

MINUTES
CITY OF CHARLOTTESVILLE
PLANNING COMMISSION
TUESDAY, July 10, 2012 -- 5:30 P.M.
CITY COUNCIL CHAMBERS

Commissioners Present:

Ms. Genevieve Keller (Chairperson)
Mr. Dan Rosensweig
Ms. Lisa Green
Ms. Natasha Sienitsky
Mr. John Santoski
Mr. Kurt Keesecker
Mr. Michael Osteen

Not Present:

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

Staff Present:

Mr. Jim Tolbert, Director
Ms. Missy Creasy, AICP, Planning Manager
Mr. Michael Smith, Neighborhood Planner
Mr. Brian Haluska, AICP, Neighborhood Planner

Also Present

Mr. Richard Harris, Deputy City Attorney

II. REGULAR MEETING

Ms. Keller convened the meeting.

A. COMMISSIONERS' REPORT

- Ms. Sienitsky –Attended the Planning Commission Certification course in Roanoke, VA and felt it was very helpful and informative.
- Ms. Green –Nothing to report
- Mr. Osteen-BAR had their June meeting and noted that the hotel project on Main Street will proceed. They also approved Waterhouse’s recent request.
- Mr. Rosensweig-Nothing to report.
- Mr. Keesecker- Nothing to report.
- Mr. Santoski-Nothing to report

B. UNIVERSITY REPORT

Mr. Neuman – No Report

C. CHAIR’S REPORT

Ms. Keller outlined the current tasks for the PLACE committee.

D. DEPARTMENT OF NDS/STAFF REPORTS/WORK PLAN

Ms. Creasy stated that there will be a work session July 24th and Summer from TJPDC will be there to facilitate discussion on land use and transportation in preparation for the joint commission meeting in the fall. There will be additional outreach events including Movies in the Park on July 13th at Tonsler Park. There will also be a public housing focus group in August.

E. MATTERS TO BE PRESENTED BY THE PUBLIC NOT ON THE FORMAL AGENDA. No Speakers

F. CONSENT AGENDA

(Items removed from the consent agenda will be considered at the end of the regular agenda)

1. Minutes - June 2, 2012 – Joint PC/CC Work Session
2. Minutes - June 12, 2012 – Regular Meeting
3. Minutes – June 12, 2012 – Pre Meeting
4. Minutes – June 26, 2012-Work Session

Mr. Rosensweig made a motion to approve the Consent Agenda with items 2 and 4 pulled.

Ms. Green seconded the motion

All in favor

Consent Agenda passes

Ms. Keller announced the date, time and location of future focus groups.

III. JOINT PUBLIC HEARINGS

1. G. JOINT PUBLIC HEARINGS

SP-12-05-08 – (218 West Water Street) –Waterhouse LLC has requested a special use permit for additional building height (from 70 feet to 82.6 feet) at 218 W. Water Street. The property is further identified on City Real Property Tax Map 28 Parcel 84 having road frontage on Water Street and South Street. The site is zoned Water Street Corridor with Architectural Design Control District Overlay and is approximately 0.78 acres or 33,933 square feet. The Land Use Plan generally calls for Mixed use. **Report prepared by Brian Haluska, Neighborhood Planner.**

Mr. Haluska presented the staff report.

There were no questions from the Planning Commission or City Council Members.

William Atwood, applicant, gave a PowerPoint presentation.

Ms. Keller opened the Public Hearing; with no one to speak here, she closed the Public hearing.

Discussion

Mr. Osteen is very comfortable with the project.

Ms. Sienitsky is also comfortable and she feels that keeping with the uses proposed was the best way to go.

Ms. Sienitsky said, I move to recommend the approval of the application for a Special Use Permit in the Water Street Corridor for the Waterhouse project to allow the mixed use structure at 218 W Water Street permit height above 70ft with the conditions listed in the staff report.

