

## **MINUTES**

### **CITY OF CHARLOTTESVILLE**

### **PLANNING COMMISSION**

**TUESDAY, 11 NOVEMBER, 2008 -- 5:30 P.M.**

### **CITY COUNCIL CHAMBERS**

#### **Commissioners present:**

Mr. Jason Pearson (Chairman)

Mr. Michael Farruggio (Vice-Chairman)

Ms. Cheri Lewis

Mr. Michael Osteen

Ms. Genevieve Keller

Mr. Dan Rosensweig

Mr. Bill Emory

Mr. David Neuman, Ex-officio, UVa Office of the Architect (arrived at 5:38 p.m.)

#### **Staff Present:**

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy

Mr. Brian Haluska

Ms. Mary Joy Scala

Mr. Nick Rogers

Ms. Ebony Walden

#### **City Council Members Present:**

Mr. Dave Norris, Mayor

Mr. Julian Taliaferro, Vice Mayor

Mr. David Brown

Mr. Satyendra Huja

#### **Also Present:**

Mr. Richard Harris, Deputy City Attorney

## **II. REGULAR MEETING**

Mr. Pearson convened the meeting at 5:36 p.m. He stated the Commissioners had just completed their pre-meeting in which they were engaged in a discussion about proposed changes to the development review process. He stated if there was time at the end of the meeting the conversation may continue. He wished everyone a happy Veterans' Day.

Ms. Creasy read a statement on behalf of City Council: "Every November 11th, we, as a nation, give thanks and pay tribute to our 25 million living veterans, men and women who have risked their lives, including many who are doing so right now to protect our free way of life and to extend freedom to others. Veterans of World War I, II, the Korea and Vietnam Conflicts, the Gulf War, and our current conflicts have contributed to the majesty of this country. We hope that you will take a moment today to honor our veterans in a way you feel appropriate through your thoughts, prayers or actions for the sacrifices so many have made in order for us to remain a free and self-governing people."

## **A. COMMISSIONERS' REPORTS**

Mr. Emory stated the CIP Development Committee had met several times. He stated the members, comprised of the City Manager and the Directors of Finance and Economic Development, were looking at ways to reduce the CIP.

Mr. Neuman joined the meeting at 5:38 p.m.

Ms. Lewis stated the Charlottesville Planning Commission had met with the Albemarle County Planning Commission to review with Mr. Neuman and his staff the report from the Joint Task Force on Affordable Housing. The Task Force will be reconvening to review the comments from the City, County and University.

Mr. Osteen had attended the October Board of Architectural Review meeting and stated there had been no issues on the agenda which needed to be related.

Mr. Farruggio had attended the Parks and Recreation Advisory Board meeting. The National Parks and Rec Association had been held in Baltimore and some managers and mid-level managers had been able to attend. He stated some projects had been delayed due to the current economic situation. The master plan for McIntire Park is still going forward but there will need to be some adjustments due to lighting.

Mr. Rosensweig stated he had been invited to a county discussion about the transfer of development rights. He had attended the MPO Technical Committee meeting where discussion was about the Charlottesville Pedestrian Safety Study; recommendations included a number of significant pedestrian crossing upgrades.

Ms. Keller stated the CDBG Task Force had not met but would meet in December to consider the applications that are submitted.

Mr. Neuman stated the Planning and Coordinating Council of the City, County, and University Technical Group met to discuss LED within crossing issues and lighting and about improvements to signalization and street lighting and to coordinate that among the three groups. Each agency also provided a report about bicycle planning.

## **B. CHAIR'S REPORT**

Mr. Pearson stated the Thomas Jefferson Planning District Commission met. Its search for a new executive director was ongoing with the search committee making good progress.

## **C. DEPARTMENT OF NDS/STAFF REPORTS**

Ms. Creasy stated Staff was looking at four priorities from the Commission. Draft outlines were being worked on and should be available to the Commissioners after the first of the year. Staff was also looking at a number of ordinance changes. A new housing intern has been hired.

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

Ms. Colette Hall, president of the North Downtown Neighborhood Association and a Vietnam veteran, first thanked the Mayor and the City for remembering veterans. Ms. Hall read a prepared statement expressing concern about the proposed changes to streamline the Planning Commission meetings. Noting that some site plans would be put under the purview of the City Staff and only affected property

owners be notified of meetings, stated the current neighborhood planner had not invited the North Downtown Neighborhood Association to any meetings. She asked the Commission not to recommend that more site plans be under only Staff approval as they needed to remain in the public eye and ear at a public time.

## **CONSENT AGENDA**

### **1. Site Plan and Subdivision approval list**

**2. Minutes** -- July 22, 2008 -- Regular Meeting

**3. Minutes** -- August 12, 2008 -- Regular meeting

**4. Minutes** -- September 9, 2008 -- Regular meeting

**5. Minutes** -- October 14, 2008 -- Pre-meeting

**6. Minutes** -- October 14, 2008 -- Regular meeting

**7. Minutes** -- October 28, 2008 -- Work Session

**8. Site Plan** -- 1003 West Main Street

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

a. Matrix Changes for Bed and Breakfast Use (to be discussed later in the meeting)

Mr. Pearson stated item 8 had three possible motions; the consent agenda presumes that suggested motion 2, which states "I move to approve the preliminary site plan for Tax Map 10, Parcel 51, identified as Sycamore 10.5 Preliminary Site Plan at 1003 West Main Street with the following conditions: All pending comments from staff as denoted in the attached letter dated November 1st, 2008, are resolved by the applicant during final site plan review," is the motion which would be used. He then asked that any proposed changes to the minutes be submitted in writing.

