

DRAFT MINUTES

CITY OF CHARLOTTESVILLE

PLANNING COMMISSION

TUESDAY, 13 OCTOBER, 2009 -- 5:30 P.M.

CITY COUNCIL CHAMBERS

Commissioners present:

Mr. Jason Pearson (Chairman) (left the meeting, 9:17 p.m.)

Ms. Genevieve Keller (Vice-Chairman)

Mr. Michael Osteen

Mr. Dan Rosensweig

Mr. Bill Emory

Mr. Kurt Keesecker

Mr. John Santoski

Mr. David Neuman, Ex-officio, UVa Office of the Architect (left the meeting, 7:12 p.m.)

Staff Present:

Mr. Jim Tolbert, AICP, Director NDS

Ms. Missy Creasy, AICP

Mr. Brian Haluska

Mr. Nick Rogers

Ms. Mary Joy Scala

Ms. Ebony Walden, AICP

City Council Members Present:

Mr. Dave Norris, Mayor

Mr. David Brown

Ms. Holly Edwards

Mr. Satyendra Huja

Also Present:

Mr. Richard Harris, Deputy City Attorney

II. REGULAR MEETING

Mr. Pearson convened the meeting at 5:35 p.m.

A. COMMISSIONERS' REPORT

Mr. Keesecker stated his committee had not yet met and so he had nothing to report.

Mr. Rosensweig had not yet been to the Parks & Recreation Advisory Committee meeting nor the Housing Advisory Committee meeting and had nothing to report.

Ms. Keller had had a conflict and was unable to attend the UVa Master Planning meeting. However, the CDBG Task Force had received materials they would be reviewing for this year's applicants.

Mr. Osteen had nothing to report from the BAR's September meeting.

Mr. Santoski had been notified the October PAC Tech meeting had been cancelled; its next regularly scheduled meeting would be in January.

Mr. Emory stated the CIP Ranking Committee had been meeting. He stated there was new criteria based on the Comprehensive Plan for ranking the requests.

Mr. Pearson asked that the University Report be moved to later in the meeting.

C. CHAIR'S REPORT

Mr. Pearson stated the Thomas Jefferson Planning District Commission had met. He stated he had made a presentation at that meeting comparing Cap and Trade with Carbon Taxes. He stated the regional legislative agenda was being finalized.

D. COMMISSION BYLAWS REVISIONS

Ms. Creasy stated the only change required to the Bylaws would be changing the public hearing time from 6:30 to 6 p.m.; meetings would still begin at 5:30 with all other regular items following the joint public hearings.

Mr. Osteen moved approval of the changes to the Planning Commission Bylaws as presented. Ms. Keller seconded the motion. The motion carried unanimously.

E. DEPARTMENT OF NDS/STAFF REPORTS

Ms. Creasy reminded the Commission of the Planning Commission retreat scheduled for October 27th. It would be a continuation of the retreat held in September. It would focus specifically on the Planning Commission work plan for 2010.

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

Ms. Kay Slaughter read a prepared statement on behalf of the Southern Environmental Law Center regarding steep slope waiver requests for the city firehouse on Fontaine and the YMCA in McIntire Park. The Planning Commission should use a higher standard when the City was the applicant or owner of the land for which a waiver is requested.

G. CONSENT AGENDA

1. Site Plan and Subdivision approval list

2. Minutes -- July 14, 2009 -- Regular meeting
3. Minutes -- August 11, 2009 -- Regular meeting
4. Minutes -- September 9, 2009 -- Regular meeting
5. Minutes -- September 9, 2009 -- Pre meeting
6. Minutes -- September 22, 2009 -- Work Session

Mr. Emory felt the August 11 minutes should include some mention of Mr. Neuman's suggestion of cuts showing the before and after condition of the slopes in steep slope waiver requests.

Mr. Keesecker noted he had not been a member of the Commission for the July and August meetings.

Mr. Rosensweig asked that paragraph two of the September 22nd work session minutes note that he had disagreed and that the Chair agreed the Commission would continue to talk about the matter.

Ms. Keller moved approval of the consent agenda. Mr. Osteen seconded the motion. The motion carried unanimously.

B. UNIVERSITY REPORT & PRESENTATION

Mr. Neuman, with Mr. Tom Parkins, the Chief of Environmental Care for the UVa Medical Center, gave a PowerPoint presentation on the update of the health system area plan.

Mr. Pearson thanked Mr. Neuman for his presentation. He thought the vision of transforming the medical center into a campus was inspiring.

