt they had also been requested on C. She wondered if they should defer to the next meeting given the hour. She wondered if it would just be easier to defer all of them and bring them back at the same time.

Ms. Keller wondered if they could craft a motion that would agree to designate these five properties with the contributing and noncontributing sections of each to be determined by Staff in consultation with the BAR before they were presented to Council. Ms. Fornari stated she could not find any support in the Code for breaking up sections of buildings. Ms. Keller stated she would be in favor of designating the five and that they ask Staff to craft more detailed descriptions of architectural significance and periods of construction.

Ms. Lewis stated she still had the concerns she had voiced earlier.

Mr. Walker Richmond noted that in the BAR minutes the land trust talked about the portion that was suggested to be designated the eight lettered portions, that the land trust actually wanted not all of those eight portions. He stated he had heard one or two Commissioners say that the land trust had agreed with the eight portions that were selected. He also stated the land trust would request a deferral of consideration so they could be heard.

Ms. Keller made a motion to defer and to ask Staff to consult with BAR, with owners, and with City Attorney to come up with appropriate language that would identify the significant and character defining features and portions of the five properties. Ms. Lewis seconded the motion. Mr. Rosensweig wanted to know if it would be appropriate to try to get some advice from Council on whether they would be willing to fund a consultant to write a report to see if these properties would qualify for state or national historic listing. He wondered if that could be tacked on as an amendment. Ms. Keller accepted it as a friendly amendment. Ms. Lewis stated Ms. Scala and members of Preservation Piedmont had done that for someone else. Ms. Keller amended her motion to have Council consider

ways that they might offer incentives or abatements to owners of designated properties. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson called for a brief recess. The meeting stood at recess at 12:36 a.m.

Mr. Pearson reconvened the meeting at 12:45 a.m.

7. SP-08-06-16 -- (110 East Main Street) An application for a special use permit for the property at 110 East Main Street. This is a request to allow a dance hall within the Downtown Mixed Use Corridor. This property is further identified on City Real Property Tax Map Number 28 as parcel 23 having approximately 40 feet of frontage on East Main Street and 50 on Water Street and containing approximately 10,585 square feet of land or 0.243 acres. The zoning of this property is currently Downtown Corridor and general uses called for in the Land Use Plan of the Comprehensive Plan are for Mixed Use.

Mr. Haluska gave the staff report. Section 34-1200 of the City Code defines dance hall as a restaurant wherein more than one-eighth of its gross floor area is or may be used for dancing, or which serves, or may serve, as standing room for patrons listening to live music (such as bands or disc-jockey performances). Staff finds the proposed use will not negatively impact the surrounding area. The BAR, at its July meeting, found that the proposed use would not have an adverse impact on the Downtown Historic District. Staff recommends approval.

Mr. Kirby Hutto was present on behalf of Starr Hill Presents Red Light Management.

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

Ms. Lewis thought it was wonderful that they were having to issue a Special Use Permit to return it to its original use. She thanked the applicant for bringing this forward.

Ms. Lewis moved to recommend approval of this application for amendment of the Special Use Permit in the D zone for Jefferson Theater, a restaurant use, at 110-112 East Main Street to permit a dance hall. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

8. ZT-08-06-17 -- Health Clinics in Highway Corridor -- An ordinance to amend and re-ordain Section 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to allow for Health Clinics up to 10,000 square feet by right and over 10,000 square feet by special use permit in the Highway Corridor Zoning District.

Mr. Rogers gave the staff report. Great Eastern Management Company was looking for a retail space of approximately 8,000 square feet in the Seminole Square Shopping Center to use as a kidney dialysis center. The City's zoning code only permits less than 4,000 square feet.

Ms. Keller wanted to know what kind of impact a space this large would have on the shopping center.

Mr. Rogers thought this would be on the smaller end of the scale and would not have an impact.

Mr. Pearson opened the public hearing. With no one wishing to speak to the matter, he closed the public hearing.

Mr. Farruggio had no opposition to a clinic of sorts in the shopping center but wanted to know what would keep it from snowballing. Mr. Pearson stated he did not see that as a possibility.

Ms. Lewis moved to recommend approval of this zoning text amendment, to amend and re-ordain §34-796 of the Charlottesville City Code as amended to make changes to the permitted uses for the Highway Corridor mixed-use district on the basis that the changes would serve the interests of public necessity, convenience, good zoning practice and good dental hygiene. Stating an exception to the good dental hygiene, Mr. Farruggio seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

9. ZT-08-06-18 -- Off Street Parking Requirements for Parks -- An ordinance to amend and re-ordain Section 34-328 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to outline criteria for waivers of parking requirements for locations within the Public Park Protection Overlay.

