

Huntley Development Citizens' Task Force
Charlottesville Virginia 22903

Memorandum

Re: Huntley Development Application for Critical Slopes Ordinance Variance

Mr. Jim Tolbert
City of Charlottesville Neighborhood Development Services
605 East Main Street
Charlottesville Virginia 22902

29 January 2007

Dear Mr. Tolbert:

As concerned citizens of Charlottesville and the Fry's Spring neighborhood, we have a number of questions regarding the position of the City Staff and the Planning Commission on the application for variance to the Critical Slopes Ordinance by the developers of the Huntley property, currently under construction in our neighborhood. We are concerned about the severe environmental problems presented by current and possible future construction practices on this site. Specifically, erosion, stormwater runoff, and resulting siltation are already harming Moore's Creek, the site's adjacent waterway, and will degrade areas downstream if the City does not take more concerted action. The preservation of trees on the site that was promised during plan approval has been (literally) chipped away, and existing trees are being compromised by ongoing practices. To date, the City has taken little enforcement action despite numerous documented site violations. Some problems have gone unaddressed since 2004.

We are concerned that the City will allow the developers of this site to again make promises they cannot or will not keep. Given the poor civil engineering of the project the first time around – which is the reason the owners have returned for the variance – we ask the City to require this developer to present detailed plans by qualified environmental engineers and landscape architects that fully and comprehensively address the serious issues with this site as a condition for its request for variance to the Critical Slopes Ordinance. It is not unusual for the Planning Commission to require such plans that indicate as precisely as possible how to deal with stormwater runoff, tree cover, and final site measures to protect water quality. Given the track record of the Huntley Development thus far, we believe it is vital.

Ms. Ashley Cooper of Neighborhood Development Services (NDS) was kind enough to show us the plans thus far submitted by the developer in pursuit of the variance, dated January 12, 2007, and we understand that a new set of plans will be forthcoming to address a list of concerns that NDS has articulated. We request that the City require this developer to delineate as precisely as possible how it will follow through on the promises it is making and how the City will participate to ensure that those promises are kept.

Thus far, the Huntley site developers have demonstrated how vague plans can be tools to avoid living up to verbal promises to the community and the City. These developers now are returning to the City to ask that we fix their problem. We ask you to ensure that the enforceable documents for the next phase of construction clearly demonstrate that plans for site drainage will protect the local watershed to the degree required by law, and that other site practices will protect existing trees. In addition, we want assurance that adequate resources exist to remediate the existing damages on and off site as well as possible future damages. Finally, we ask the City to commit adequate resources to the task of ensuring that the developer lives up to his promises and follows all legal requirements that pertain both during and after construction.

Sincerely,

Huntley Development Citizens' Task Force Members

Adrienne Dent
104 Todd Avenue

Michael Petrus
209 Todd Avenue

Katie Kellett
2411 Jefferson Park Avenue

Andrea K. Wieder
2331 Highland Avenue

cc:

Ms. Ashley Cooper, NDS

Mr. Brian Haluska, NDS

Mr. John Santowski, Fry Springs Neighborhood Association

Questions regarding Huntley Development Application for Critical Slopes Ordinance Variance

Enforcement Issues

1. In light of the significant number of deficiencies at the site illustrated by the inspections reports (Appendix B), why have there been no penalties imposed by local enforcement staff other than the stop work order when clearing took place before the developer obtained the required permits (in early 2004)?
2. When would the city take an enforcement action such as imposing penalties or stopping work?
3. Did the city notify the state of the erosion issues? In what cases would the city decide to notify the state?

Stormwater Runoff Issues

1. What engineering will be in place to prevent sediment and other pollutants from entering Moore's Creek and its tributaries and feeder channels during construction and after construction?
2. What is being done to prevent erosion of the slopes during and post construction? Site stabilization on cleared areas (seeding, etc) has been inadequate since the site was cleared and with respect to newly cleared areas, especially given the steep slopes involved. What are the guidelines the city and state are using and who is enforcing them?
3. Who will oversee and enforce the Erosion and Sedimentation controls during ongoing ground disturbance? Who is in charge of ensuring water quality protection?