Ms. Keller echoed Mr. Pearson's comments. She thought this was such a tremendous improvement for the community and the state.

H. SLOPE WAIVER

1. Charlottesville Fire Station -- Corner of Summit and Fontaine

Ms. Walden gave the staff report. Nathan Brown of McKee Carson, representing the City of Charlottesville, is requesting a critical slope waiver to allow for grading, filing and development in areas of the property located at 2408 Fontaine Avenue with existing slopes greater than 25 percent. The site plan proposes the construction of a new fire station which will impact all of the critical slopes on site. The entire property is currently vacant. The western portion of the property is a highly vegetated area with existing trees and invasive species and a stormwater channel. The eastern portion is also vacant but contains the pad and remnants of a former restaurant. The applicant's proposal is to fill in the slopes and level the site in order to create the building. Staff recommends approval of the waiver of the steep slope ordinance for this project with the following conditions recommended by engineering.

Mr. Emory, as a way of starting discussion, moved to approve the request for the applicant City's steep slope waiver for Tax Map 17A, Parcels 13 and 14 for the fire station based on the grounds that the waiver request meets the goal of criteria number two, i.e., that alternatives proposed by the applicant would satisfy the purpose and intent of these critical slopes provisions to at least an equivalent degree with the following conditions: during the final site plan review process, the applicant shall provide, a, a

full geotechnical report with test boring results; b, design of retaining wall by structural engineer licensed in the Commonwealth of Virginia; c, erosion and sediment control plan in accordance with Virginia Erosion and Sediment Control Handbook, latest edition; d, stormwater management plan in accordance with Virginia Stormwater Management Handbook, latest edition, City of Charlottesville stormwater ordinance, and City standards and design manual; e, Phase II Environmental Site Assessment report; and, f, plan to mitigate the piping of the stream on parcels 13 and 14 by redirecting an equivalent distance, 254 linear feet, of other portions of culverted streams in Moore's Creek watershed in the City into above ground channels with linear riparian vegetated buffers. Mr. Osteen seconded the motion. Mr. Harris stated Mr. Emory's last condition, while laudable, involved some measures which were very anomalous. Mr. Harris did not disagree with Mr. Emory; however, his concern was coming up with a concrete solution for how to implement what Mr. Emory was suggesting. Ms. Keller, noting this project was of such importance to the community, wondered if it would make sense to defer so it would provide enough time for staff, in consultation with the appropriate parties, to determine if there were appropriate places in the city that could be daylighted and to explore ways that there could be avoidance in mitigation on this same site. Ms. Creasy stated her biggest concern would be providing a condition that would require off premise improvement. Mr. Pearson stated his understanding of what Staff was saying: If they were to pass a motion with such a condition, that ideally that motion would be based on the applicant having identified a site on which that could occur. Mr. Pearson stated if the Commission was only willing to grant this waiver on the basis of the existence of that condition, and that condition could not be stated with sufficient specificity, then the best course of action would be to deny or defer. Ms. Keller expressed concern that this much design work went into a proposal with the premise that the Commission will approve the steep slope waiver. She thought there was something wrong with the process where this much time and effort goes into something before they grant the waiver. Mr. Rosensweig saw no harm in taking some time to try to get this right. Mr. Harris stated he could not recall anywhere they had looked off site for mitigation issues. Ms. Keller wanted to know if, because they had not done this in the past, they could not do it now. Mr. Harris cautioned against coming up with a policy at that moment for critical slope waiver applications. Mr. Aubrey Watts, the City's Director of Economic Development, explained they had been worried about some of the same issues the Commission had. Mr. Watts explained there were several critical issues about this site, including the steep slopes: the response area is limited -- moving the fire station five miles away would not allow the same type of response. Mr. Watts stated they had looked at other places, but those sites had even worse slopes. Mr. Watts also stated they were trying to get the highest level of LEED certification they could, which would be consistent with Council's direction on all public buildings. He stated there was no way to construct the fire station without making use of that land area. Mr. Watts did not know of any sites to provide off-site mitigation. He asked the Commission to approve the waiver with the understanding that the City would search out a place where they could do some possible mitigation on one of the existing streams somewhere in the City; however, Mr. Watts could not commit to this at this time since it took Council action and appropriation of funds. Mr. Watts expressed concern about purchasing the land only to find themselves unable to meet the condition. He was unsure how long it would take to complete the kind of study necessary and meet the Commission's schedule; Mr. Emory felt there was a fairly good inventory of possible candidates and likened the request to sending someone out to find pizza. Mr. Pearson felt they were overstepping their bounds as the Commission. He felt if there was sufficient public interest in daylighting streams, the pressure should be on Council to allocate those funds. Mr. Pearson was uncomfortable with the Commission making a dollar allocation

decision for the City which was more appropriately a Council decision. Mr. Santoski stated he was at the point of calling this for a vote. Mr. Pearson called the question. Ms. Creasy conducted a roll call vote. The motion failed, 3-4; Mr. Santoski, Mr. Rosensweig, Mr. Keesecker, and Mr. Pearson voted against.

