



CITY COUNCIL AGENDA
February 18, 2014

5:30 p.m. – 7:00 p.m.

Closed session as provided by Section 2.2-3712 of the Virginia Code

Second Floor Conference Room (annual performance evaluation for City Manager and Clerk of Council; litigation involving the condemnation of property owned by the Monticello Area Community Action Agency; cost sharing agreement with the Albemarle County Service Authority for capital wastewater projects, acquisition of property for public park purposes.)

CALL TO ORDER 7:00 p.m.
PLEDGE OF ALLEGIANCE
ROLL CALL

Council Chambers

AWARDS/RECOGNITIONS
ANNOUNCEMENTS

African American History Month; Poison Prevention Month; The Big Read

MATTERS BY THE PUBLIC

Public comment will be permitted for the first 12 speakers who sign up in advance of the meeting (limit of 3 minutes per speaker) and at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

COUNCIL RESPONSE TO MATTERS BY THE PUBLIC

1. CONSENT AGENDA*

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

a. Minutes for February 3

b. APPROPRIATION:

HVAC Replacement at Gordon Avenue Library and Health Department - \$90,000
(2nd of 2 readings)

c. APPROPRIATION:

City of Promise Reimbursement from Children, Youth & Family Services, Inc. - \$10,000
(2nd of 2 readings)

d. APPROPRIATION:

Asset Forfeiture Funds for Regional Firearms Range – \$971,167 (2nd of 2 readings)

e. ORDINANCE:

Water Street Planned Unit Development (PUD) Rezoning (2nd of 2 readings)

2. PUBLIC HEARING /
RESOLUTION*

Blight Determination/Correction for 201 East Water Street (1st of 1 reading)

Alternatives (2 readings):

Ordinance to Declare the Property Located at 201 East Water Street a Blighted Property

Ordinance to Declare the Property Located at 201 East Water Street a Blighted Property
and a Public Nuisance

3. PUBLIC HEARING /
ORDINANCE*

Conveyance of Land – Lochlyn Hills Subdivision (1st of 2 readings)

4. RESOLUTION*

Repair Downtown Mall Crossings – \$120,000 (1st of 1 reading)

5. RESOLUTION*

Affordable Dwelling Unit (ADU) Ordinance Regulations (1st of 1 reading)

6. REPORT

Park Land Acquisition & Forest Management Update

7. RESOLUTION*

Festival of Cultures Funding Request – \$2,000 (1st of 1 reading)

OTHER BUSINESS
MATTERS BY THE PUBLIC

*ACTION NEEDED

This page intentionally left blank.

**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	February 3, 2014
Action Required:	Appropriation
Presenter:	Lance Stewart, Public Works
Staff Contacts:	Lance Stewart, Facilities Manager, Public Works Leslie Beauregard, Director, Budget & Performance Management
Title:	City/County Jointly-Owned Property H.V.A.C. Capital Improvement Plan Funds - \$90,000

Background:

The City Facility H.V.A.C. Replacement capital improvement program is the funding source of projects executed in buildings owned in whole or in part by the City of Charlottesville. Projects planned for fiscal year 2013-14 include equipment replacement projects at the Gordon Avenue Library and at the Charlottesville Albemarle Health Department, both co-owned with Albemarle County.

Albemarle County's share of all project costs at the Gordon Avenue Library P-00730-05 is 50% of the total project cost. The planned replacement of H.V.A.C. equipment serving the building is budgeted at \$130,000. Albemarle County's estimated fiscal responsibility for the project is \$65,000.

Although the City of Charlottesville manages the property, Albemarle County is the fiscal agent for rent paid by the Health Department (P-00730-06), which monies are maintained in a separate fund. For this reason, Albemarle County is fiscally responsible for 100% of capital project costs. The planned replacement of H.V.A.C. equipment serving the building is budgeted at \$25,000.

Albemarle County's capital improvement plan includes funds earmarked for this purpose.

Discussion:

Appropriation of funding for capital projects performed in building co-owned by the City of Charlottesville and Albemarle County is typically done after the completion of the project, upon receipt of reimbursed funds. The City Facility H.V.A.C. Replacement capital improvement program has insufficient available funds to proceed with these projects without additional appropriation. At the conclusion of the project, reimbursement funds will be deposited, and any surplus funds (due to higher than expected project costs) will be appropriated as necessary.

Community Engagement:

Not applicable.

Alignment with City Council's Vision and Priority Areas:

A Green City - "Our homes and buildings are sustainably designed and energy efficient." - Advances in technology in the years since the installation of existing equipment provide the opportunity to increase the energy efficiency of every piece of equipment, resulting in direct and lasting cost savings to operating budgets, as well as significant reductions in greenhouse gas emissions. This project will reduce the carbon footprint our largest City buildings.

Budgetary Impact:

This has no impact on the General Fund.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

Should Council elect to defer this appropriation until these projects are completed and Albemarle County has reimbursed the City, it would be necessary to defer the following projects in City buildings: Public Works Administration (replacement of aging air handlers and air conditioning unit service training room) \$45,000; Central Fire Station (replacement of aging air handlers and AC serving offices) \$60,000; Police Building (replacing of 1960's vintage air handlers) \$25,000; and replacement of the failing emergency generator at the 250 Bypass Fire Station, \$25,000. Deferring these projects may result in higher maintenance costs and an increased potential for emergency equipment replacement at a higher cost.

Attachments:

N/A

APPROPRIATION.
City/County Jointly Owned Property H.V.A.C. Capital Improvement Plan Funds.
\$90,000.