Ms. Lewis asked that the last sentence of her Commissioners' Report of the July 22 minutes reflect that she was referring to full terms of Planning and Zoning concepts instead of acronyms which the Commissioners and Staff tend to use that are not accessible to the public. Ms. Lewis also asked that the following changes be made to the August 12 minutes: page 13, the fifth paragraph from the top should reflect that she was mostly concerned with the traffic at the intersection of Druid and Monticello; and page 14, the sixth paragraph down, in which Mr. Farruggio moved to recommend approval of the Special Use Permit for Sycamore House, Ms. Lewis did not remember him specifying that the approval be with two affordable units at 60 percent AMI and she wanted to ask Mr. Farruggio if that was part of the motion. Mr. Farruggio did not recall. Ms. Lewis wanted the "60 percent AMI" stricken since she had never heard this body ever discuss a percentage of AMI and she thought there was a movement afoot to change some definitions and perhaps these minutes were revised or overlaid with that 60 percent AMI but she did not think that was part of the motion or discussion that night. Mr. Farruggio thought there might be a way to check that rather than to strike it. Mr. Rogers stated he was 99.99 percent accurate that Mr. Farruggio specifically mentioned in his motion 60 percent AMI; he stated he would log onto the video archive and check the specific language of that motion so it could be accurately reflected in the minutes, if it was the Commission's desire. Ms. Lewis stated his 99 percent did it for her. Ms. Keller stated she had submitted written revisions pre-meeting.

Mr. Harris asked that in approving the Consent Agenda, the Commission actually state on the record number 9 so it would be there for future reference and asked that it be read into the record. Mr. Pearson stated item 9 was the request for initiation of zoning text and map amendments; the purpose of initiating these amendments is to allow formal consideration of the applications and these items will be scheduled for future public hearings if initiated.

**Ms. Lewis moved to approve the Consent Agenda has presented: the site plans and subdivision approval list for the month of October; minutes -- July 22nd, Regular meeting; minutes -- August 12th, Regular meeting; minutes -- September 9th, Regular meeting; minutes -- October 14th, Pre-meeting and Regular meeting; minutes -- October 28th, Work Session; the Site Plan for 1003 West Main Street; and the request for initiation of zoning text and map amendments. Mr. Farruggio seconded the motion. Mr. Pearson called the vote by acclamation. The motion carried unanimously.**

## **E. PRESENTATION**

### **1. Stream Watch Update**

Mr. John Murphy, director of the Stream Watch program (<http://streamwatch.org/>), stated this was the third presentation of Stream Watch to the community, but the first to the City of Charlottesville. He explained the data in the report was collected from 2005 to 2007. Mr. Murphy then gave a PowerPoint presentation of the biomonitoring of the Rivanna watershed. The biological health of the stream reflects and parallels the stream's value for human uses. There are five categories of assessments of stream quality; only good and very good meet the Virginia Aquatic Life Standard established by the Department of Environmental Quality. Most sites do not meet the standard. Only four of 31 sites were badly impaired.

## **F. ENTRANCE CORRIDOR REVIEW**

### **1. Barracks Road Shopping Center – Barnes and Noble Relocation**

Ms. Scala gave the staff report. The applicant is requesting a Certificate of Appropriateness to build a new two-story book store in Barracks Road Shopping Center. The existing Goody's building will be demolished, and a new building built in its place. The Entrance Corridor district does not require approval of demolitions. The site plan has few changes from the existing conditions, and may be approved administratively following approval of the Entrance Corridor application. A site plan for the entire shopping center has been submitted for administrative approval. This is a two story structure with a corner tower, storefront windows on the ground floor, and smaller window openings on the second floor. The height of the building is approximately 41.5 feet tall at the center front elevation. This is a large building, but is well-articulated, so that the height, mass and scale are in keeping with other structures on in the shopping center and along Emmet Street. The plan includes a central door location facing the Emmet Street parking lot. There is an emergency exit on the side street elevation. All the windows have clear glass except on the side street elevation where an interior fire stair is located; those windows are covered with a dark bronze spandrel glass. There are brick walls with a horizontally banded cast stone base on the first floor and cast stone banding and cornice on the second floor. The foundation is Arriscraft limestone masonry units. The rear section of the building is painted concrete masonry units; this space will be occupied by Bed, Bath and Beyond and will be painted to match the brick and cast stone base and trim banding. The building design is traditional and attractive with the

inside of both floors visible at night through the large glass areas. Four Bradford Pear trees on the side street will be removed and replanted with a different species in a wider sidewalk area; Staff recommends sugar maples. Staff recommends the use of a medium shade tree that is being used in other plantings in the shopping center. Staff opinion is that this building represents a good design. The building has sufficient articulation to create interest.

Ms. Emily Groome, who was present on behalf of Federal Realty Investment Trust, explained that the applicant had been trying to figure out a reuse for the Goody's box while trying to retain Barnes and Noble. She stated they were in complete agreement with Staff recommendations as presented by Ms. Scala. She stated one of the two existing trees on the back side of the building would be removed but would be replaced in a different location. She stated they were considering pulling the pedestrian crossing out a few more feet and/or making it angled to make it safer than it currently exists.

Mr. Rosensweig agreed with the Staff report that the applicant had done a nice job in terms of materials and the general look.

Ms. Keller stated it was difficult to apply corridor-wide guidelines to a privately owned shopping center.

Mr. Farruggio expressed concern about the CMU wall and would have preferred it to be brick. He applauded the increased sidewalk. He was concerned about setting a precedent with the spandrel glass even on the side street of the shopping center. He felt the crosswalk was enhanced and improved still needed more work.

Mr. Osteen thought there were too many lights. He also expressed concern about the painted CMU.

Mr. Farruggio wanted to know if any of the Commissioners had issues with setting the precedent for spandrel glass. Mr. Osteen thought it was a little disingenuous to say that the egress stair had to go at that location rather than being designed in a way to not take up that many windows. Ms. Lewis agreed with the applicant that it was a better solution than bricking up. She stated they would be preserving the rhythm of the windows that break up the two story facade.

