



CITY COUNCIL AGENDA
Monday, October 2, 2017

5:00 p.m. **Closed session as provided by Section 2.2-3712 of the Virginia Code**
Second Floor Conference Room (annual performance evaluation of City Manager; consultation with legal counsel regarding probable litigation)

7:00 p.m. **Regular Meeting - CALL TO ORDER**
Council Chambers

PLEDGE OF ALLEGIANCE
ROLL CALL

AWARDS/RECOGNITIONS ANNOUNCEMENTS School Yard Garden; Domestic Violence Awareness Month; Imagine a Day Without Water; Energy Efficiency Day

CITY MANAGER RESPONSE TO MATTERS BY THE PUBLIC (Independent Review Update with Timothy Heaphy)

MATTERS BY THE PUBLIC Public comment is provided for up to 15 speakers at the beginning of the meeting (limit 3 minutes per speaker.) Pre-registration is available for up to 10 spaces, and pre-registered speakers are announced by noon the day of the meeting. The number of speakers is unlimited at the end of the meeting.

1. CONSENT AGENDA* (Items removed from consent agenda will be considered at the end of the regular agenda.)
Passed 5-0

a. Minutes for September 18, 2017

b. **APPROPRIATION:** Risk Management Fund Line of Duty Act (LODA) Insurance Reimbursement – \$28,200
(2nd of 2 readings)

c. **APPROPRIATION:** Fiscal Year 2018 Fire Programs Aid to Locality Funding (Firefund) Appropriation – \$145,343
(2nd of 2 readings)

d. **APPROPRIATION:** Virginia Homelessness Solutions Grant (VHSP) – \$477,151 (2nd of 2 readings)

e. **APPROPRIATION:** State Of Good Repair (SGR) for bridge repairs – \$10,079,968.00 (1st of 2 readings)
deferred to 10/16

f. **APPROPRIATION:** Virginia Juvenile Community Crime Control Act Grant – \$452,704 (1st of 2 readings)

g. **APPROPRIATION:** Virginia Department of Health Special Nutrition Child and Adult Care Food Program – \$32,000 (1st of 2 readings)

h. **RESOLUTION:** Seminole Square Shopping Center – Critical Slopes Waiver (1st of 1 reading)

i. **RESOLUTION:** Pepsi Bottling Plant – Critical Slopes Waiver (1st of 1 reading)

j. **RESOLUTION:** Special Use Permit (SUP) for Automobile Sales at 1530 E. High Street (1st of 1 reading)
pulled for discussion

k. **RESOLUTION:** Washington Park / Madison Avenue bicycle connector path (1st of 1 reading) *deferred to 10/16*

2. RESOLUTION*: Honorary Street Naming – Heather Heyer Way (1st of 1 reading) **passed 5-0**
(Fenwick/Szakos)

3. RESOLUTION*: Meadow Creek Valley Trail Bridge Grant – \$375,000 (1st of 1 reading) – *deferred to 10/16*

4. RESOLUTION*: 250 Bypass Commuter Path Grant – \$250,000 (1st of 1 reading) – *deferred to 10/16*

5. ORDINANCE*: Solar Energy Systems Zoning Text Amendment (2nd of 2 readings)

6. RESOLUTION*: Loan Extension for Dogwood Properties – \$850,000 (1st of 1 reading)

7. RESOLUTION*: Implementation Plan for the Charlottesville Supplemental Rental Assistance Program (CSRAP) -- \$900,000

8. REPORT ONLY: RWSA Quarterly Update (no verbal presentation)

OTHER BUSINESS MATTERS BY THE PUBLIC **RESOLUTION:** Special Use Permit (SUP) for Automobile Sales at 1530 E. High Street (1st of 1 reading)

APPROPRIATION
Risk Management Fund Line of Duty Act (LODA) Insurance Reimbursement
\$28,200