WHEREAS, Albemarle County share of expenditures will be submitted to them for reimbursement as work progresses; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that \$90,000 from Albemarle County is hereby appropriated in the following manner:

Revenues - \$90,000

Fund: 426 Funded Program: CP-070 G/L Account: 432030

Expenditures - \$90,000

Fund: 426 Funded Program: CP-070 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is contingent upon the receipt of \$90,000 from Albemarle County.

This page intentionally left blank.

**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	February 3, 2014
Action Required:	Approval and Appropriation
Presenter:	Gretchen Ellis, Human Services Planner
Staff Contacts:	Gretchen Ellis, Human Services Planner Leslie Beauregard, Director, Budget and Performance Management
Title:	City of Promise Reimbursement from Children, Youth & Family Services, Inc. - \$10,000

Background:

City of Promise's non-profit partner, Children, Youth & Family Services, Inc. (C.Y.F.S.), has received an anonymous \$30,000 grant to support City of Promise's fundraising efforts, \$10,000 of this is designated to support the Director's salary to perform fundraising on behalf of the City of Promise. Therefore, C.Y.F.S. proposes to reimburse the City for part of the salary during calendar year 2014, in equal quarterly payments. Note: the current Department of Criminal Justice Services grant ends in June 2014, but is renewable for another year. If a fourth year is awarded, another appropriation request will be submitted at that time.

Discussion:

The reimbursement of \$10,000 will allow the City of Promise to use the savings in Department of Criminal Justice funds to expand the hours of a City of Promise Coach, who works with "enroll to serve" youth. These are youth who are identified as needing a high level of support along the pathway from cradle to college to career. The expanded hours will increase the number of youth who can be served during the current school year.

Community Engagement:

The City of Promise involves substantial community involvement; the project is child centered and neighbor driven. Community outreach staff members (funded through other sources) meet with all neighborhood residents regularly. Six neighbors serve on the City of Promise Steering Committee. There are separate Parent Council and Youth Councils, which meet at least monthly.

Alignment with City Council's Vision and Priority Areas:

Approval of this agenda item aligns directly with Council's vision for Charlottesville to be **America's Healthiest City** and contributes to their 2012-2014 priority to *provide a comprehensive support system*

for children. Expected outcomes include increased school attachment, better academic achievement, improved behavior in the school and community, better health, increased community engagement, and creation of college-going expectations and opportunities.

Budgetary Impact:

This appropriation has a neutral budgetary impact. No new funds are required.

Recommendation:

Staff recommends approval and appropriation funds.

Alternatives:

If this appropriation is not made, the Director will not be able to increase his efforts to find additional non-City funding for the City of Promise. The Coach's hours will not be expanded.

Attachments:

N/A

APPROPRIATION.
City of Promise Reimbursement from Children, Youth & Family Services, Inc.
\$10,000.

WHEREAS, The City of Charlottesville has been offered reimbursement of \$10,000 for the salary of the City of Promise Director, by partner organization Children, Youth & Family Services,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$10,000 is hereby appropriated in the following manner:

Revenues

\$10,000 Fund: 209 CC: 3413005000 G/L: 451020 Contributions

Expenditures

\$10,000 Fund: 209 CC: 3413005000 G/L: 519999 Sal/Benefit Lump Sum

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$10,000 from Children, Youth & Family Services, Inc.

This page intentionally left blank.

**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	February 3, 2014
Action Required:	Appropriation
Presenter:	Lieutenant Cheryl Sandridge, Charlottesville Police Department
Staff Contacts:	Lieutenant Cheryl Sandridge, Charlottesville Police Department
Title:	Appropriate Asset Forfeiture Transfer Award from the Attorney General's Office of Virginia for the Regional Firearms Range - \$971,167

Background:

The City of Charlottesville, the County of Albemarle, and the University of Virginia purpose to build a joint firearms range training facility. A request was made to the Attorney's Office of Virginia for a one time award of asset forfeiture money to help fund this proposal. The City of Charlottesville, Albemarle County and the University of Virginia Police departments have all received funding to be used towards this project. The City of Charlottesville received \$971,167 as an award to use towards this facility. The award requires that the entire award be spent within the next 24 months.

Discussion:

The City Police Department currently conducts the majority of its firearms training at the Rivanna Rifle and Pistol Range, but this is a private club that has given the Police Department notice that it will not continue to allow Police training there. The Department of Criminal Justice Services **requires** that Law Enforcement Officers meet qualification requirements with their firearms at least once a year. "Failure to train" lawsuits are frequently lost by law enforcement agencies and particularly in the area of failing to train with a deadly weapon. Firearms' training is one of the most important areas where officers must be proficient. In order to meet these qualifications and other required training would require the Police Department to locate and obtain permission to use someone else's firing range. Finding an alternative location could be difficult to find as there are only a few options in the surrounding area. The University of Virginia owns property where they currently conduct their Police Department firearms training, but it is an outside range, and its use is limited due to noise complaints from surrounding residents. By partnering together, the City, County, and University Police Departments can construct a building resulting in a much needed professional, firearms training facility that will solve both the problem of a place to train, and the noise associated with the current U.V.A. firearms training situation. Added benefits include shelter from the weather, no need to travel for training, convenience in scheduling, and a modern solution to the current outdoor environmental issues created by an outdoor firing range.

Funding in the amount of \$576,711 was originally adopted for this project in the F.Y. 2013 C.I.P. The funds were to construct a Regional Firearms Range Project on the Keene landfill property, that location

is no longer feasible. These funds, appropriated in F.Y. 13, along with the \$971,167 to be appropriated here, will go toward the City's portion of building construction on the property and move all training indoors, as well as any other necessary site improvements.

Community Engagement:

A well trained Police Department is an invaluable asset to the City and the Community it serves.