**Ms. Lewis moved to approve the Entrance Corridor Certificate of Appropriateness for the location subject to administrative approval of the final site plan, and confirming use of clear glass and replacing the noted pear trees with sugar maples. Mr. Emory seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.**

### **III. JOINT PUBLIC HEARINGS**

#### **G. JOINT PUBLIC HEARINGS**

**1. ZT-08-10-37 -- Conservation Districts** -- An ordinance to amend and re-ordain Article II Overlay Districts and 34-1200 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to add Division 2A -- Historic Conservation Overlay Districts, and amending Article X Definitions, by amending the definition of "contributing structure" to reference its usage in Division 2A.

Ms. Scala gave the staff report. The City currently has eight Architectural Design Control Districts. Staff sees this as an ADC District Lite. It is intended to protect the character and scale of the more modest City historic neighborhoods that are facing increased development and tear downs without imposing excessive requirements on the current residents who may want to remodel their homes. There are

several City neighborhoods where a Historic Conservation District may be appropriate, no specific neighborhood is being proposed at this time. The ordinance as proposed is a good ordinance and would accomplish the stated goals. The ordinance has been recommended by the BAR and must be recommended by the Planning Commission and approved by City Council through a public hearing process. An Individually Protected Property within a Historic Conservation District would still require BAR review as it does now. Staff met with Overton McGehee of Habitat for Humanity whose concern was that it would be applied to all the historic areas in the City that were 50 years old. Staff received written comments from Piedmont Housing Alliance earlier in the day; they were concerned with the idea that historic preservation might be in conflict with affordable housing. Staff had consulted the City Attorney's office regarding the Planning Commission having proposals for additional demolition criteria. One of those had been additional financial hardship criterion; the opinion of the City Attorney's office was that was not appropriate for either the BAR or City Council to consider because economic factors are outside the scope of architectural compatibility. On the second issue, whether the Commission could consider the replacement structure in a demolition request, the response was that the decision whether or not to preserve a building should be based on its historic merit, not on what may or may not follow. The Commission cannot guarantee or require construction of a certain building after a building is demolished. Staff is unable to identify additional practical historic preservation incentives not already listed in the Comprehensive Plan. The existing rehabilitation suggestions could be made more user friendly.

Mr. Pearson called for questions of Staff.

Ms. Lewis wanted to know if Ms. Scala could share the Piedmont Housing Alliance with the Commissioners. Ms. Scala gave the letter to the Commissioners. Mr. Pearson wanted to know the general concerns expressed. Ms. Scala stated there was concern about additional regulation; Ms. Scala felt that was balanced against the public benefit of a new ordinance. There was concern that it would be applied city-wide or to a lot of neighborhoods.

Ms. Lewis stated she had recommended in 2003 when she served on the Historic Preservation Subcommittee that financial hardship criteria be inserted into the demolition. She sought clarification that the City Attorney has now given an opinion that financial hardship cannot be considered by the review board for this nor by City Council. She stated this had been a demolition criteria prior to 2003 and is something that Council has taken into consideration on appeals. Mr. Harris stated it was relatively clear when you look at the enabling legislation from the state that allows architectural design districts, entrance corridor reviews, there is no enabling legislation speaking about economic hardships. He further stated that economic hardship has nothing to do with the architectural integrity of the district or the house itself; therefore, it should not be taken into consideration. Ms. Lewis wanted to know how it could be in the Guidelines five years ago and now it could never have been in the Guidelines as illegal under enabling legislation and wrong. Mr. Harris stated it was not illegal under enabling legislation, it just wasn't in the enabling legislation and that was perhaps why it was changed. Ms. Lewis stated she was sure it was the same enabling legislation. Mr. Harris stated it was changed in 2003 for some reason. Ms. Lewis stated it was not changed because of any enabling legislation but it was changed as a means of strengthening the architectural control districts and not permitting demolitions as easily. She thought it had been a difficult criteria for the BAR to evaluate because they had never wanted to get into an economic spreadsheet argument about how one could make money off a building or not make money off a building or how a family can't pay their mortgage because it's an old building and it's too big. She

stated that, at that time, Council could certainly hear that upon appeal. Mr. Pearson stated Mr. Harris's comments were based upon his professional opinion as the City's legal counsel based on his understanding of why the rules exist as they do. Mr. Pearson expressed his understanding that Ms. Lewis was making her comments about how the Commission should be thinking about this, and were not different from Mr. Harris's legal opinion but with the fact the City may have had something on the books that, at the time, Mr. Harris might have suggested should be removed because they were not actually provided for by the enabling legislation. Ms. Lewis stated the City had had the same City Attorney the entire time. Mr. Harris told Ms. Lewis she could get another opinion if she wanted. Ms. Lewis noted this had been brought up in September. Mr. Harris stated it had been brought to the City Attorney's Office to make a decision upon; a decision was made. Mr. Harris did not believe economic hardship should be taken into account when looking at architectural conservation. Ms. Lewis stated she was more concerned that the conservation districts would affect far more residential properties and single family homes than nine story buildings. Ms. Lewis stated the City Attorney's opinion had not been presented until just then. Mr. Harris believed the information was in the staff report.

Mr. Huja wanted to know who would determine which buildings were contributing. Ms. Scala stated the consultant who does the historic survey would make the determination. She further explained that before any area could be designated a historic district, it had to be surveyed for architectural and historic significance.

Mr. Pearson opened the public hearing.

Ms. Victoria Dunham, President of the Woolen Mills Neighborhood Association, thanked Ms. Scala for her hard work crafting the language for the Conservation District Ordinance. She appreciated the motivation behind its creation; however, she feared it would be open to overly loose interpretation by city officials and staff more inclined to favor business and development interests than preservation. She stated she would be more comfortable having the BAR vet potential projects rather than hearing after the fact they had been rubber stamped by staff. She did not feel the language of this ordinance adequately addresses the chronic problem of demolition by neglect.

Ms. Melanie Miller, of 528 Locust Avenue, was present to speak on behalf of the Martha Jefferson Neighborhood Association. She read a prepared statement in support of the conservation district because it gives the protection of demolition review and because it maintains the scale of the neighborhood while being less restrictive and less burdensome than the ADC district.