WHEREAS, the City's insurer, Virginia Municipal League (VML), provided a check in the amount of \$28,200, as reimbursement for the City's FY 18 out-of-pocket payments to the Virginia Department of Human Resource Management for Line of Duty Act (LODA) accepted claim benefits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that \$28,200 is hereby appropriated in the following manner:

Revenues - \$28,200

Fund: 711 Cost Center: 2061001000 G/L Account: 451110

Expenditures - \$28,200

Fund: 711 Cost Center: 2061001000 G/L Account: 530135

APPROPRIATION

**Fiscal Year 2018 Fire Programs Aid to Locality Funding (Firefund) Appropriation
- \$145,343**

WHEREAS, the Virginia Department of Fire Programs has awarded a grant to the Fire Department, through the City of Charlottesville, specifically for fire service applications;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a total of \$145,343.00 be appropriated in the following manner:

Revenues - \$145,343

\$145,343 Fund: 209 I/O: 1900010 G/L Account: 430110

Expenditures - \$145,343

\$145,343 Fund: 209 I/O: 1900010 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$145,343 from the Virginia Department of Fire Programs.

APPROPRIATION
Virginia Homelessness Solutions Grant \$477,151

WHEREAS, The City of Charlottesville, through the Department of Human Services, has received the Virginia Homelessness Solutions Grant from the Virginia Department of Housing and Community Development in the amount of \$477,151;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$477,151 is hereby appropriated in the following manner:

Revenues

\$405,225	Fund: 209	IO: 1900290 (VHPS)	G/L: 430110 State Grants
\$ 71,926	Fund: 209	IO: 1900290 (VHSP)	G/L: 430120 Federal Pass-Thru State

Expenditures

\$477,151	Fund: 209	IO: 1900290 (VHSP)	G/L: 530550 Contracted Services
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BE IT FURTHER RESOLVED, that this appropriation is conditioned upon receipt of \$477,151 in funds from the Virginia Department of Housing and Community Development.

**RESOLUTION APPROVING A REQUEST FOR WAIVER
OF CRITICAL SLOPES PROVISIONS
PURSUANT TO CITY CODE SECTION 34-1120(B)(6)
FOR SEMINOLE SQUARE SHOPPING CENTER**

WHEREAS, Towers Limited Partnership, owner of property designated on City Tax Map 41C, Parcel 3.1, consisting of approximately 18.81 acres of land, and known as Seminole Square Shopping Center (the “Property”), seeks a waiver of the critical slopes requirements of City Code Sec. 34-1120(b)(6) in connection with the construction of two (2) segmented retaining walls, totaling 1,180’ in length, along the northern portion of the Property (the “Project”); and

WHEREAS, the Planning Commission considered this request at their regular meeting on September 12, 2017, and recommended approval of the request, with conditions, to waive the critical slopes requirements, pursuant to City Code Sec. 34-1120(b)(6); and

WHEREAS, upon consideration of the information and materials provided by the applicant, and the recommendation of the Planning Commission, the City Council finds and determines pursuant to City Code Sec. 34-1120(b)(6)(d)(ii) that due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of the Project, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the request by Towers Limited Partnership for a waiver of the critical slopes requirements for the above-described Project on the Property, is hereby granted, conditioned upon the following:

1. The Applicant shall petition City Council to vacate the existing 1985 stormwater easement, in order to transfer the burden of maintenance of the stormwater facility from the City to the owner of the Property.
2. A detailed survey by a licensed professional should be provided following construction of the retaining wall to capture any deviation from the approved plans. Upon completion of the as-built survey, the stormwater routing analysis should be verified using the as-built data.
3. The improvements depicted in the Concept Plan Exhibit Series attached to the critical slopes waiver request shall be incorporated in any site plan amendment for future redevelopment of the Property, including the following modifications recommended by staff:
 - a. Elimination of the proposed pedestrian crossing along Hillsdale Drive given its proximity to the signalized intersection;
 - b. Proposed pedestrian areas shall meet ADA standards (including curb ramps, minimum width and cross-slope); and