Alignment with City Council's Vision and Priority Areas:

Approval of this agenda item aligns directly with Council's vision for Charlottesville to a Smart, Citizen focused Government. By providing a well-trained Police Department, the City of Charlottesville helps to ensure safe neighborhoods. This project will also help to ensure a clean environment.

Budgetary Impact:

This one time grant will cover a large portion of the costs associated with the planning and construction of the firing range, thus reducing costs to the City of Charlottesville.

Recommendation:

Staff recommends approval and appropriation of funds.

Alternatives:

The City could return the funds and not participate in the construction or use of the Regional Fire Arms range.

Attachments: N/A

APPROPRIATION.
Regional Firearms Range.
\$971,167.

WHEREAS, the City of Charlottesville has been awarded \$971,167 from the Attorney's Office of Virginia for a one time award of asset forfeiture money;

WHEREAS, the funds will be used to help to fund the City's share of construction costs of a regional firearms range to be shared by the City of Charlottesville, County of Albemarle and the University of Virginia;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$971,167 is hereby appropriated in the following manner:

Revenue – \$971,167

\$971,167 Fund: 426 WBS Element: P-00715 G/L Account: 430110

Expenditures - \$971,167

\$971,167 Fund: 426 WBS Element: P-00715 G/L Account: 599999

This page intentionally left blank.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date: February 3, 2014

Action Required: Consideration of a Rezoning Application

Presenter: Michael Smith, Neighborhood Planner, Neighborhood Development Services

Staff Contact: Michael Smith, Neighborhood Planner, Neighborhood Development Services

Title: ZM 13-07-11: Water Street PUD

Background:

The applicant and owner's representative, Riverbend Development, is requesting to rezone a vacant parcel adjacent to Water Street Extended from Downtown Extended (DE) Mixed-Use Corridor with Individually Protected Property Overlay (portion) to Planned Unit Development (PUD) with Individually Protected Property Overlay (portion) with proffers. This property is further identified on City Real Property as Tax Map 57, Parcel 157A having approximately 950 feet of frontage on Water Street and containing approximately 94,089 square feet of land (2.16 acres).

Discussion:

The Planning Commission considered this application at their regular meeting on January 14, 2014. The Commission expressed concern with the lack of architectural standards established in the application, as well the proposed orientation of the open space. Additionally, Council expressed reservations regarding the proffer statement and the proposal to donate the coal tower and the surrounding property to the City.

Following the Commission meeting, the applicant revised the application to address concerns noted during the meeting. The Coal Tower and surrounding property is no longer noted in the proffer statement as donation of land to the City and will now be under the responsibility of the HOA. The applicant has also revised the units west of the Coal Tower by removing the drive aisle, resulting in a more cohesive block structure and increasing the open space around the Coal Tower from .155 acres to .169 acres.

Citizen Engagement:

Staff discussed the application with various members of the public. Additionally, the applicant held a community meeting on December 18th, 2013 with members of the Belmont, Martha Jefferson, and Woolen Mills neighborhood associations.

Alignment with City Council's Vision and Priority Areas:

cultural centers...Our housing stock is connected with recreation facilities, parks, trails, and services.”

The City Council Vision of Economic Sustainability states that “The City has facilitated significant mixed and infill development within the City.”

Budgetary Impact:

No direct budgetary impact is anticipated.

Recommendation:

The Commission took the following action:

“Mr. Keesecker moved to recommend the approval of this application, including submitted proffers, to rezone the subject property from Downtown Extended Mixed-Use(DE) with Individually Protected Property Overlay to PUD with Individually Protected Property Overlay , on the basis that the proposal would serve the interests of the general public welfare and good zoning practice.”

Mrs. Sienitsky seconded the motion. The Commission voted 6-1 to recommend approval of the rezoning. Ms. Green voted against the motion.

Alternatives:

None.

Attachment:

Staff Report, PUD Application, Consent of Owner

CITY OF CHARLOTTESVILLE
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
STAFF REPORT



PLANNING COMMISSION AND CITY COUNCIL JOINT PUBLIC HEARING

DATE OF HEARING: January 14, 2013

APPLICATION NUMBER: ZM 13-07-11

Project Planner: Michael Smith
Applicant: Riverbend Development, Inc.
Applicant's Representative: Alan Taylor

Application Information

Property Street Address: Water Street Extended

Tax Map/Parcel #: 57-157A

Total Acreage Site: 2.11

Comprehensive Plan (Land Use Plan) Designation: Mixed-Use

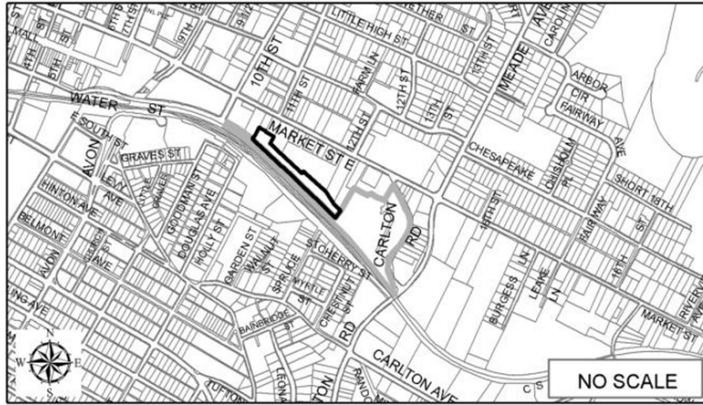
Current Zoning Classification: Downtown Extended (Mixed Use) and IPP (Individually Protected Property)

Tax Status: All taxes have been paid on this property.