Ms. Colette Hall, President of the North Downtown Neighborhood Association, stated that North Downtown has the full historic district designation which is a burden to many of the neighbors. She knew the conservation district idea was a good faith effort but she felt the citizens of Charlottesville were overburdened with regulations and districts. She felt this was another layer of bureaucracy which was not needed.

Mr. Brown wanted to know if Ms. Hall was speaking on her behalf or on the neighborhood's. Ms. Hall stated she was expressing the position of members of the North Downtown neighborhood who had spoken to her directly saying they were burdened by being in the ADC district.

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

Mr. Emory shared many of the concerns which had been voiced. He suggested Section 34-300 (1)(iii) "Whether, and to what extent, the building or structure is associated with an historic person, architect or master craftsman, or with an historic event" be removed. He thought a lot of the phrasing was code language for an upper socioeconomic bracket that did not have any place in a conservation district. He also suggested Section 34-300 (1)(iv) "Whether the building or structure, or any of its features, represent an infrequent or the first or last remaining example within the city of a particular architectural style or feature" be removed as well. He wondered if any thought had been given to putting a provision like 34-281, the maintenance and repair required in the ADC, into the conservation district to ensure there could not be demolition by neglect. He also suggested inclusion of Section 34-271 (4) "To maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of older structures in a safe and healthful manner, and by encouraging desirable uses and forms of development that will lead to the continuance, conservation and improvement of the city's historic, cultural and architectural resources and institutions within their settings" and 34-271 (5) "To promote tourism and enhance business and industry, and to promote an enhanced quality of life within the city, through protection of historic, cultural and archaeological resources." Mr. Emory also thought that the Guideline about 200 percent could be a spectacularly huge building and he would like to see that figure reduced to 150 or 133.

Mr. Pearson wanted to know if, during the drafting of the conservation district, any consideration was given to the inclusion of either of the paragraphs Mr. Emory had suggested as well as Section 34-281. Ms. Scala could not think of a reason why they were not included. She thought they could be added. She thought demolition by neglect was not included because it was thought to be redundant under the building maintenance code. Mr. Osteen noted the BAR had tried to simplify the document to avoid pages and pages that people were trying to sort through to figure out what related to them.

Ms. Keller sought confirmation that the CPC had no role in the guidelines. Ms. Scala confirmed that the BAR was to recommend approval of the guidelines. The Board of Architectural Review also had the responsibility of updating them every five years.

Ms. Keller stated she agreed in principal with Ms. Dunham that this was not needed and could be accomplished with the existing ordinance. However, she agreed with Ms. Miller that this was a second tool so she was prepared to support it. Ms. Keller was prepared to support this because it meets the goals of the Comprehensive Plan.

Mr. Rosensweig stated he had concerns based on the reasons Ms. Keller supported it. He was disconcerted that they had only just received the letter from Piedmont Housing. Mr. Rosensweig read from the letter: "If the proposed ordinance had been in place during the past decade, PHA's revitalization initiatives in Starr Hill, Hinton Avenue, and Tenth and Page would probably have been impossible to accomplish." He wanted to be able to discuss this with PHA before a recommendation was made to City Council. Ms. Keller noted they should look at these statements and see if they were true before succumbing to that way of thinking.

Mr. Farruggio stated the letter from PHA had a wealth of information. He stated he was bothered it had not been received before the meeting. He thought there was a lot of very relevant information that should cause the Commission to not act on this. He stated he could not support the proposal.



Mr. Emory suggested reading the letter into the record to be able to discuss what it contained. Ms. Creasy stated the letter was extensive and contained a lot of information. The letter was received in the morning and would take days to cover point by point. She stated staff was also concerned that it was received at the last minute and did not allow them a chance to address it. Ms. Lewis stated the Commission would not have expected Staff to respond to it but would have liked Staff to share the letter so the Commissioners could have reviewed it.

Mr. Rosensweig stated the most crucial question of the letter was whether or not this ordinance would negatively impact the ability to create more affordable housing.

Mr. Farruggio felt it would make sense to defer the matter so the Commission could read the letter.

**Mr. Farruggio moved to defer this item. Mr. Rosensweig seconded the motion. Ms. Lewis stated the idea of conservation districts in the City was initiated by Ms. Scala quite some time ago and in general, Ms. Lewis was supportive of this tool; however, she was torn for a number of reasons including the PHA letter and the affordable housing issue. Ms. Lewis stated she did not see where the incentives were in this ordinance. Ms. Lewis felt this should be one of several tools used by neighborhoods to preserve their historic resources. Ms. Keller stated it was time they acknowledge that most of the affordable housing in the city is historic housing. She expressed concern that her fellow commissioners would think this ordinance could keep new construction from happening when there was a market for that. Ms. Keller also expressed concern that they would presuppose that the work of PHA could not have continued under this process. Ms. Keller stated she would be disappointed if they did not move it forward at this meeting. Mr. Pearson seconded much of what Ms. Keller said. He hoped that any delay caused by deferral would not result in any demolitions occurring nor any significant harm to public benefit in that period. Mr. Pearson wanted the studied opinion of staff to some of the claims in the PHA letter. Ms. Creasy called the roll. The motion passed, 4-2-1; Mr. Pearson and Ms. Keller voted against the motion while Mr. Emory abstained from voting.**

**2. ZT-08-10-38 -- Zoning Map Update** -- An ordinance to amend and reordain Section 34-1 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to allow adoption of an updated zoning district map.

Mr. Jim Herndon, GIS Planner, gave the staff report. Staff would like the Commission to consider the re-adoption of the City Zoning Map. The Zoning Map was approved in 2003. Since that time the GIS software has improved. The map data is the same, but there are certain issues with the map that are different: PUDs are now shown in teal rather than having the parcels surrounded by dots, Individually Protected Properties are shown on the map rather than listed, properties in the Entrance Corridor Overlay Zone would have their entire parcel designated as per Code instead of just the frontage as currently shown. All zoning layers will be represented with greater accuracy. Steps were taken to notify the Neighborhood Associations, advertisements were posted in the paper, and the map was posted in NDS.