- c. Proposed bicycle racks shall be located close to the building entrance, visible from the multi-use trail, and the number of bicycle racks shall meet the standards outlined in City Code Sec. 34-881 (in effect on the date of this SUP approval).
4. Construction shall not begin until after the Hillsdale Road extension project is complete.
5. The proposed 8' wide greenbelt trail shall be asphalt, and include a buffer no less than three (3) feet from the parking lot, and the proposed type and height of the fence will be determined by Parks & Recreation staff prior to site plan approval.
6. Proposed 10' wide easement encompassing the 8' wide greenbelt trail shall be for maintenance of the trail itself and not for any improvements placed within the easement by the Property Owner (i.e. the retaining wall), which shall be maintained by the Property owner. A deed of easement from the Property owner to the City, in form approved by the City Attorney, for the greenbelt trail shall be signed prior to site plan approval.
7. The previously submitted routing analysis for the existing stormwater basin between Seminole Square and Pepsi shall be revised and resubmitted to Engineering staff should the retaining wall located on the Seminole Square site require adjustment due to the development activities on either the adjoining Pepsi property or the Seminole Square property.

**RESOLUTION APPROVING A REQUEST FOR WAIVER
OF CRITICAL SLOPES PROVISIONS
PURSUANT TO CITY CODE SECTION 34-1120(B)(6)
FOR THE PEPSI BOTTLING PLANT
AT 1150 PEPSI PLACE**

WHEREAS, Pepsi Bottling Company, owner of property designated on City Tax Map 41C, Parcel 3, consisting of approximately 15.3 acres of land, and known as the Pepsi Bottling Plant (the “Property”), seeks a waiver of the critical slopes requirements of City Code Sec. 34-1120(b)(6) in connection with the construction of a 365’ long retaining wall on the Property (the “Project”); and

WHEREAS, the Planning Commission considered this request at their regular meeting on September 12, 2017, and recommended approval of the request, with conditions, to waive the critical slopes requirements, pursuant to City Code Sec. 34-1120(b)(6); and

WHEREAS, upon consideration of the information and materials provided by the applicant, and the recommendation of the Planning Commission, the City Council finds and determines pursuant to City Code Sec. 34-1120(b)(6)(d)(ii) that due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of the Project, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the request by Pepsi Bottling Company for a waiver of the critical slopes requirements for the above-described Project on the Property, is hereby granted, conditioned upon the following:

1. The Applicant shall petition City Council to vacate the existing 1985 stormwater easement, in order to transfer the burden of maintenance of the stormwater facility from the City to the owner of the Property.
2. A detailed survey by a licensed professional should be provided following construction of the retaining wall to capture any deviation from the approved plans. Upon completion of the as-built survey, the stormwater routing analysis should be verified using the as-built data.
3. Construction shall not begin until after the Hillsdale Road extension project is complete.
4. The previously submitted routing analysis for the existing stormwater basin between Seminole Square and Pepsi shall be revised and resubmitted to Engineering staff should the retaining wall located on the Pepsi site require adjustment due to the development activities on either the adjoining Seminole Square property or the Pepsi property.

RESOLUTION
Honorary Street Name Designation – Heather Heyer Way
4th Street, SE and NE between East Water Street and East Market Street

WHEREAS, City Council adopted a policy for Honorary Street Name Designation; and

WHEREAS, City staff has reviewed the application for appropriateness and verified the historical information;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that 4th Street, SE and NE between East Water Street and East Market Street shall bear the honorary name Heather Heyer Way, in honor of Heather Heyer and the community of people who defended the City of Charlottesville from the armed invasion of white supremacists and white nationalists on August 12, 2017.