Applicant's Request:

The applicant is requesting to rezone a vacant parcel adjacent to Water Street Extended from Downtown Extended (DE) Mixed-Use Corridor with Individually Protected Property Overlay (portion) to Planned Unit Development (PUD) with Individually Protected Property Overlay (portion) with proffers. The portion of the property with an IPP consists of the Coal Tower and the .155 acres (6,751 sq. feet) surrounding the tower. Proffers include a contribution towards the City's Affordable Housing Fund and dedication of open space and the Coal Tower IPP to the City of Charlottesville. This property is further identified on City Real Property as Tax Map 57, Parcel 157A having approximately 950 feet of frontage on Water Street and containing approximately 94,089 square feet of land (2.16 acres). The overall residential density proposed is 24 DUA. The general uses called for in the Land Use Plan of the 2013 Comprehensive Plan are for Mixed-Use.

Vicinity Map



Rezoning Standard of Review

The planning commission shall review and study rezonings to determine:

- (1) Whether the proposed amendment conforms to the general guidelines and policies contained in the comprehensive plan;
- (2) Whether the proposed amendment will further the purposes of this chapter and the general welfare of the entire community;
- (3) Whether there is a need and justification for the change; and
- (4) When pertaining to a change in the zoning district classification of property, the effect of the proposed change, if any, on the property itself, on surrounding property, and on public services and facilities. In addition, the commission shall consider the appropriateness of the property for inclusion within the proposed zoning district, relating to the purposes set forth at the beginning of the proposed district classification.

Planned Unit Development Standard of Review

In reviewing an application for approval of a planned unit development (PUD) or an application seeking amendment of an approved PUD, in addition to the general considerations applicable to any rezoning the city council and planning commission shall consider whether the application satisfies the following objectives of a PUD district:

- To encourage developments of equal or higher quality than otherwise required by the strict application of zoning district regulations that would otherwise govern;
- To encourage innovative arrangements of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design.
- To promote a variety of housing types, or, within a development containing only a single housing type, to promote the inclusion of houses of various sizes;
- To encourage the clustering of single-family dwellings for more efficient use of land and preservation of open space;

- To provide for developments designed to function as cohesive, unified projects;
- To ensure that a development will be harmonious with the existing uses and character of adjacent property, and/or consistent with patterns of development noted with respect to such adjacent property;
- To ensure preservation of cultural features, scenic assets and natural features such as trees, streams and topography;
- To provide for coordination of architectural styles internally within the development as well as in relation to adjacent properties along the perimeter of the development; and
- To provide for coordinated linkages among internal buildings and uses, and external connections, at a scale appropriate to the development and adjacent neighborhoods;
- To facilitate access to the development by public transit services or other single-vehicle-alternative services, including, without limitation, public pedestrian systems.

Project Review:

Overall Analysis:

1. Proposed Use of the Property

The property will be utilized for residential uses and public parkland. Twenty-four(24) single-family detached units are proposed, as well as 0.133 acres (5,793 sq. feet) of public parkland.

2. Zoning History

In 1949 the property was zoned C Industrial. It was shown as M-2 Industrial on the 1958 and 1976 zoning map. The property was zoned M-1 Industrial in 1991 and then, as part of the comprehensive zoning changes of 2003, the property was zoned Downtown Extended Mixed Use Corridor.

3. Character and Use of Adjacent Properties

Direction	Use	Zoning
North	Commercial and Multi-Family Residential	DE
South	Belmont Lofts	PUD
East	Multi-Family Residential(City Walk)	DE
West	Office	DE

4. Reasonableness/Appropriateness of Current Zoning

The current zoning is reasonable and appropriate as this area is currently surrounded by medium to high residential density uses, as well as commercial and office uses. The applicant is pursuing the PUD rezoning in order to achieve a reduction in lot widths and attain more density. Under current zoning, the single-family detached units would be required to have 50’ of frontage along Water Street. The PUD rezoning will allow a reduction in lot widths(lot widths will range from 34’-51’) and nine(9) additional units.

5. Reasonableness/Appropriateness of Proposed Zoning

The proposed zoning is reasonable and appropriate for this area. The proposed PUD uses that are currently allowed by-right within the DE zoning district.

6. Consistency with Comprehensive Plan

The PUD proposal contains elements reflective of comprehensive plan goals within the following chapters: Historic Preservation and Urban Design, Transportation, Land Use, and Housing. Specific goals include:

Historic Preservation and Urban Design

Goal 1.6: Encourage the incorporation of meaningful public spaces, defined as being available to the general public, into urban design efforts.

Transportation

Goal 2.6: Promote urban design techniques, such as placing parking behind buildings, reducing setbacks and increasing network connectivity, to create a more pedestrian friendly streetscape and to reduce speeds on high volume roadways.

Land Use

Goal 2.3: Enhance pedestrian connections between residences, commercial centers, public facilities, amenities and green spaces.*

Housing

Goal 3.5: Consider the range of affordability proposed in rezoning and special use permit applications, with emphasis on provision of affordable housing for those with the greatest need.

7. Potential Uses of the Property

An approved PUD shall allow for those uses shown on the approved PUD development plan which would include in this application: single-family detached residential units and public open space.

8. Access, Circulation, and Traffic:

The proposed PUD has street frontage on Water Street. Motorists will access the proposed residential units by entrances off of Water Street. Pedestrian and bike access will be provided by the multi-use trail and sidewalk to be installed with the Water Street extension.

9. Planned Unit Standards:

The PUD proposes 0.332 acres (14,026 square feet) of open space, which is 15.4% of the project area. City Code requires that at least 15% of the gross land area be in open space. According to the Code, open space must be useable for recreational purposes, or provide visual, aesthetic or environmental amenities. The largest area of

useable open space will be addressed by the 0.133 acres around the Coal Tower, which the applicant proposes to donate to the City.