Mr. Pearson felt the argument that was made about the location of a fire station in order to address safety concerns in the City was a sufficiently strong argument to warrant what he would ordinarily be highly opposed to.

Mr. Osteen thought there were some sites that just needed to be developed and this was one of them.

Ms. Keller agreed with Mr. Pearson and Mr. Osteen. She did not think it was unreasonable that the City could come up with a site within five years.

Mr. Santoski moved to recommend approval of the steep slope waiver for Tax Map 17A, Parcels 13 and 14 for the fire station on the grounds based on finding 4 with the following conditions: during the final site plan review process, the applicant shall provide full geotechnical report with test boring results; b, design a retaining wall by a structural engineer licensed in the Commonwealth of Virginia; c, erosion and sediment control plan in accordance with the Virginia Erosion and Sediment Control Handbook, latest edition; d, stormwater management plan in accordance with Virginia Stormwater Management Handbook, latest edition, City of Charlottesville stormwater ordinance, and City standards and design manual; and, e, a Phase II Environmental Site Assessment report. Mr. Keesecker seconded the motion. Mr. Santoski admitted this had been difficult since he agreed with Ms. Slaughter that the City should be held to a higher standard; however, he did see this proposal meeting requirement 4, that the public good and public safety was served more than preserving what may be there. Mr. Rosensweig asked Mr. Harris for a way to suggest that which Mr. Emory had conditioned. Mr. Harris suggested Ms. Walden's wording that the applicant shall research and pursue every opportunity in conjunction with City Staff for daylighting the waterway within 200 or 300 square foot area surrounding the site. Ms. Walden suggested they ask the applicant to attempt to look at areas where they could daylight within the watershed. Mr. Rosensweig offered a friendly amendment that it be suggested to the applicant that they work with City Staff to try to find an appropriate stretch of stream feeding Moore's Creek to daylight in order to mitigate the effects of culverting the stream within five years. Ms. Keller offered a friendly amendment that the applicant report back to the Planning Commission so it would serve an education purpose to other applicants and to the public at large. Mr. Santoski and Mr. Keesecker accepted the friendly amendments. Ms. Creasy called the roll. The motion carried unanimously.

Mr. Neuman left the meeting at 7:12 p.m.

III. JOINT PUBLIC HEARINGS

I. JOINT PUBLIC HEARINGS

1. ZM-09-08-17 -- (Sunrise Park) A petition to rezone from R-2 Residential and B-2 and B-3 Commercial to Planned Unit Development (PUD), the properties located in the block encompassed by Carlton Avenue, Rives Street, Nassau Street and Midland Street. The application is to allow for the establishment of a mixed-use, mixed income development with no more than 60 residential units and up to 12,800 square feet of non-residential use. Proffers include limits on the hours of operation for non-residential use, a 12,800 square foot maximum for non-residential uses on site, limitations on residential density, number of structures and maximum land cover for structures, driveway limitations, commemoration of

structure at 1106 Carlton Ave, transit improvements, transportation improvements and affordable housing requirements. This property is further identified on City Real Property Tax Map Number 56 as parcels 84, 85.1, 85.2, 86.1, 86.2 and 86.3 having approximately 420 feet of frontage on Midland Street, 278 feet on Nassau Street, 285 feet on Carlton Avenue and 60 feet on Rives Street and containing approximately 98,446 square feet of land or 2.26 acres. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Two-Family Residential.

Mr. Rosensweig, as the Executive Director of Habitat for Humanity of Greater Charlottesville, recused himself from the proceedings.

Mr. Emory disclosed that he had met with Don Franco, President of the Kessler Group Associates which was working with Habitat, on September 24th. Mr. Emory stated he had also met with Ryan Jacoby, the Deputy Director of Habitat.