Comment: Controls have not been adequate at this site to date (see Appendix B). As building goes forward there are additional concerns. We have been told there are many different builders working on this site in part because Mr. Hickman is selling off his lots to individual builders, Mr. Beyer is involved, others as well? Who is taking responsibility for the entire site?

4. Currently there are numerous failed/overwhelmed/buried silt fences throughout the property, as Mr. Wright noted in his inspection reports as early as July 2004. According to state law, they should either be removed or replaced. When will this be done? Can the city create an enforceable mechanism for ensuring that this will be done?
5. In a letter dated Aug 1, 2006, Ms. Abdur-Rahman said that they had "informed Mr. Beyer that when construction is over, he will be responsible for some cleanup work in the creek to remove sediment that has muddied the waters." Can we get this incorporated into the revised plan amendment or otherwise in an enforceable written order, and ensure that the city has sufficient resources (performance bond?) to complete this task and address all other potential problems at the site (e.g., tree planting, additional off-site

impacts, others) in the event the developer fails to complete it. (Current bond is approximately \$300,000, according to one city employee)

6. In conversations with the city during the summer of 2006, members of our group have tried to raise interrelated concerns in meetings (e.g., stormwater runoff, poor site management, excess tree removal) only to be told that we were talking to the wrong person, that the person who made certain decisions was no longer there, or that the documents related to the project could not be found.

In addition, we were told that there were not enough inspectors to handle all the inspections (Meeting with K. Abdur-Rahman & Steve Wright; week of July 14, 2006); the inspections of Huntley showed a “good faith effort” (Phone call from Dan Clark of the Engineering Division, June 28, 2006); and, the E&S measures on the site were adequate (Letter from K. Abdur-Rahman, August 2, 2006). When Matthew Grant, state Department of Conservation and Recreation¹ inspector came for the first time on August 9, he cited numerous deficiencies at the site. In subsequent inspections, Mr. Grant has found improvements at the site, but his reports suggest the need to address ongoing problems.

It is not clear who is responsible for following up when enforcement is needed. Mr. Grant referred us to the city for ongoing inspection reports (e-mail from M. Grant, Jan. 8, 2007), he disclaims responsibility for enforcement (e-mail dated 9/12/06;) and refers us to DEQ for matters related to ensuring water quality.

To sum up, there is inadequate follow through on the serious issues raised during inspections. Those of us who are monitoring this site need a contact person who can hear all of our concerns and be responsive, and we need to see that the City is not just noting violations, but is requiring the developer to complete all necessary repairs and remediation.

Tree concerns (see Appendix A)

1. The history of this site indicates that the Planning Commission was very concerned about preservation of the trees on the site, and that Mr. Hickman made a lot of promises about tree preservation which, as far as we can tell, have not been kept. The city has asked for documentation that was never supplied, including clear delineation of trees to be protected and plans to prevent tree loss. Mr. Hickman and Mr. Beyer agreed to protect 40 trees that had been approved for clearing, but no one seems to know which trees are included. New trees being added to replace lost trees must meet a minimum size requirement, but the new trees appearing on the site appear smaller than that requirement.

Now the developers are asking to remove more trees to address a slope issue that was in existence when this site was approved. How can we ensure that the city will enforce the promises already made, that it will secure adequate compensation for additional trees that

¹ In 2006, responsibility for state erosion and sediment control laws was shifted from the Department of Environmental Quality (DEQ) to the Dept. of Conservation and Recreation (DCR).

will be removed, and that the resources are there to pay for all the trees that need to be planted to make up for those improperly removed or subsequently killed as a result of poor construction practices? Can we get the city arborist actively engaged at this site to ensure that the remaining heritage trees are preserved, and that we restore the tree cover to the extent possible?

2. In an e-mail in response to concerns about trees whose roots were buried in soil, Mr. Tolbert replied: “We have explained to the developer that he is killing trees.” Why can’t the city take an enforcement role and require removal of all debris and dirt from the trees that are compromised before work can go forward?

Affordability (see Appendix A)

Another issue on which Mr. Hickman made several promises is the inclusion of affordable housing in the mix of housing at Huntley. It currently appears that house prices in this development will start at approximately \$450,000 for 7 bedrooms. Is there any mechanism to ensure that affordable units will be built?