10. Process

If the rezoning is approved, and before any site development, the applicant will be required to submit for review a preliminary site plan that is in substantial conformance with the approved PUD.

11. Impact Mitigation

The applicant has submitted proffers in an effort to offset and mitigate certain impacts anticipated as a result of the proposed development.

Proffer #1 regarding affordable housing supports the City’s goal of 15% supported affordable housing by 2025 by contributing funds into the Charlottesville Housing Fund.

Proffer #2 regarding donation of open space supports the City’s efforts towards encouraging and providing meaningful public spaces that promote historic resources.

Proffers

The applicant has submitted the following proffers:

1. The owner/applicant shall hereby make a cash contribution of One Hundred Thousand Dollars (\$100,000.00) to the city’s affordable housing fund for the (9) additional units achieved on the property over and above the 15 units under the by-right conditions of the property. The total cash contribution shall be divided equally by the proposed 24 units and shall be paid on a per unit basis on each unit prior to issuance of a Building permit for each individual unit.

Staff believes the concept established in Proffer #1 is appropriate. Under current zoning, the applicant could build fifteen (15) single-family detached units by-right. As a mechanism towards minimizing the impact of the addition nine (9) units the applicant is seeking through the PUD, the applicant has elected to contribute \$100,000 dollars to the Charlottesville Housing Fund to help support housing affordability initiatives throughout the City.

2. The proposed common open space area surrounding the existing historical Coal Tower and totaling a square footage of no less than 5,600 SF and the Coal Tower structure shall be dedicated to the City of Charlottesville upon written request from the City of Charlottesville.

Staff believes the donation of open space and the Coal Towers structure proposed in Proffer #2 is appropriate. Staff has reviewed this proposal with City Parks and Recreation staff, as well as the City Manager’s office, and both parties have agreed

with the proposed language.

Public Comments Received:

On December 18, 2013, the applicant held a meeting and invited residents of the Belmont, Martha Jefferson and Woolen Mills neighborhood to attend. Staff was unable to attend the meeting, but spoke with the President of the Belmont Neighborhood Association and the applicant about the meeting. Overall, the neighborhood received the PUD concept positively, however, desired to see a potential commercial component associated with the proposal, as well as a potential pedestrian connection to downtown Belmont. The neighborhood also hopes to further engage with the applicant on architectural details as the project moves forward.

Staff Recommendation:

The standard of review for Planned Unit Developments states ten objectives that potential PUDs should aspire to meet. While it is not necessary for a PUD to meet all ten objectives, the development should be evaluated based on those objectives.

Staff finds that the proposed PUD meets aspects established in nine(9) of the ten(10) objectives contained in the PUD ordinance:

- To encourage developments of equal or higher quality than otherwise required by the strict application of zoning district regulations that would otherwise govern;
- To encourage innovative arrangements of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design.
- To encourage the clustering of single-family dwellings for more efficient use of land and preservation of open space;
- To provide for developments designed to function as cohesive, unified projects;
- To ensure that a development will be harmonious with the existing uses and character of adjacent property, and/or consistent with patterns of development noted with respect to such adjacent property;
- To ensure preservation of cultural features, scenic assets and natural features such as trees, streams and topography;
- To provide for coordination of architectural styles internally within the development as well as in relation to adjacent properties along the perimeter of the development; and
- To provide for coordinated linkages among internal buildings and uses, and external connections, at a scale appropriate to the development and adjacent neighborhoods;
- To facilitate access to the development by public transit services or other single-vehicle-alternative services, including, without limitation, public pedestrian systems.

Staff believes this application does NOT meet the aspects of the following objective:

- To promote a variety of housing types, or, within a development containing only a single housing type, to promote the inclusion of houses of various sizes.

Although the proposed PUD application does not directly address the PUD objective noted above, staff believes the housing type proposed presents a unique, urban housing type for the City along a key multi-modal corridor. Additionally, the PUD rezoning proposes a development of higher quality than what would otherwise be required by the strict application of the Downtown Extended (DE) zoning district regulations. The proposed PUD reflects numerous goals and objectives established in the 2013 Comprehensive Plan and staff believes the proposed uses will be compatible and harmonious with surrounding land uses.

Staff recommends approval of the rezoning and proffers as submitted.

Attachments

Application materials.

Suggested Motions:

1. “I move to recommend the approval of this application, including submitted proffers, to rezone the subject property from Downtown Extended Mixed-Use(DE) with Individually Protected Property Overlay to PUD with Individually Protected Property Overlay , on the basis that the proposal would serve the interests of the general public welfare and good zoning practice.”
2. “I move to recommend denial of this application to rezone the subject properties from Downtown Extended Mixed-Use(DE) with Individually Protected Property Overlay to PUD with Individually Protected Property Overlay.”
3. Alternate motion.

**AMENDED AND RESTATED
OPERATING AGREEMENT
OF
CHOCO-CRUZ, LLC**

This shall be the Amended and Restated Operating Agreement of CHOCO-CRUZ, LLC, a Virginia limited liability company (the "Company"), a single member limited liability company, and shall supersede and replace any prior Operating Agreement of the Company. If, at any time, the Company shall have more than one member, this Amended and Restated Operating Agreement shall be amended as appropriate.