Mr. Emory wanted to know if the old map was being repealed and then adopting the new map. Mr. Herndon stated it was a re-adoption.

Mr. Norris wanted to know what provisions were in place in case there were errors in the new map so the errors could be changed without an arduous process. Mr. Herndon stated if it was a significant error,

it would have to go back to Council. He stated they had been very meticulous in their work so errors could be addressed.

Ms. Lewis wanted to know what would happen if a parcel was rezoned in error. Ms. Creasy stated they had taken the background information from the existing map and placed it in the new map. Ms. Lewis wanted to know what would happen if the property owner preferred the erroneous designation rather than the proper one. Mr. Herndon stated that errors happen but they had spent over a year putting the map together.

Mr. Emory wanted to know if there were any cases where a property had been inadvertently up zoned. Mr. Herndon did not know of any.

Mr. Farruggio wanted to know if there was a way to word a motion for approval that would recognize that mistakes could be made. Mr. Harris said there was not. Mr. Harris stated the proposed map was more trustworthy than the old map.

Ms. Lewis wanted to make sure neighborhood representatives definitely knew about this and knew they should be reviewing the map. Mr. Herndon said as far as he knew, yes. He stated Ms. Hall had had a question about Special Use Permits and the Martha Jefferson Neighborhood Association president had come in and received an existing map to compare to the proposed map. Ms. Lewis wanted to know if those were the only members of the public who had contacted Mr. Herndon. He replied affirmatively.

Mr. Pearson opened the public hearing.

Ms. Colette Hall, of 101 Robertson Lane and president of the North Downtown Neighborhood Association, read a prepared statement in which she noted she had not known of this matter until she received an E-mail from Commissioner Lewis in early October. She did not know if other Neighborhood Association presidents had received the memorandum which was sent by NDS in late October. Ms. Hall wanted to know if Council must approve this by December or if Council could wait until 2009 to allow the neighborhoods to check the proposed map for errors.

Ms. Victoria Dunham, of 2000 Marchant Street and president of the Woolen Mills Neighborhood Association, stated she had not received any memos about this proposal. She has seen errors in the map. She thought the process needed to be vetted more clearly.

Mr. John Matthews, of 300 Twin Sycamores Lane, agreed with what had already been said. He expressed concern about the costs associated with the process if there was a mistake. He stated it was unfair to property owners to have to go through the time and hassle of going through a rezoning as well as paying the fees associated with that. Mr. Matthews wanted to know if consideration had been given to split zoning of maps. Mr. Herndon stated the old map had been consulted. Mr. Matthews also wanted to know if consideration had been given as to whether Special Use Permits were still in effect. Mr. Herndon stated he had taken the Special Use Permits off the old map.

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 felt each parcel needed to be looked at individually to make sure there were no mistakes.

Ms. Keller noted she had concerns about the accuracy, but did not see how the interests of the public, Council, or the Commission were served by having another joint hearing on this. She stated she was prepared to support this at the Planning Commission level to send to Council at whose discretion it would be to schedule the next hearing. Ms. Keller wanted to see more publicity to the neighborhoods and individual property owners.

Mr. Rosensweig stated his agreement with his colleagues. He stated this could be deferred indefinitely and each time there would still be the possibility of error.

Ms. Lewis stated Ms. Creasy had sent an E-mail on October 16 saying the Neighborhood Federation had been copied. Ms. Lewis asked Ms. Hall, who lives across the street, if she had reviewed it only to discover Ms. Hall had not known about it and could not find other Neighborhood Association presidents who did know of it. Ms. Lewis stated the Commission needed to do their job fully and accurately and she was not convinced the public really knew about this.

Mr. Harris stated the issue was that some important people did not know about this going on. His recommendation was that this be deferred and that notices be sent out again above and beyond what is required.

Mr. Emory thanked Mr. Herndon for his work. He noted the complexity of the zoning map. He noted the importance of the zoning map since it was more than a casual illustration, it was an integral part of the zoning code. Mr. Emory felt it was imperative that an audit of the differences between the two maps be performed. He asked that changes be tied to the legislative process.

Mr. Farruggio expressed his agreement with Mr. Emory's suggestions.

Mr. Herndon stated he would place links to the pdf formats of both the existing (<http://www.charlottesville.org/Modules/ShowDocument.aspx?documentid=12026>) and proposed (<http://www.charlottesville.org/Modules/ShowDocument.aspx?documentid=12025>) maps on the City website and would send the links to the E-mail distribution list of Neighborhood Associations.

**Mr. Farruggio moved to defer ZT-08-10-38, Zoning Map Update. Mr. Rosensweig seconded the motion. Mr. Pearson thanked Mr. Herndon for the work he had done and for his willingness to make the maps more readily available on the web site. He then explained to those viewing the proceedings on television that if they owned property in the City, this zoning map defines what is possible to do on the property. Mr. Pearson also noted that there was not a strong and effective network to fully cover the citizenry of Charlottesville with effective communication by way of neighborhood presidents. He thought it was important to recognize that fact and that communication with the neighborhood presidents does not necessarily represent communication with the citizenry of Charlottesville. Ms. Creasy called the roll. The motion carried unanimously.** Mr. Emory noted this had been properly noticed per Virginia Code. He noted better communication was needed with the neighborhoods but the City had not been derelict in any way. Mr. Pearson stated he did not mean to suggest the City had not done its duty.

**3. ZT-08-10-39 -- Density and Bedroom limitations in UMD, UHD and R-3 --** An ordinance to amend and reordain Section 34-367 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to revise the text to convert method of calculating density from dwelling units per acre to

bedrooms per acre for R-UMD (University Medium Density District) and R-UHD (University High Density District) and for R-3 (Multifamily Residential).