ORDINANCE
TO AMEND AND RE-ENACT THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, CHAPTER 34 (ZONING), SECTIONS 34-1101, 34-1146, 34-1147, and 34-1200, AND TO ADD A NEW SECTION 34-1108, TO EXPRESSLY AUTHORIZE SOLAR ENERGY SYSTEMS

WHEREAS, in accordance with Virginia Code §15.2-2286(A)(7), the Charlottesville City Council previously initiated amendments of the Zoning Ordinance of the City of Charlottesville, Chapter 34 of the Code of the City of Charlottesville (1990), as amended (“Zoning Ordinance”), to expressly allow solar energy systems, and City Council referred the proposed amendments to the Charlottesville Planning Commission for review and recommendations, in accordance with Virginia Code §15.2-2285; and

WHEREAS, a public hearing was conducted jointly by City Council and the Planning Commission on May 9, 2017 following public notice as required by law; and

WHEREAS, on June 13, 2017, the Planning Commission voted to recommend that City Council should approve certain proposed amendments to the Zoning Ordinance, to expressly authorize solar energy systems subject to appropriate regulations, finding that such amendments are required by the public necessity, convenience, general welfare or good zoning practice; and

WHEREAS, this City Council concurs with the Planning Commission that the proposed zoning text amendments are required by the public necessity, convenience, general welfare or good zoning practice, and further, Council finds that the proposed amendments have been designed to give reasonable consideration to the purposes set forth within Virginia Code §15.2-2283 and have been drawn with reasonable consideration given to the matters set forth within Virginia Code §15.2-2284;

NOW, THEREFORE, this City Council does hereby amend and re-enact the Code of the City of Charlottesville (1990), as amended, as follows:

- 1. Chapter 34, Article X (Definitions), Section 34-1200 is amended and re-enacted, as follows:**

Sec. 34-1200. Definitions.

Accessory building, structure or use means a building, structure or use located upon the same lot as the principal use, building, or structure, the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common residential accessory buildings and structures. Heating, electrical and mechanical equipment, utility service lines and meters, solar energy systems, and related equipment, are equipment or fixtures used accessory to a building or structure located on the same lot.

...

Solar Energy System means equipment used primarily for the collection and use of solar energy for water heating, space heating or cooling, or other application requiring an energy source.

2. Chapter 34, Article IX (General Regulations) is hereby amended and re-enacted as follows:

Sec. 34-1101. ~~Appurtenances~~ Exclusions from building height and minimum yard requirements.

(a) ~~None of the following~~ An appurtenance to a building or structure shall not be counted in measuring the height of a building or structure:

(1) Rooftop solar energy systems, subject to the provisions of Sec. 34-1108;

(2) ~~(b)~~ Rooftop heating, electrical, and mechanical equipment, or elevator returns, which are necessary for or in connection with the proper operation of a building in accordance with USBC requirements, provided that no such equipment or elevator return, as installed ~~No rooftop appurtenance shall: (i) itself measure more than eighteen (18) feet in height above the building, or (ii) cover more than twenty-five (25) percent of the roof area of a building;~~

(3) Telecommunications equipment, subject to the provisions of Sec. 34-1070, et seq.;

(4) Chimneys constructed or attached to the side of a building, which extend above the level of the roof deck of a building to a height required by the USBC or VSFPC;

(5) ~~(c)~~ Other equipment or structures constructed or installed above the roof deck of a building, so long as they: (i) comply with the height and area requirements set forth in paragraph (2) above, and (ii) contain no ~~Within a rooftop appurtenance, no enclosed space that is shall be designed for or that can be used as any type of habitable residential space. The provisions of this paragraph shall not preclude open-air space on a building rooftop from being used accessory to the primary use of the building.~~

(b) ~~(d)~~ Each of the ~~The following appurtenances may encroach into minimum required yards as specified:~~

(1) Window sills, roof overhangs, belt courses, cornices and ornamental features may encroach into a required yard by no more than twelve (12) inches.

(2) Open lattice-enclosed fire escapes, fireproof outside stairways, and the ordinary projections of chimneys and flues may encroach into a required rear yard by no more than five (5) feet.