Mr. Green seconded the motion

Ms. Creasy called the question:

Sienitsky	Yes
Green	Yes
Osteen	Yes
Rosensweig	Yes
Keesecker	Yes
Santoski	Yes
Keller	Yes

Motion Passes

2. **Albemarle Place EAAP, LLC-Appeal of Erosion & Sediment Control Plan violation-**

Albemarle Place EAAP, LLC has appealed a determination of the Director of Neighborhood Development Services that the firm has failed to comply with its approved Erosion & Sediment Control Plan for the project known as Stonefield a/k/a Albemarle Place. **Report prepared by Jim Tolbert, Director.**

Ms. Green recused herself and left Council Chambers

Mr. Tolbert presented the staff report including the power point presentation demonstrating that Stonefield/Albemarle Place was constructing major storm water improvements on their property that drained into the City of Charlottesville. The primary concern is that in addition to the 48 inch pipe that is currently located under U. S. Highway 29 running from the Stonefield Property into the City through a drainage basin and into Meadow Creek, the developers are putting in a 72 inch pipe that is carrying all bypass water from areas off of the Stonefield site and overflow that cannot be handled by the Stonefield on-site system. The project in the City required Stonefield to construct an outfall that empties into a drainage basin on property not owned by Stonefield and through the basin to Meadow Creek. The connection from the outfall to the drainage basin was to include rip-rap to tie it completely into the channel of the basin. The City agreed to allow the construction of the outfall and the construction of the improvements where the drainage enters Meadow Creek on the condition that the 72 inch pipe be capped on the Stonefield property to prevent any runoff from flowing through the pipe until such time as work on the City side was completed which would include acquisition of easements from property owners on the east side of U. S. Highway 29. City staff discovered that the 72 inch pipe had been uncapped and water was flowing through it without all the work being completed and issued a stop work order on the project. Stonefield was also issued a Notice of Violation of Erosion and Sediment Control requirements and ordered to cap the pipe immediately. That is how this item has gotten before the Planning Commission. The Erosion and Sediment Control ordinance requires the Planning Commission to review the appeal, make findings of fact, and forward a recommendation along with those findings of fact to the City Council who will make a ruling on the appeal.

Questions from the Commission

Mr. Osteen asked if there is three times the amount of water being allowed to flow into the pipes? He also asked if there were two other parties that needed to work things out before the issue could be resolved?

Mr. Tolbert stated that the pipe is not a replacement and Albemarle Place and Seminole Square need to come to an agreement and work together.

Mr. Santoski asked if the rip rap that was put in would that satisfy the city and how does the county feel about the issue?

Mr. Tolbert stated that the city would be satisfied if the developer would finish the work that is on the plans. He also stated that the county feels this is a city issue and is staying out of it.

Questions from City Council

Ms. Smith asked how much the water would increase once the project is complete and was the Meadowcreek project factored into the plans?

Mr. Tolbert stated that Meadowcreek was factored into this development. He also stated that the contractor has done great work so far. The City would just like the work finished.

Mr. Huja asked if the County has any feeling pertaining to the stop work order.

Mr. Tolbert stated that the County feels that work is complete and there is nothing left to do.

The applicant's representative, Jason Hicks, gave a presentation on the issue and feels that an easement is not needed. He showed why the 72" pipe was used to flow back into Meadowcreek and stated that the pipe VDOT put in was too small. He also stated that Seminole Square would not let them go through their property to put the correct pipe in.

Tom Gallagher, owner of Albemarle Place stated that they are willing to put in the additional rip rap.

Questions from the Commission

Mr. Rosensweig asked if the property line was accurate and has it been surveyed as noted in exhibit L

Mr. Santoski asked if an E&S study has been done on the post office property. He also asked if the City had the authority to maintain the ravine and what would happen if the rip rap is not fixed. He also asked who would be responsible if Seminole Square got washed out?

Mr. Keesecker asked if the plan could be amended and if a connection could be made between the Post Office and Seminole Square?

Mr. Tolbert stated that permission is needed from Seminole Square to open up the pipe. He also highlighted concerns that DCR has outlined and stated that plans need to be tied into current plans and when permission is granted those plans need to come back before the Planning Commission. He also stated that the City will only maintain up to the 416 elevation as noted in the recorded easement. He clarified that the property line was accurate.

Tom Gallagher stated he would do the additional work to talk with Seminole Square and would put in the rip rap if there are reasonable terms.

Ms. Keller opened the Public Hearing

Fred Payne, representing Seminole Square, feels that staff acted correctly and agrees with the decision. He stated that Seminole Square is not trying to hold things up. He feels there is a violation and hopes that the Planning Commission upholds staff decision.

Collette Hall, 107 Robertson Lane, said to remember Hollymead and do this one right.

Larry Williams, owner of University Tire and Auto, supports Mr. Tolbert's decision and doesn't want his business flooded.

David Mitchell stated that they will work with Edens Square and show that water on their property is coming onto Seminole and will interfere with Hillsdale Drive. Both a 72 inch & 42 inch are a huge increase in potential flow off the site.