Mr. Haluska gave the staff report. At its August meeting, the Commission voted to initiate a zoning text amendment for the R-3, R-UMD and R-UHD districts. The proposal came from various property owners in the University area regarding how density is measured in their developments. The current regulations almost encourages four-bedroom units in those developments. There is a bedroom limitation in the Code. There is more of a demand now for one- and two-bedroom units. Allowing these zones to be measured as a bedrooms per acre limit rather than units per acre would allow some flexibility in the unit type without increasing the total maximum number of bedrooms in the development. Staff is concerned that it is a density increase. Because the City's restriction on the number of unrelated persons that may reside in a property is based on the number of units, a density limitation based on bedrooms could potentially increase the number of residents permitted in a development. Staff recommends denial of the proposal before the Commission as worded.

Mr. Osteen wanted to know if the City had ever had a provision to limit the number of people living in one bedroom. Mr. Haluska stated there was a building code provision that states for every occupant of a room you have to have a certain amount of square footage.

Ms. Lewis wanted to know if there was a way to allow the increase in density while restraining the allowable building envelope. Mr. Haluska explained there was a predefined zoning limitations already in the Code. He stated there were preexisting bedroom limitations and expressed a preference to work with the existing guidelines and maybe move the numbers around a little bit to see if there could be a combination of Section 34-367 and the density section that addresses those needs.

Ms. Creasy noted that there were other areas of the City which were zoned R-3. Mr. Haluska advised that R-3 be kept back even if the changes were approved for R-UMD and R-UHD.

Ms. Lewis wanted to know how the density bonus in 34-367 worked. Mr. Haluska stated he had never dealt with this section. He thought the intent was that if there were landowners in those areas where they were losing units in the single family targeted areas were able to restrict that to a single family ownership situation and pull the students into the multi-family areas using the density bonus.

Mr. Pearson opened the public hearing.

Mr. John Matthews, of 300 Twin Sycamores Lane, stated most students want single bedrooms preferably with bathrooms. This was the way multi-family was headed. He stated his understanding that the intent of the property owners was not to design one-bedroom units and fill them with two folks; the intention was to be able to offer a diversity of unit sizes.

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

Mr. Osteen thought developers wanted all they could get on these properties. The best design may have less units or less bedrooms in the units. He said maybe the market was dictating smaller units. Mr. Osteen did not think this proposal was in the best interest of the community. He stated there was tremendous density built back on some of these roads; if this was flushed out on every possible property, it would be catastrophic to the areas around it and the impact on the City in those areas.

Mr. Farruggio agree with Mr. Osteen. He thought the report was worthy of doing but an increase had just been made in the area and had gone too far.

Ms. Lewis stated she would support the flexibility this proposal would give to property owners but agreed with staff and others that this was perhaps providing too much density.

Mr. Pearson seconded Ms. Lewis's comments. He also shared Mr. Farruggio's concerns about the level of density.

**Mr. Farruggio moved to deny ZT-08-10-39, Density and Bedroom limitations, an ordinance to amend and re- ordain Section 34-367. Ms. Keller seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.**

Mr. Pearson called a recess at 9:22 p.m. Mr. Neuman left the meeting and did not return.

Mr. Pearson reconvened the meeting at 9:36 p.m.

#### **IV. REGULAR MEETING ITEMS (Continued)**

##### **H. PRELIMINARY DISCUSSION**

###### **1. Longwood Drive PUD**

Mr. Osteen recused himself from the discussion.

Before beginning the gave the staff report, Mr. Haluska noted that earlier in the meeting a member of the public spoke about the performance of the planner for her neighborhood not giving notices for site plan conferences. Mr. Haluska stated he was the planner for that neighborhood and there had only been one site plan conference during his tenure. He provided a copy of the letter which he had signed and sent to the Neighborhood Association. He urged that member of the public to get her facts straight before making that claim.

Mr. Haluska then gave the gave the staff report. This is a preliminary discussion for a Planned Unit Development on Longwood Drive. The proposal the Commissioners had received prior to the meeting has changed.

Mr. Matt McClellan, was present as a representative of TEC and its client, Neighborhood Properties. He stated the basic idea was to develop both the north and south ends of Longwood Drive with new and renovated housing units in an effort to provide for sale housing on the street as well as providing architectural diversity, and improving either end to hopefully lead to further improvements on the street. Mr. McClellan noted the division of the PUD both encourages and necessitates connections between the north and south ends. He thought it encourages innovative ways of making connections by means of improving the street, adding trees, trails, cleaning the existing trails, adding a safe route to school to Jackson-Via, and increasing the amount of open space available to the public for recreation. Since submitting the application, the developer was able to purchase additional property which would allow him to increase the area of the acreage of both the north and south portion. Mr. McClellan provided a revised plan to the Commissioners. The purchase of the additional property would allow eight additional units at the southern end and four additional parcels to the north portion. The applicant wanted the Commission's impression of the original scheme as it was proposed and also if any of the new ideas were worth pushing forward.

Mr. Farruggio wanted to know how many houses there were and how many were proposed. Mr. McClellan stated there were currently 36, of which 18 were proposed for demolition with 43 new units being built and 18 being renovated for a total of 61.

Mr. Farruggio commended the applicant for the work done. He stated he was on the fence as to the increased density. He suggested that the planting strips be made wider so trees could line the entire street and that the roll top curbing be replaced with standard curbing. He expressed distress with the adding and replacing units in the PUD as he had been told that would not happen. He expressed concern that the end units would be sold to investments and would then be rented out which would increase the density on the entire street.

Mr. McClellan stated the proposal of the increased size of north and south was generated to take the issues of the split PUD off the table to alleviate some of those concerns.

Ms. Creasy noted that with two acres on one side and more than two acres on the other, there would be an option of coming forth with two applications.

Mr. Farruggio expressed a preference for one PUD split into two smaller areas.

Mr. Pearson stated eliminating the connection to a portion of the trail that was not internal to the development was not substantive to him.