Mr. Haluska referred the Commissioners to various pages of his written report which had been in their packets. Density calculations were on page 2 of the gave the staff report as was a summary of the applicant's proffers. Mr. Haluska suggested the Commissioners refer to the standards of review listed in the written report as they discussed the matter. Staff found the application met the standards of review and recommended approval.

Mr. Osteen wanted to know if Staff was comfortable with all the proposed proffers being true proffers. Mr. Haluska stated there was some concern with proffer 5.

Mr. Don Franco was present on behalf of Habitat for Humanity. The rezoning would eliminate the industrial uses and the more intense non-residential uses currently permitted on the site. He stated affordable housing would be increased.

Public Hearing:

Mr. Christopher Murray, of 1217 Hazel Street, was present on behalf of JABA. He expressed support for the proposal and stated they had approached Habitat for Humanity to work with them to increase accessibility.

Mr. Larry Scott, of 1232 Holmes Avenue, as a Habitat homeowner, spoke in favor of the proposal. He stated Habitat had opened doors for him in his life.

Ms. Maureen Burkhill, of 1630 Oxford Road, asked those in the audience who were in support of the Habitat project to stand. She read a prepared statement in support of the project, noting it could be a national model of success in redeveloping a trailer park without displacing residents.

Mr. Thomas Lively, of 2508 Thomas Jefferson Parkway, as son of the previous owner of Sunrise Park, explained that the sale had been made to Habitat because his father thought it was a good place to sell it because it would build houses for the people who could not afford regular homes. He expressed concern about where the trailer park residents would go when this project was built.

Mr. Ryan Jacoby, of 2309 Tarleton Drive, was present on behalf of Habitat for Humanity. He stated they had been sensitive to Mr. Lively's concern. Mr. Jacoby stated the residents of Sunrise Park had been told they could apply to qualify for a Habitat house and if they did not qualify, they would be provided with an affordable rental.

Mr. Jeff Grosfeld, of 5249 Park Ridge Court, expressed support for the project; however, he did have some concerns about the scale of the buildings. He also expressed concern about the parking.

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

Mr. Emory noted that everyone likes Habitat for Humanity, but the issue was the Commission doing their job. Mr. Emory expressed concern about density, traffic, parks, schools, the impact on historic preservation, trees, walkability, scale, and pedestrian safety. Mr. Emory stated their first concern should be about the residents of the development. He stated they should do whatever they could do within the Code of Charlottesville to ensure it was the best possible place for them to live.

Mr. Osteen stated he had been excited at the preliminary discussion. However, the submitted materials did not seem to respond to the comments and did not seem to be developing further. He did not think they could approve this project.

Mr. Keesecker thought a lot of detail was lacking.

Ms. Keller thought there were a lot of promises made to the current residents without a lot of guarantees for those promises. She was concerned about displacement.

Mr. Osteen wanted more detail about the project and how it would fit in the neighborhood.

Mr. Emory thought there needed to be more attention to the exterior details, particularly the northern face of the project. He expressed concern about the proposed setbacks on the adjacent historic property.

Ms. Keller moved to recommend approval of this application to rezone property from R-2, B-2 and B-3 to PUD with proffers as elaborated and further explained tonight, on the basis that the proposal would serve the interests of the general public welfare and good zoning practice. Mr. Santoski seconded the motion. Ms. Keller clarified the elaboration of proffer number two regarding the number of buildings and their locations as well as the unified site plan and the architectural review. The motion passed, 5-1; Mr. Osteen voted against.

Mr. Pearson called for a brief recess at 9:17 p.m. Mr. Pearson did not return to the meeting.

Ms. Keller reconvened the meeting at 9:25 p.m. noting that Mr. Pearson had a meeting in Washington, D.C. the following morning.

2. ZT-09-09-18 -- (Amusement Center in Highway Corridor) An ordinance to amend and reordain Section 34-796 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, to allow for amusement centers in the Highway Corridor Mixed Use Corridor.

Mr. Rogers gave the staff report. Amusement centers were not allowed in Highway Corridor zoning. Staff felt the use would encourage economic development and would promote the general welfare of Charlottesville by giving additional recreational activities to residents. Staff would support a recommendation by the Planning Commission to allow amusement centers in the Highway Corridor zone.

Mr. David Mitchell stated they had approached the tenants in Seminole Square and no one had said no. He felt their use would complement the other businesses.

Ms. Keller opened the public hearing.