1. The sole member of the Company shall be R. Coran Capshaw (the "Member").
2. All powers of the Company shall be exercised by or under the authority of, and the business affairs of the Company shall be managed under the direction of, one or more managers of the Company (each, a "Manager"), any one (1) of whom may act to bind the Company without concurrence of or acknowledgement by any other Manager, except that the Member shall choose the Manager(s).
3. There shall be two Managers, which are River Bend Management, Inc., a Virginia Corporation, and R. Coran Capshaw, either of whom may act.
4. The Member shall appoint such officers and delegate such authority to such officers as it may choose.
5. No Member or Manager shall be obligated to contribute money or assets to the Company.
6. The Company shall not be dissolved upon the death, resignation, retirement, expulsion, or bankruptcy of the Member, but only upon a written resolution of dissolution executed by the Member.
7. This shall be the only Operating Agreement for the Company. There shall be no amendment to this Operating Agreement, no change in the Manager(s), no change in the Member, except, in each case, by a writing signed by the Member.

[Signature page follows.]

WITNESS the signature of the undersigned to this Amended and Restated Operating Agreement of Choco-Cruz, LLC, effective as of December 1, 2012.



R. Coran Capshaw, Sole Member

Water Street Promenade

PUD Application Plan

City of Charlottesville, Virginia



Submitted by:

Riverbend Development, Inc. – Developer

Collins Engineering, Inc. – Civil Engineer

July 23, 2013

Revised January 22, 2014
WATER STREET PROMENADE PUD APPLICATION

Table of Contents

1. Purpose and Intent
2. Land Use
 - a. Existing Conditions
 - b. Proposed Uses & Phasing
3. The Vision for Water Street Promenade
4. General Development Plan
 - a. Development Characteristics & Parking
 - b. Transportation & Access
 - c. Density & Open Space
 - d. Lot Layout Standards
 - e. Grading & Utilities
 - f. Sensitive Areas
 - g. Landscaping
 - h. Architectural Elements
 - i. Signage
 - j. Lighting

List of Figures

1. Existing Zoning Map
2. Existing Conditions – Water Street Promenade
3. Property Plat (Not to Scale)
4. Property Plat (Not to Scale)
5. Property Plat (Not to Scale)
6. Proposed Development Plan Rendering
7. Proposed Transportation Plan
8. Public Streetscape Dimension Exhibit (Not to Scale)
9. Proposed Water Street Promenade Street Perspective
10. Proposed Water Street Promenade Sidewalk Perspective

List of Tables

1. Overall Allowable Density
2. Overall Proposed Density
3. Build-to-Lines (Setbacks) & Maximum Building Heights

Purpose and Intent

The Water Street Promenade property is located adjacent to the CSX railroad at the eastern terminus of Water Street in downtown Charlottesville, Virginia. Riverbend Development, Inc. seeks to rezone TMP 570157A00, a 2.16 acre residue parcel created from the existing development on parcel TMP 570157000. The subject parcel is currently zoned DE – Downtown Extended Corridor Mixed Use. Within this parcel, the existing Coal Tower structure exists within the Architectural Design Control Districts and Individually Protected Properties overlay district. The City of Charlottesville Code of Ordinances requires that properties rezoned to a Planned Unit Development District (PUD) contain land in excess of 2.00 acres. The applicant seeks a PUD rezoning of the Water Street Promenade 2.16 acre property, pursuant to the City Ordinance.

This document and the exhibits herein shall constitute the Water Street Promenade General Development Plan, which is intended to establish a framework of standards for the development while allowing flexibility upon final design. The Development Plan provides regulatory requirements that the applicant acknowledges will require interpretation. It is the goal of Riverbend Development, Inc. to ensure a quality community through rezoning of the property using the standards detailed herein.