Ms. Lewis noted trees were missing. She agreed with Mr. Pearson about the trail.

Mr. Farruggio noted all the utilities were underground so trees planted in expanded right of ways would not interfere with any overhead power lines.

Ms. Lewis suggested some enhanced landscaping between the ends. Ms. Lewis noted for the record that she had met with the applicant in the NDS conference room and had told him that she wished the whole street could be developed. She stated she would support more property being incorporated into this. She suggested adding street trees.

Mr. Emory stated his relief that there was no longer a bookend look to the proposal. He did not think the possible benefits of a PUD were being recognized here.

Ms. Keller thought the proposal was well presented. She stated she would be comfortable supporting the rezoning to a PUD.

Mr. Rosensweig felt the affordable housing would have to be mitigated. He liked the increased density. He felt it needed to be connected better so it could be seen as a single PUD.

Ms. Lewis expressed concern about imposing a huge common maintenance assessment on these units that would either be passed on to renters or that would prohibit first time owners from being able to buy these. She wanted easily maintained common area amenities. She thought this was a great location for increased density as long as traffic concerns were addressed.

Mr. Farruggio provided written comments to Mr. McClellan.

## **I. Discussion on Proposed Bed and Breakfast Definition and Matrix Revisions**

Ms. Walden gave the staff report. This is a continuation of the discussions of the past two meetings. At the last meeting, the Commission suggested a three tier definition. Bed and Breakfast-Homestay would be a temporary lodging facility operated within a single family residence which is owner occupied and managed, having no more than three guest rooms and wherein food service shall be limited to breakfast and light fare to guests only. Previous discussion was to potentially allow these in R-1 and R-2 districts by Special Use Permit. Bed and Breakfast would be a temporary lodging facility operated within a single family residence which is owner occupied and managed, having no more than eight guest rooms and wherein food service shall be limited to breakfast and light fare for guests only. Commission discussion centered around allowing these in multifamily residential, commercial mixed use districts by right and allowing a resident manager instead of owner occupied and managed. Bed and Breakfast-Inn would be a temporary lodging facility operated within a single family residence which is owner occupied and managed or having a resident manager having no more than 15 guest rooms wherein food service shall be limited to breakfast and light fare for guests only. Discussion had centered around allowing this in multifamily districts by Special Use Permit. Other considerations were that a resident manager might be appropriate since this was a large establishment and did not necessarily need to be owner occupied and perhaps opening up food service to more than guests. Discussions had also been held as to perhaps limiting the number of consecutive days.

Mr. Farruggio thought the report was excellent and could be a model policy for others to look at. He thought breaking it down into three allowed flexibility and control. He wanted to know if staff recommended changing "single family residence" to "residential dwelling" in the definition for Bed and Breakfast-Inn. Ms. Walden did.

Mr. Farruggio wanted to know if changing 34-1172 (2), (3), and (10) to add "except in case of Bed and Breakfast" would address the Commissioners concerns. Ms. Walden stated that would.

Mr. Farruggio wanted to know if defining temporary lodging facility as a person who resides in a location less than 45 days would address defining the words used in the definitions. Ms. Walden believed it would.

Mr. Rosensweig agreed Ms. Walden's work had been excellent. He thought separating into three made sense. He wanted to know why Ms. Walden had not followed the national definition for Bed and Breakfast-Inn. Ms. Walden stated these were definitions the Commissioners had come up with at their last meeting. She stated more than that was clearly a hotel.

Ms. Keller complimented Ms. Walden on her work and research also. She wanted to know if Ms. Walden had consulted any communities about their experiences in how B&Bs had worked in coming into a neighborhood if they were not owner occupied. Ms. Walden stated she had called all of the B&Bs in Charlottesville and a majority of them are owner occupied. Albemarle County requires that they be owner occupied.

Mr. Pearson called for discussion.

Ms. Keller expressed concern with Bed and Breakfast-Homestay in R-1 and R-2. She thought it should be a more streamlined process and consider something by right. Mr. Farruggio liked the way it was set up but was open to reducing it to two bedrooms. Ms. Keller stated she was willing to support it one bedroom by right in any residential district. She suggested a fourth category in R-1 and R-2 which would

have the minimal by right: one bedroom, no employees, owner occupied, no sign and requiring off street parking. She wanted to keep B&Bs separate from home occupations.

Mr. Farruggio expressed concern about allowing up to eight bedrooms even with a Special Use Permit in an R-1 zone.

Mr. Rosensweig noted there were some areas in the R-2 zoning that could easily support eight rooms.

Ms. Lewis expressed a preference for two bedrooms in Homestay.

Mr. Farruggio wanted to know if there was a definition for a temporary lodging facility. Ms. Walden stated there was not. Mr. Farruggio noted that term was used in all three definitions and should be defined.

Mr. Farruggio suggested Homestay with up to two bedrooms be by right in any district.

Mr. Rosensweig suggested the next category be three to eight by Special Use Permit all the way through R-2U and by right above that.

Mr. Farruggio felt 15 was too high. He stated it would require Special Use Permit and parking would need to be arranged.

Mr. Pearson wanted to know what the next step was. Ms. Creasy noted that based on the current discussion, Item J on the agenda was not necessary. Ms. Walden stated this should be considered a work session and the matter would go back to study. She stated changes could be made and brought back to a public hearing.

Mr. Farruggio provided a recap of the discussion. Bed and Breakfast-Homestay was changed to no more than two bedrooms. Bed and Breakfast was changed to a residential dwelling, up to eight bedrooms. Bed and Breakfast-Inn was changed to a residential dwelling up to 15 rooms. On the Matrix, Homestay went to by right across the line; Bed and Breakfast went to Special Use Permit for R-1, R-1U, R-1S, R-1SU, R-2 and R-2U while being by right in R-3, UMD and UHD and MR; the Inn is only Special Use in R-2, R-2U, R-3, UMD, UHD, and MR. For the Standards of Home Occupations, 1172, numbers 2, 3, and 10 have the simple inclusion of "except in the case of a bed and breakfast." Ms. Walden did not think the Commission wanted home occupation to apply. Ms. Lewis wanted it to apply to B&B but not Homestay. Ms. Keller stated they had not discussed that.