Mr. Haluska gave the staff report. Currently outdoor recreational facilities must provide one parking space per 600 square feet of usable recreation area. The zoning amendment would permit the Commission to consider waiving parking requirements after considering the following criteria: Space limitations do not permit the provision of additional parking; there is adequate on street parking available; and/or the amount of parking required would be §34-984 would be unreasonable to serve the proposed use of the property and would be inconsistent with the park classification as identified in the City of Charlottesville Comprehensive Plan.

Mr. Pearson opened the public hearing. With no one wishing to speak to the matter, he closed the public hearing.

Mr. Farruggio stated he fully supported this.

Mr. Farruggio moved to recommend approval of this zoning text amendment, to amend and re-ordain §34-328 of the Charlottesville City Code (1990) as amended (Zoning Ordinance) to make changes to the regulations of the Public Park Protection Overlay District on the basis that the changes would serve the interests of the general public welfare and good zoning practice and this would be as given to us in the example by City Staff. Ms. Keller seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

IV. REGULAR MEETING ITEMS (Continued)

I. 1801 HYDRAULIC ROAD -- WHOLE FOODS SITE

1. Entrance Corridor Review

2. Preliminary Site Plan

Mr. Pearson recessed the Planning Commission and convened the Entrance Corridor Review Board.

Ms. Scala gave the staff report. This had been before the Board previously. The applicant had made changes to the elevation and plan based on that meeting. The parking garage is set back 15 feet from Hydraulic Road with added landscaping. The green roof has been deleted. Seven additional Japanese Black Pine trees have been added to the street trees. And Inkberry Holly hedge has been added along the rear retaining wall. A separate application must be made for the comprehensive signage plan. Six

large wall signs are proposed. The applicant has address all concerns raised previously. Staff recommends approval as submitted.

Mr. Chris Fine, of Midlothian, Virginia, was present on behalf of the applicant with Mr. Mark Joyce, senior project manager with Bohler Engineering.

Mr. Joyce gave a brief presentation.

Mr. Pearson wanted to know if the applicant had considered dedicating a pedestrian right of way. Mr. Fine stated it was a relatively small parking field and they had looked at it, but from design experience, people don't use those.

Mr. Pearson wanted to know if any consideration had been given to shading part or all of the deck that would double as weather protection of any farmers' market stalls. The applicant stated permanent shade was not something they could do at this point but temporary shade structures would be put up during farmer market season.

Mr. Pearson recessed the Entrance Corridor Review Board and reopened the Planning Commission.

Mr. Rogers gave the staff report. The proposal is for a 66,600 square foot Whole Foods grocery store with a structured parking. The project will incorporate the first phase of Hillsdale Drive Extended. The main entrance remains near the Hillsdale Drive/Hydraulic Road intersection. The supplemental plantings help meet the purposes of the City's landscaping zoning code. Representatives from Rivanna Water and Sewer Authority discussed the plans with the applicant. Because of the high density residential zoning classification the Housing Authority's property has, the Whole Foods parcel does not have a setback requirement between the two sites. Staff recommends approval conditioned on the landscape waiver.

Mr. Mark Joyce had nothing to add.

Mr. Osteen wanted to know if the applicant had considered a two way entrance. Mr. Joyce stated they had looked at but they had wanted to keep truck and customer traffic separated.

Ms. Lewis disclosed that she had met with the applicant on site plan issues on April 1 with staff present. Mr. Farruggio and Mr. Mitchell disclosed they had met with the applicant on March 31 with staff present.

Mr. Farruggio felt the applicant had addressed the issues which the Entrance Corridor had asked them to address. He agreed with Staff's recommendation to move forward.

Mr. Mitchell expressed concern about what this project would do in regards to traffic.

Mr. Rosensweig did not feel there was enough creativity on Hydraulic Road.

Ms. Keller expressed a desire to see more pedestrian linkages in the parking lot.

Mr. Pearson recessed the Planning Commission meeting and reopened the Entrance Corridor Review Board.

Mr. Farruggio moved to approve the Entrance Corridor certificate of appropriateness application for the Phase II Entrance Corridor application (Hillsdale Drive and Kmart parking lot changes) as submitted, and moved to approve the Entrance Corridor certificate of appropriateness application for

the Phase III Entrance Corridor application (Whole Foods) with the following conditions: 1, the signage as shown exceeds ordinance allowances, the signage must either be reduced or submitted as a comprehensive signage package; and, 2, final approval of all materials and colors. Mr. Osteen seconded the motion. Ms. Mickie Bright, of 777 Fillman Road, wanted to know how the City was planning to deal with Hillsdale Road. Mr. Farruggio suggested the City Traffic Engineer would be better able to answer her concerns. Ms. Creasy called the roll. The motion passed, 7-1; Mr. Rosensweig voted against.