Discussion by Planning Commission

The Planning Commission understands that the issue is very complex, but feels the evidence is very straight forward. They feel the documentation presented by staff shows that the developer did not finish what was on the plans.

Mr. Santoski said, he finds that the E&S plan has been violated and that the Planning Commission make a recommendation to City Council that NDS staff has given proper information to support the recommendation as noted in the staff report and the appeal be denied with the following findings of fact:

Edens (Albemarle Place) has an Erosion and Sedimentation Control Plan approved by the City. The plan requires certain improvements. The work required by that plan has not been completed. Specific findings are as follows:

1. To date, rip rap has not been installed between the property line and the existing rip rap in the creek, as required on the approved plans. (See Exhibits 2 & 12)
2. The construction sequence listed in Drawing C-33A indicates that the project remains in Phase 1A or 1B service. (See Exhibit 1)
 - Phase 1A of the construction sequence states *“Contractor to plug 42” and 36” orifices water tight in manhole 3.1 once the northern diversion outfall is completed and online.”* It should be noted that plugging of the 42” and 36” orifices in manhole 3.1 is directly associated with the unplugging of the 72” pipe, but the northern diversion outfall has not been completed.
 - Phase 1B of the construction sequence states *“Provide grading...to allow the north sediment basin to be placed in service prior to the completion of the 72” outfall.”*
 - Both items above indicate that the project is still in Phase 1A or Phase 1B, as the rip rap has not been completed and the rip rap is an integral part of the 72” outfall.
3. At the pre-construction meeting, Edens was informed that any work off the post office property will require permissions and/or easements from adjoining property owners. (See Exhibit 11) To the City’s knowledge, these permissions have not been acquired.
4. At the pre-construction meeting, Edens was informed that the 72” pipe will remain plugged until any requirements imposed by DCR are fulfilled. (See Exhibit 11)
5. DCR’s memo dated 12/22/11 states that “The revised site plan directs the contractor to ensure the rip-rap at the end of the energy dissipater ties into the rip-rap channel in the detention basin as needed. DCR believes this can be accomplished.” (See Exhibit 7). This has not been done.
6. E&S Plan review comments also stated above items #3 and #4. These comments were sent via email on 12/20/12.
7. Regarding 4 VAC 50-30-40 (MS-19), the approved plans meet MS-19 but the construction must be in accordance with the approved plans. Until all rip rap is installed per approved plans, the construction has not met MS-19.

8. Several sheets of the E&S plan indicate that new rip rap will tie to existing rip rap. The existing rip rap is located on the adjoining property, and the new rip-rap does not tie into it. (See Exhibits 1, 3, 5 & 6)
9. As of 5/24/12, the 72” pipe had been un-plugged and is being used to discharge stormwater into the City prior to the completion of improvements. (See Exhibit 13)
10. Rip rap currently exists in the channel below the existing 48” outfall, but not to the extent shown on the Stormwater Management Plans (See Exhibits 14, 15, & 16)

Ms. Sienitsky seconded the motion

Ms. Creasy called the question

Sienitsky	Yes
Osteen	Yes
Rosensweig	Yes
Keesecker	Yes
Santoski	Yes
Keller	Yes

Motion Passes

3. **M-12-03-04-(Lochlyn Hill): ZM-12-03-04 - (Lochlyn Hill PUD):** A petition to rezone the property located off of Rio Road and Penn Park Lane from R-2 Residential District to Planned Unit Development (PUD) with proffers for affordable housing and multimodal construction and connections. The property is further identified on City Real Property Tax Map #48A as parcels 39 & 40 having no current road frontage, but proposing a road extension from Penn Park Lane for access and containing approximately 1,115,136 square feet of land or 25.6 acres. The PUD zoning allows an applicant to present a proposal independent of established zoning categories for consideration by the governing body. This proposal includes a residential development with a mix of housing types and dedicated open space with the full site containing a density of no greater than 5.9 DUA. The general uses called for in the Land Use Plan of the Comprehensive Plan are for Two-Family Residential. **Report prepared by Michael Smith, Neighborhood Planner.**

Mr. Smith gave the staff report.

Question from City Council

- The units noted as affordable may not necessarily be affordable. Where did the amount of \$7000 per unit come from?

Mr. Smith stated that the applicant will respond to the question.

LJ Lopez, the applicant, stated that the \$7000 will allow them to meet the affordable housing proffer.