- (3) Chimneys or flues being added to an existing building may encroach into a required side yard, but not closer than five (5) feet to the side lot line.
- (4) Elevator shafts, and heating, electrical and mechanical equipment, ~~which are if~~ screened in accordance with the requirements of Sec. 34-872, may encroach into a required side or rear yard.
- (5) Handicapped ramps meeting ADA standards may encroach into a required yard.
- (6) Solar energy systems may encroach into required front, side and rear yards, subject to the provisions of Sec. 34-1108 (limitations on placement in front of buildings). No solar energy system shall be placed closer than five (5) feet to any lot line.

~~(6) Except as otherwise provided above:~~

~~(7) a. Uncovered and unenclosed structures (such as decks, porches, stoops, etc.) attached to a building, and appurtenances which have a maximum floor height of three (3) feet above the finished grade, may encroach into any required yard, but not closer than five (5) feet to any lot line and no more than ten (10) feet into a required front yard; however, no such structure or improvement appurtenance, shall occupy more than thirty (30) percent of a rear yard.~~

~~(8) b. Any appurtenance to a For any single- or two-family dwelling, an unenclosed structure attached to the façade of the dwelling, and having a height greater than three (3) feet above finished grade, may encroach into a required front yard by up to ten (10) feet, but no closer than five (5) feet to a front lot line. ~~.; however, Any such structure such appurtenance shall comply be in compliance with the applicable side yard setback(s).~~~~

~~(c) e. No enclosed structure that is attached to any building appurtenance, regardless of height (including but not limited to a screened-in porch), shall encroach into any required yard.~~

...

Sec. 34-1108. Standards for solar energy systems

The following requirements apply to solar energy systems:

- (1) Solar energy systems shall be installed in compliance with applicable provisions of the USBC and the VSFPC.
- (2) A solar energy system may be installed on the roof of any building or structure, whether principal or accessory.

- a. The height of a solar energy system installed on the roof of a single- or two-family dwelling, or on the roof of an accessory building or structure on the same lot as such dwelling, may extend up to five (5) feet above the highest point of the roof of the building or structure on which it is installed.
 - b. Except as limited by subparagraph (i), above, a rooftop solar energy system may extend up to fifteen (15) feet above the highest point of the roof of the building or structure on which it is installed.
- (3) A solar energy system may be attached and incorporated as part of any building façade (for example: roof tiles, window shutters, canopies, etc.).
- (4) Placement in front of buildings:
- a. Within required front yards--Within a required front yard, a solar energy system may be incorporated as part of any structure allowed by Sec. 34-1101(b)(7) and Sec. 34-1101(b)(8). Otherwise, no solar energy system shall be located within a required front yard.
 - b. Within other areas forward of the front building façade—Within a low-density residential zoning district, except as provided in subparagraph (4)(a) above, no solar energy system may be located forward of an imaginary line extending along the exterior façade of a residential building, parallel to the front lot line and extending between the side lot lines. In all other zoning districts, a solar energy system may be located in an area between the front building façade and the required front yard.
- (5) Except as provided in paragraph (2)(a), above, a solar energy system, together with its support, shall not itself exceed a height of fifteen (15) feet unless otherwise required by the USBC or VSFPC for a specific use.

Sec. 34-1146. Nonconforming structures, permitted changes.

- (a) A nonconforming structure may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this section and of Sec. 34-1147, and subject to all approvals required by law.
- (b) ...
- (c) ...
- (d) ...
- (e) A solar energy system may be placed on or attached to a nonconforming building or structure.

Sec. 34-1147. - Expansion of nonconforming uses or structures.

(a) Nonconforming uses or structures may expand only in accordance with the provisions of this section. Whenever a percentage limitation is placed on expansion, that limitation shall be the total expansion allowed, in increments of any size that add up to the total, or all at once. All expansion shall occur on the lot occupied by the nonconforming use or structure, inclusive of any permitted consolidations or re-subdivisions.

(b) Nonconforming uses, other than structures, may be expanded on an area of a lot not originally devoted to the nonconforming use, provided such expansion meets all current requirements of this chapter applicable only to the expansion. The placement or installation of a solar energy system on a building or lot shall not be deemed an expansion of a nonconforming use.