Huntley Hall (see Appendix A)

How does the sale of Huntley Hall affect the entire PUD, since it was part of the original PUD that was approved? Are the new owners bound by the promises made regarding Huntley? Who is in charge of ensuring that the promised improvements are made in a timely fashion?

Future Process

We understand that the 13 January 30, 2007 Site Review for the Huntley Development has been postponed and it has been removed from the 13 February 2007 Planning Commission agenda. Assuming that those meetings and hearings will be rescheduled, what are the next steps in the process and how will the public be kept informed? What will be required at those steps?

Appendix A: Chart of Notes from Meetings about Huntley Subdivision and Subsequent Correspondence, 2002-2007. (Please see following pages)

Appendix B

Summary of inspection reports done at the Huntley Development site
by Steve Wright, City of Charlottesville Erosion and Sedimentation Inspector.

Date of inspection	Date of ordered corrective action	Problem or violation
July 7, 2004	July 9, 2004	Silt fences needs maint. and or repairs; remove mud from street and Rivanna Trail
August 18, 2004	August 21, 2004	Silt fences needs maint. and or repairs; seeding or re-seeding of open areas needed
Sept. 23, 2004	Sept. 27, 2004	Silt fences needs maint. and or repairs; seeding/mulching of open areas needed asap; clean sediment from Trail
Nov. 19, 2004	Nov. 23, 2004	Seed and mulch open areas along Sunset
Feb. 14, 2005	Feb. 17, 2005	Silt fences need patrol and repair throughout project; Sunset and Rivanna trail section need attention; trail needs clean up; silt trap blowouts need repair above Sunset; temporarily seeding/mulching needed in open dormant areas
May 27, 2005	June 1, 2005	Silt fences need replacement/repairs; temporary (or Perm) seeding needed on open slopes; temp. controls in area of san. sewer replacement - must have controls in place for weekend
June 14, 2005/	June 17, 2005	Silt fences require repair/replacement at various locations; open manholes have no protection; seed open areas; re-seed areas to prevent erosion
Aug. 9, 2005	Aug. 12, 2005	Silt fences need maint. and or repairs throughout project; inlets and pipes need maint. and/or added protection off Sunset Rd.; open areas and slopes need seeding and mulching
Aug. 24, 2005	Aug. 29, 2005	Silt fences-patrol and repair throughout project; disturbed areas need seed and mulch; inlet protection is lacking or in need of repair in various locations; clean structures where needed; silt traps need cleaning from build up
Sept. 12, 2005	Sept. 15, 2005	Repair/upgrade inlet protection; slope protection needed; seed and mulch open areas where needed
June 26, 2006	June 28, 2006	Patrol and repair all silt fences on the job, some need repair, some replacement; temp. seeding is required on all open areas; some areas previously seeded need additional work; inlet protection needed in areas near construction; some inlet may need cleaning of mud/debris; shovel, sweep and wash Rivanna Trail and road

July 28, 2006	July 31, 2006	<p>Silt fences need repair and/or replacement on Huntley; exhibits blowout, excess silt build up, boulder on S.F., etc.; silt fence needs to be constructed below new const. road adjacent to Huntley Ave.; temp. seeding along road and all open areas, includes stockpiles, waste piles, etc.; new run of silt fence and trail location needs attention; refresh/upgrade inlet protection at trail location; provide construction entrance at Sunset Ave. location</p> <p>FAX LOG REPORT from Steve Wright FYI - called Paul B. to inform him of this insp. and faxed page #1 to Paul Beyer Fri. p.m. This will be issues that he will address. Page #2 was handed to John (Jay) Taggart of Parham Const. @ time of insp. Page 2 issues are his to work on.</p>
Nov. 14, 2006	Nov. 16, 2006	<p>Silt fences require maint. and or repairs at various locations; temp. seeding and mulch open areas, particularly at Gaffney site; replace inlet protection at various locations; D[rain] I[nlets]s below Gaffney sites need additional stone.</p>
Nov. 28, 2006	Nov. 30, 2006	<p>Silt fences require maint. and or repairs at various locations; all silt fences need to be checked; seed and mulch open areas that are on finish grade around new homes; inlet protection requires cleaning/maint. where sediments and leaves have collected; note: Rivanna Trail requires attention ASAP. P. Beyer notified via phone call. 11/28/06 A 10:40 a.m.</p>