Mr. Pearson closed the Entrance Corridor Review Board and reopened the Planning Commission.

Mr. Farruggio moved to approve the preliminary site plan for Tax Map 41B, Parcel 2, identified as Hillsdale Drive (Phase II) and Whole Foods Market (Phase III) Road Improvement Plan and Site Development Plan at 1801 Hydraulic Road with the following conditions: approval of the landscape waiver and satisfaction of all staff comments. Ms. Lewis seconded the motion. Mr. Rogers noted that the landscape waiver memo submitted in their packets had three suggested conditions; he strongly encouraged the Commission to consider the inclusion of those as part of the motion in ruling on this application. Mr. Farruggio thanked Mr. Rogers and stated he would include those. Mr. Farruggio asked that the following conditions be added to the language of the landscape waiver: 1, the applicant relocate plantings to the southwest corner of the Whole Foods parcel in order to avoid the utility easements; 2, the applicant submit legal documentation that permission has been granted for the off site plantings and that maintenance will be the responsibility of the applicant, not the property owner; and, 3, the applicant submits legal documentation that they will maintain the proposed street trees shown in the site plan. Ms. Lewis seconded the amendment. Ms. Creasy called the roll. The motion carried unanimously.

J. 2171 IVY ROAD – UNIVERSITY CAR WASH

1. Entrance Corridor Review

2. Preliminary Site Plan

Ms. Scala gave the Entrance Corridor staff report. The applicant is requesting approval of design of a replacement two-bay car wash structure on this site. The guidelines really did not anticipate the use of a modern material such as the polygal panels, except perhaps, as a canopy. The quality and appearance of building materials and their compatibility and consistency with local building materials is important because this corridor is a gateway to the City's Downtown and University areas. The non-traditional form of the structures is not addressed by the guidelines. Bright colors are recommended for accents on signs or awning, rather than being used to turn the whole building into a sign. Mitigating circumstances are the unique nature of the car wash land use, the unobtrusive site location, and the compact size of the development. Staff commends the overall site design, large shade trees, and the coordination that has occurred with the neighboring shopping center. Staff reserves judgment as to the color choices.

Mr. Jeff Dreyfus explained there was no historic context in the corridor. He stated there were issues of safety. He said they had tried to take simple, straight forward building materials. It was set back as far as possible from the road and was screened by trees.

Mr. Pearson recessed the Entrance Corridor Review Board and reconvened the Planning Commission.

Mr. Haluska gave the staff report. The Commission needed to address the two requested waivers. The traffic engineer has recommended that the sidewalk beyond the entry way be waived because there wasn't a lot of width under the railroad trestle. Section 34-973 states that the Planning Commission may, for reasonable cause shown, grant an exception to this requirement considering the following factors: (i) proximity of proposed parking areas to the uses and structures served, (ii) ease of access between the proposed parking areas and the uses and structures served, (iii) present and future availability of on-street parking and/or cooperative parking facilities, and (iv) submission by the owner of the structure or use subject to the parking requirement of a parking management plan signed by a professional transportation engineer. The applicant proposes to provide the parking that is required for this use at the shopping center facility.

Mr. Rosensweig wanted to see plantings in the island.

Mr. Osteen thought it was a handsome building that did not need screening.

Ms. Keller agreed there was no reason to hide this building.

Mr. Farruggio felt tall shade trees would help.

Ms. Lewis felt the queuing design was satisfactory.

Ms. Lewis disclosed for the record that she met with the applicant several months ago. This building was honest for its purpose.

Mr. Pearson suspended the Planning Commission and reopened the Entrance Corridor Review Board.

Mr. Farruggio moved to approve the Entrance Corridor certificate of appropriateness application for the University Car Wash application as submitted. Mr. Osteen seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Pearson closed the Entrance Corridor Review Board and reopened the Planning Commission.

Ms. Lewis moved approval of the preliminary site plan with the following condition: a waiver of the parking and a waiver of the sidewalk requirement beyond the second entrance of the property. Ms. Keller seconded the motion. Mr. Farruggio offered a friendly amendment of approval by the Director of NDS of an exemption to the regulations regarding the location of handicapped parking spaces as permitted under section 34-973(7) of the City Code. Ms. Lewis accepted the friendly amendment as did Ms. Keller. Ms. Creasy called the roll. The motion carried unanimously.

Ms. Lewis moved to adjourn until the second Tuesday in August. Mr. Osteen seconded the motion. Mr. Pearson adjourned the meeting at 2:24 a.m., Wednesday, 23 July, 2008.