Questions from Planning Commission

- What impact is being mitigated with the affordable housing?
- Could HUD rent limits be used?
- Clarification on the intent of the proffers is needed.

Mr. Lopez stated having a variety of housing types and units should address affordability within the development. Frank Stoner provided background on the origination of the \$7000 per unit.

Ms. Keller opened the Public Hearing

Lori Wood, 1110 Pen Park Lane, would like the City and County to work together and this development shows that they are not. She noted concern with lack of a city connection, increased traffic, street maintenance issues and water concerns. Work needs to be done to create a safe neighborhood.

Jeanette Deavers, 540 Woodmont Dr., expressed concern about stormwater, flooding and drainage. She inquired of the applicant about the drainage plans and didn't receive an answer. She did not want increased traffic.

Janel Sennewald, 507 Woodmont Dr., would like the current zoning to remain so that the character of the neighborhood will remain. She questioned the large construction equipment currently on the site.

Jason Bird, 1108 Vegas Ct., would like development that is consistent with R-2 zoning. There is no access from the city side and there are existing concerns with emergency response times.

Claire Linden, 516 Woodmont Dr, stated it feels more like a gated community and the affordable housing question is still not answered.

Tracy Lynn Morris, 519 Woodmont Dr., Registered Nurse, would just like to get out of the neighborhood when going to work. Two entrances are needed.

Morris Reynolds, 503 Woodmont Dr., expressed concern about no secondary access, increased traffic, no bus service, and the number of schools that children in the neighborhood would have to access. There will be six different schools for one neighborhood.

Byron Harris, 1160 Pen Park Lane, lives on the private side of Pen Park Lane and expressed concern about traffic and illegal activity in the area. A city entrance should be looked at.

Marsha Penz, Vegas Ct, does not consider the road at Vegas Ct to be a secondary access. She feels that alleys on the proposal should be blocked from accessing Vegas Court.

Carolyn Pointer, expressed concern about the road in bad weather, affordable housing – there will be the loss of a number of affordable units to make way for this project. She did not see the down payment assistance as helpful to those who will be displaced. She noted that the ADU's will likely not be rented out and bus service would not reasonably be available.

With no additional speakers, Ms. Keller closed the public hearing.

Questions from Planning Commission

- Has any discussion with VDOT taken place about the possibility of gaining right of way in this area?
- Could there be access on Holmes Avenue?
- If the developer wants city access, could they buy a lot to make the connection?
- Could there be bus access?
- Concerns with drainage were noted.
- What about the displacement of residents?

Mr. Stoner stated that they could build units by right, but they are trying to do this development in a different way. He stated that the displacement of residents is in the last stage of the development. Not everyone will be able to relocate into the neighborhood. He responded to the question concerning access on Holmes by noting the grade differences between the sites. The traffic signal warrants a study and proffer four provides guidance on how this will be addressed.

Discussion

Mr. Osteen mentioned that emergency access could occur through Pen Park if necessary, but he likes the proposal.

Mr. Keesecker feels it is a creative solution, but is worried about the longevity of affordable housing.

Ms. Keller was ready to support this application last month. She reminded others that the Commission’s focus needs to be on the PUD criteria. She feels this may not be the best place for affordable housing, would like this to be a walkable community and notes that the Meadowcreek Parkway may help with traffic.

Mr. Santoski feels that the PUD would be better than the by right but he is concerned about road access.

Mr. Rosensweig has concerns about the loss of 16 units on Pen Park Lane. He would like the proffer language worked on because selling lots to a nonprofit does not always create affordable housing. He feels that the lots are a little pricy but likes the trust fund concept.

Ms. Green supports the linkages to the Comp Plan goals. She is not sure how to mitigate transportation concerns and is not confident that she can support the current application.

Ms. Sienitsky feels it meets all criteria outlined in the standard of review, but she does sympathize with the neighborhood.

Ms. Keller called for a motion

Mr. Osteen said, I move to recommend approval of the application to rezone the property from R-2 to PUD on basis that the proposal serves the welfare of the public and good zoning practice.

Ms. Sienitsky seconded the motion

Ms. Creasy called the question

Sienitsky	Yes
Green	No
Osteen	Yes
Rosensweig	Yes
Keesecker	Yes
Santoski	No
Keller	Yes

Motion Carries

IV. REGULAR MEETING ITEMS

Meeting adjourned at 9:10 pm