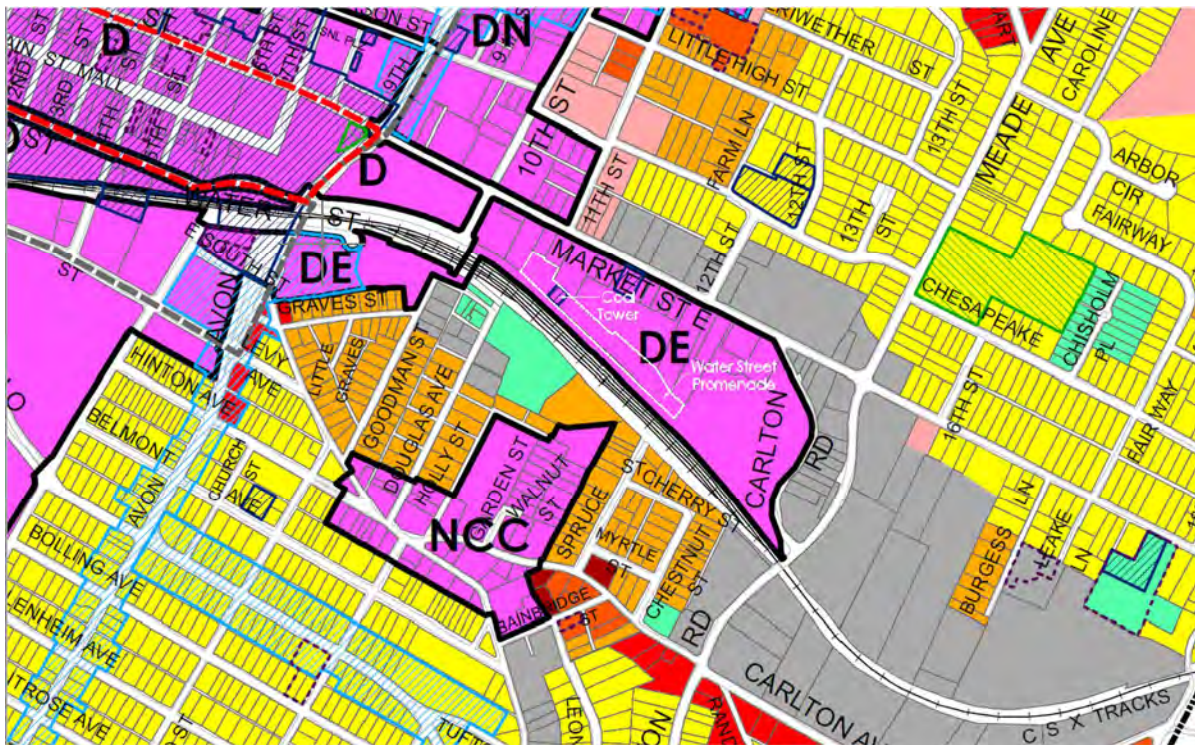


Figure 1: Existing Zoning Map

Land Use

Existing Conditions

The existing Water Street Promenade property consists of a single residue parcel comprising 2.16 acres of land. The project is bordered by the CSX Railroad to the south, commercial properties fronting 10th Street to the west, commercial properties fronting East Market Street to the north, and an apartment development to the east. An existing City sanitary sewer line and City 2'x2' storm box culvert run through the Water Street Promenade property. The lines will be retained with the proposed design.

Development parcel TMP 570157000 originally comprised 10.654 acres of land and included improvements at the southern property line of the Water Street Promenade residue parcel. The approved adjacent apartment project extended the existing terminus of Water Street east to Carlton Road creating a new public right-of-way frontage for the Water Street Promenade project lots. The Water Street extension will provide water and storm sewer, a new 5' concrete sidewalk north of the road, and a new 10' wide multi-use trail to the south of the road connecting the 10th Street intersection to Carlton Road and Meade Street. These improvements create a tremendous opportunity for a new development with walkability and access to downtown Charlottesville within this residue parcel.



Figure 2: Existing Conditions – Water Street Promenade
WATER STREET PROMENADE PUD APPLICATION

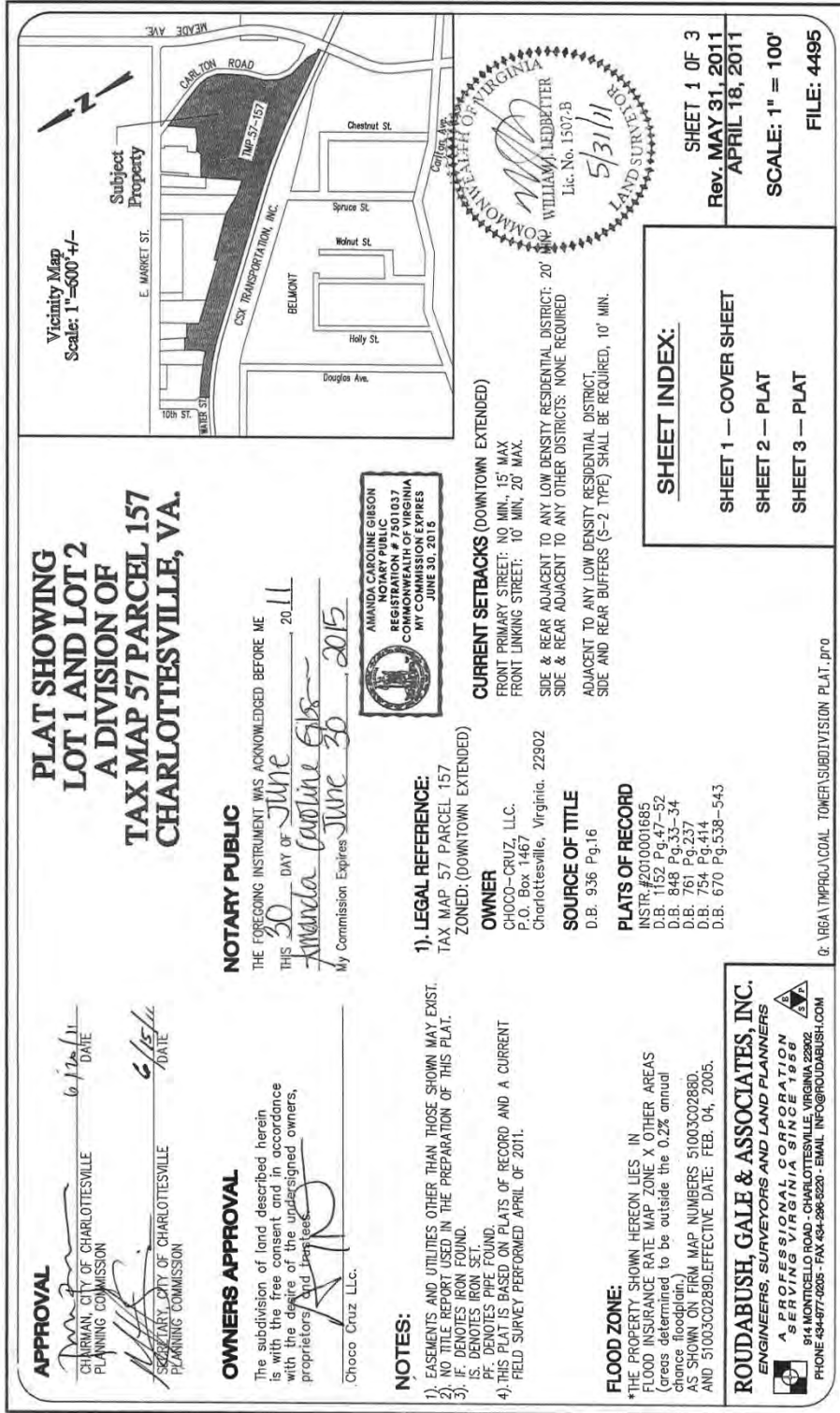


Figure 3: Property Plat (Not to Scale)