(c) Nonconforming structures.

- (1) *Nonconforming single-family dwelling.* The structure may be expanded as provided within this subsection. New or expanded residential accessory structures (such as storage sheds, garages, swimming pools, etc.) may be permitted. Expansion of the dwelling, and new or expanded accessory structures, shall meet all zoning ordinance requirements, including height, yard and setbacks, for the zoning district in which located; except that extension of an existing front porch that encroaches into a front yard required by this ordinance shall be permitted to the side yard(s), so long as such extension will not result in an increase in the front yard encroachment. A single-family detached dwelling that is nonconforming because it encroaches into any required yard(s) may be expanded as long as the expansion will not result in an increase in the yard encroachment(s). However, expansions in height to existing nonconforming single-family dwellings, which do not meet current setback requirements, shall be permitted only if: (i) the dwelling is only being increased in height, and (ii) the footprint of the dwelling will remain unchanged by the proposed expansion in height. Such expansion will not be required to meet more restrictive setbacks enacted since the date the dwelling became nonconforming; however, all other zoning regulations for the district in which the dwelling is located shall apply.
- (2) *Nonconforming structures, other than single-family dwellings.* Where the use of a nonconforming structure is permitted by right, or with a special use or provisional use permit, in the zoning district in which the structure is located, then expansion of a nonconforming structure may be approved provided that: (i) yard, setback, screening and buffering, and height standards applicable to the proposed expansion are met; (ii) all applicable sign regulations are met, and (iii) such expansion does not exceed twenty-five (25) percent of the gross floor area of the existing structure. For any proposed expansion exceeding twenty-five (25) percent of the gross floor area of the existing structure, all development standards applicable to the property as a whole shall be met.

(3) The placement or installation of a solar energy system on a building or lot shall not be deemed an expansion of a nonconforming building or structure, and the area occupied by any such system shall not be included within the calculation of percentages of expansion pursuant to paragraphs (c)(2) or (e) of this section.

(4) Where a nonconforming structure is utilized for or in connection with a nonconforming use, then no expansion of the nonconforming structure shall be approved unless the zoning administrator certifies that: (i) expansion of the nonconforming structure would not result in expansion of the nonconforming use, or (ii) expansion of the nonconforming structure would result in expansion of the nonconforming use, but expansion of the nonconforming use would meet the requirements of Sec. 34-1147(b), above.

(5) ~~(4)~~ Prior to the approval of any expansion of a nonconforming use or structure, nonconforming status shall be verified by the zoning administrator.

(d) In the event of any permitted expansion of a nonconforming structure, all signs located on the property shall be brought into full compliance with current zoning ordinance requirements.

(e) Permitted expansions for nonresidential, nonconforming uses that require special or provisional use permits are required to obtain special or provisional use permits only when such expansions exceed twenty-five (25) percent of the gross floor area of the existing structure.

**RESOLUTION
APPROVING EXTENSION OF LOAN AGREEMENT OF
DOGWOOD PROPERTIES, LLC LOAN AGREEMENT**

WHEREAS, on February 1, 2013, the City of Charlottesville approved issuance of an \$850,000 loan to Dogwood Properties of Charlottesville, LLC (“Recipient”) to assist with the purchase of 57 rental units to serve as affordable housing; and

WHEREAS, the Recipient has requested a five (5) year extension to the Loan Agreement; and

WHEREAS, the Recipient has requested they be allowed to modify some of the terms of the Loan Agreement;

NOW, THEREFORE, City and Recipient agree to amend the Agreement, as follows:

1. All non-rent assisted tenants with household incomes between 50% - 80% of AMI shall be allowed to pay up to 35% of their household income towards their rent without risk of losing their housing.
2. After the initial household income qualification is established, Recipient will recertify all non-rent assisted tenants’ household incomes at least once every 24 months.
3. For all tenants receiving assistance through the Housing Choice Voucher program or another rental assistance program, Recipient will provide the City with copies of each household’s annual recertification letter.
4. Recipient shall add the following data point to the report submitted to the City each December:
 - o Amount of rental assistance received (if applicable)
5. Extend term of the Loan Agreement to **October 31, 2022**.
6. Nothing in this provision will be used to increase rents generally, and will be an exception rather than the rule. The recipient will provide the City with a statement in writing that the rent will not increase more than 5% each year.
7. Rent levels will be monitored on an annual basis.
8. Dogwood Housing will allow the City to inspect all units not already inspected through the Housing Choice Voucher Program or other rental assistance program. Dogwood Housing will provide copies of annual inspection reports and/or passed inspection verification notices for all rent assisted units to the City on an annual basis

All provisions of the Loan Agreement not specifically amended by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written above.

**RESOLUTION
APPROVING A SPECIAL USE PERMIT
TO AUTHORIZE AUTOMOBILE SALES
AT 1530 EAST HIGH STREET**

WHEREAS, E. Grant and Barbara H. Cosner (“Applicant”) are the owners of certain property located at 1530 East High Street, identified on City Tax Map 50 as Parcel 15 (Tax Map Parcel 500015000) and containing approximately 0.321 acres (“Subject Property”), pursuant to City Code Sec. 34-796, has requested City Council to approve a special use permit to authorize the sale of automobiles on the Subject Property (the proposed “Special Use”). The Subject Property is within the City’s Central City Corridor (Mixed Use) zoning district, with frontage on East High Street; and

WHEREAS, the requested Special Use is generally described within the Applicant’s application materials submitted in connection with SP17-00004, including: (i) the original application materials dated July 7, 2017; (ii) the application narrative; and (iii) the preliminary site plan (collectively, the “Application Materials”); and

WHEREAS, the Applicant proposes to utilize the existing building on the Subject Property with minor modifications and provide the required five (5) parking spaces pursuant to City Code Sec. 34-984; and

WHEREAS, the Planning Commission reviewed the original application materials dated July 7, 2017, and the City’s Staff Report pertaining thereto, and following a joint public hearing, duly advertised and conducted by the Planning Commission and City Council on September 12, 2017, the Commission voted to recommend that City Council approve the requested Special Use; and

WHEREAS, upon consideration of: the comments received during the joint public hearing, the Planning Commission’s recommendation, and the Staff Report, as well as the factors set forth within Sec. 34-157 of the City’s Zoning Ordinance, this Council finds and determines that granting the requested special use permit subject to suitable conditions would serve the public necessity, convenience, general welfare or good zoning practice; now, therefore,

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that, pursuant to City Code Sec. 34-796, a special use permit is hereby approved and granted to authorize automobile sales on the property at 1530 East High Street, subject to the following conditions:

1. At no time shall more than fifteen (15) vehicles being offered for sale be present on the Subject Property.
2. Notwithstanding any contrary provision of the Charlottesville City Code, 1990, as amended, storage of inoperable vehicles, as defined within City Code Sec. 5-150(a)(1), is prohibited on the Subject Property.

3. The Subject Property shall not be used as an “automobile graveyard” or “junkyard” as those terms are defined in Virginia Code Sec. 33.2-804.
4. No improvements shall be commenced prior to approval of any required permits, which can include: Development in the Floodplain permit, final site plan, and certificate of appropriateness for improvements to the existing building.
5. The applicant shall provide plantings along East High Street in conformance with City Code Sec. 34-778(b)(1), the installation of which is subject to approval by the City Floodplain Administrator.
6. All outdoor lighting and light fixtures shall be full cut-off luminaires. The spillover light from luminaires onto public roads and onto property adjacent property shall not exceed one-half (½) foot candle. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source.
7. No outdoor storage of automobile tires or other accessory elements associated with automotive uses is permitted on the Subject Property.
8. The applicant agrees to have no car washing or car repair activity on the Subject Property.