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

Mr. Osteen moved to recommend approval of the zoning text amendment to amend and reordain Section 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to permit amusement centers as a by-right use in the Highway Corridor on the basis that the changes would serve the interests of public necessity, convenience, general public welfare and/or good zoning practice with the following additions, modifications: all children who sat through the application process will get an ice cream tonight. Ms. Creasy stated they could not legally enforce that condition. Mr. Rosensweig seconded the motion. Mr. Rosensweig stated this was a case in point why the Commission and Staff look at the matrices. The motion carried unanimously.

IV. REGULAR MEETING ITEMS (Continued)

J. Entrance Corridor Review

1. Charlottesville Fire Station -- Corner of Summit and Fontaine

Ms. Keller closed the Planning Commission and convened the Entrance Corridor Review Board.

Ms. Scala gave the staff report. The site plan is under review and is planned to be approved administratively. Fire trucks can enter and exit from either street. The parking garage under the building is only accessed from Summit Street. Staff thought the building materials were appropriate. She suggested landscaping along the base of the retaining walls.

Mr. Rosensweig liked the design. He appreciated the way the building was turned to try to address Fontaine. He liked the articulation of the building. Mr. Rosensweig was concerned about the sense of creating an inviting public realm.

Mr. Keesecker thought the organization of the site had been well done; however, he was concerned about the masonry wall. He thought the wall brought the massing very close to Fontaine.

Mr. Osteen stated he was comfortable with the wall. He thought a real separation of public and private space was important. He was happy with the materials and colors. Mr. Osteen thought a bigger landscape statement would be appropriate.

Mr. Rosensweig moved to approve the Entrance Corridor Certificate of Appropriateness Application for the Fontaine Avenue fire station with the following conditions: that the applicant reach an agreement on the landscaping plan for the rear retaining wall with NDS staff; that the brick color should be as submitted and the metal panel color should be coordinated with the brick color and should not be obtrusive. Mr. Osteen seconded the motion. The motion passed, 4-2; Ms. Keller and Mr. Keesecker voted against.

K. SLOPE WAIVER

1. YMCA at McIntire Park

Mr. Rogers gave the staff report. The applicant has put forward a conscientious, thoughtful design. Staff is very comfortable with what has been put before the Commission. Staff is concerned with the volume

of stormwater going into the creek. Staff is also concerned about the proposed pervious pavement. Staff was concerned about erosion and propose a condition of a wire-reinforced silt fence.

Mr. Rosensweig expressed sympathy for the applicant but stated he was supportive of Staff's recommendations.

Mr. Osteen stated his biggest issue was the path and the development behind the building. He felt there was much more impact to critical slopes which was unnecessary behind the building.

Ms. Keller expressed concern that there wasn't avoidance of the slope. She did not think this was the only way to do this.

Mr. Keesecker did not think they needed to dictate how the goal of post development volume at predevelopment levels was accomplished.

Mr. Santoski made a motion to approve the request for waiver of the requirements of the critical slopes provisions listed in 34-1120b of the Charlottesville City Code for the proposed YMCA project located at Tax Map 45, Parcel 1, 245-365 US 250 Bypass on finding that the alternatives proposed by the developer would satisfy the purposes and intent of these critical slopes provisions to at least an equivalent degree with the following conditions: one, The applicant must use tree protection measures during construction at a distance of one and-a-half feet away from the tree's trunk for every one inch of diameter, or submit a tree protection plan developed by an ISA certified arborist and follow the plan's recommendations; two, the applicant must conduct a final geotechnical engineering study of the ground lease area and follow the study's recommendations prior to final site plan approval as it relates to the building and stormwater management; three, the applicant must have a structural engineer design all retaining walls higher than four feet and include the designs in the site plan; four, the applicant must incorporate a rainwater harvesting system and/or use other techniques to reduce the post development stormwater runoff volume to the pre-development volume; and, five, the applicant must use wire-reinforced silt fence along the limits of disturbance that border the forest and use sediment basins in the project's erosion and sediment control plan. Mr. Osteen seconded the motion. Mr. Rosensweig offered a friendly amendment on condition number four that rather than requiring the post stormwater development runoff volume to be a pre-development model, the volume be pre-development or a volume agreed upon by NDS staff. Mr. Santoski accepted the friendly amendment as did Mr. Osteen. The motion passed, 4-2; Ms. Keller and Mr. Emory voted against.

Ms. Keller moved to adjourn. Mr. Osteen seconded the motion. The motion carried unanimously, whereupon the meeting stood adjourned at 11:08 p.m.