Ms. Lewis agreed with Ms. Keller that for Homestay 34-1172 is burdensome. However, Ms. Lewis felt it should apply to B&B. Mr. Farruggio agreed it should apply to B&B.

Mr. Farruggio concluded his recap by noting that some sort of definition was required for "temporary lodging facility."

Ms. Walden stated they would have to initiate the change to the Home Occupation Standards.

Ms. Keller noted they had not yet discussed whether a Bed and Breakfast can offer light fare to other than guests as had been brought up in the Oakhurst Circle proposal. Mr. Farruggio expressed concern that it would become a little restaurant. Mr. Pearson stated that was something that could be reviewed for each property at a later date if it proved to be a substantive issue. Mr. Osteen stated it did seem nice to the neighbors at Oakhurst but as he thought about it more, they would require a commercial kitchen.



Ms. Walden asked the Commission to point out all sections of the Home Occupancy they would want included in another section. Ms. Lewis stated 1, 4, 5, 6, 7, 8, 9, 11, 12; everything but 2, 3, and 10, with a thought given to the person engaged in the activities of the home business. Mr. Pearson thought it was worth retaining something like 2, but with an increase in the number.

Mr. Rosensweig expressed concern with the provision for off street parking. He wanted it stricken or limited.

Mr. Pearson sought clarification that initiation should be worded as a motion to initiate a proposed amendment to the City Zoning ordinance, to wit, amending Section 34-1172 to include modifications to accommodate the Bed and Breakfast use. This would allow Ms. Walden to take the comments and make some suggested amendments to Home Occupations that would respond to the comments made by the Commissioners. He suggested they clarify the number of employees on site. Ms. Lewis wanted to know if it could be worded as no more than a ceiling amount which could be lowered by Special Use Permit. The consensus of the Commission was limiting the number of employees to one.

**Ms. Lewis moved to initiate a proposed amendment to the City Zoning Ordinance, to wit, amending Section 34-1172, Standards of Home Occupation, to include modifications to accommodate the Bed and Breakfast use; this initiation is taking place based on the reasoning of public necessity, general welfare, and good zoning practice. Mr. Farruggio seconded the motion. Ms. Creasy called the roll. The motion carried unanimously.**

#### **J. Request for initiation of zoning text and map amendments**

##### **1. Home Occupation (if needed based on previous discussions)**

Item J was not required.

#### **K. Proffer Policy Adoption**

Mr. Rogers gave the staff report. The Commission received in their packets the rezoning petition review sheet which incorporated the input received at the 23 September Work Session along with E-mail input received since then. He expressed staff's appreciation of the hard work of the Commission.

Mr. Farruggio thought number 4 of the model proffers list for Connectivity/Pedestrian-Oriented Urban Design contained items as proffers which seemed to be things which were required by law already. Mr. Rogers explained this proffer had originated in Arlington County. Mr. Farruggio also thought numbers 5, 6, and 7 were already required.

Mr. Farruggio then asked that the Commissioners discuss number 2 of the model proffers for Preservation/Environmental Sustainability. Mr. Rogers noted this had been a suggestion by Ms. Keller. Mr. Farruggio wanted to know if numbers 7 and 8 were already required. Ms. Creasy stated an additional percentage above the requirement could be proffered.

Mr. Farruggio sought clarification if number 1 of the model proffers for Maintenance of Adequate Public Utilities and Facilities wasn't already required. Mr. Rogers clarified that poor condition wasn't necessarily, damaged by the developer was, and not built to City standards wasn't necessarily. Mr. Farruggio thought number 3 was a requirement by the Traffic Engineer.

Mr. Pearson agreed with Mr. Farruggio that developers should not be allowed to list as proffers those things they were already legally required to do. Mr. Pearson suggested those items be marked with an asterisk which would lead to a statement that those proffers so marked should be clear to developers that meeting legal requirements is not a proffer and this proffer would need to be structured in a way that it exceeds legal requirements in order to be a proffer.

Mr. Rosensweig thought there should be a statement that proffers by definition are and then proffers are not. Ms. Lewis suggested they be set out in italics so as to catch the eye.

Mr. Pearson suggested applicants to link their proffers to the impact being mitigated to allow Staff and Commissioners to assess. Mr. Rogers felt there was some weight to that suggestion.

Mr. Farruggio suggested a proffer to build additional off site sidewalks with particular attention to completing neighborhood networks and connecting public areas be added under Connectivity.

Ms. Lewis thanked Mr. Rogers for his work on this. Mr. Farruggio and Mr. Pearson concurred with Ms. Lewis.

**Mr. Farruggio began a motion that Mr. Rogers take into account comments just given to him. Ms. Lewis then moved to adopt the draft Rezoning Petition Review Sheet and Model Proffers List, dated October 24, 2008, as the City's proffer policy with the comments given to staff this evening incorporated into that fantastic proffer policy that they're about to adopt. Mr. Farruggio seconded the motion. Ms. Lewis thought it was long before 2006 when the Commission recognized a need for coming up with a proffer system in the City. She noted there was a proffer committee that had convened briefly. Ms. Creasy called the roll. The motion carried unanimously.**

Mr. Pearson noted the Commission had put discussion on hold from the pre-meeting on the proposed process changes. Ms. Lewis moved to defer. Mr. Pearson asked Mr. Tolbert if it could be deferred. Mr. Tolbert stated he would ask Council to give the Commission 90 more days. Mr. Pearson noted there was time set aside for it at the November Work Session.

**Ms. Lewis moved to adjourn until the second Tuesday in December. Mr. Farruggio seconded the motion. Mr. Pearson called the vote by acclamation. The motion carried unanimously whereupon the meeting stood adjourned at 11:52 p.m.**