WATER STREET PROMENADE PUD APPLICATION

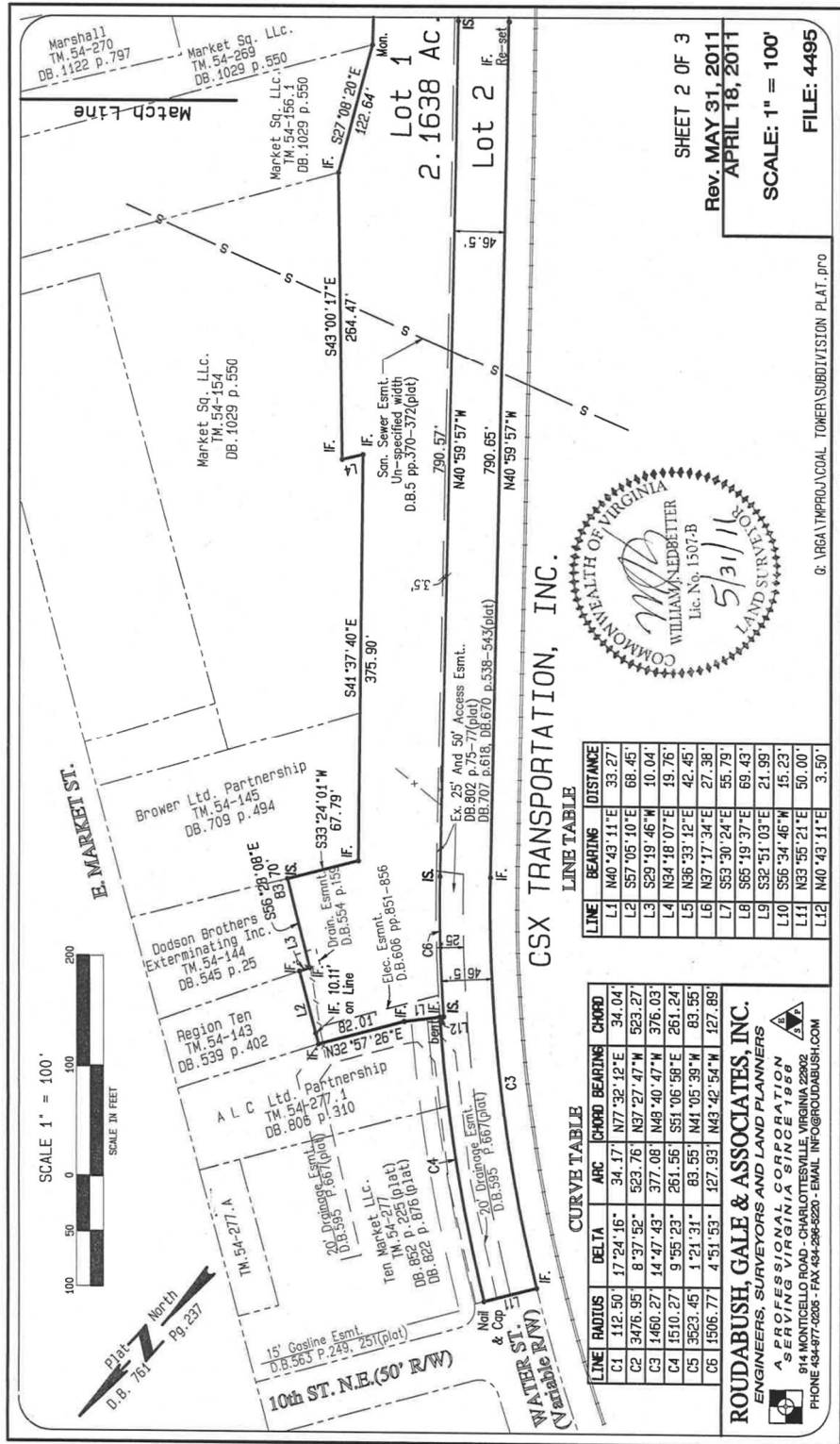


Figure 4: Property Plat (Not to Scale)
 WATER STREET PROMENADE PUD APPLICATION

Proposed Uses, Design & Phasing

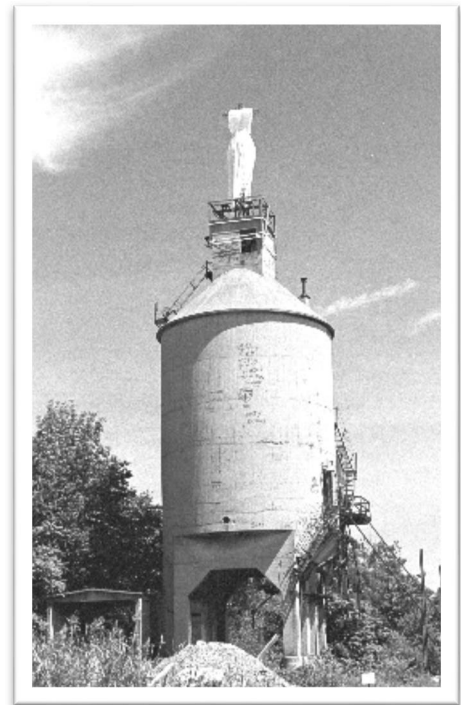
The Water Street Promenade General Development Plan proposes the development and construction of (24) single-family houses, fronting along the newly constructed portion of Water Street, between 10th Street and Carlton Avenue. The construction of these single-family houses will occur in one phase with the development of the site improvements.

The proposed single-family houses will be constructed in accordance to the materials and architectural guidelines as outlined in the PUD application. The houses will be 3-story houses with a basement and garage. The garage will be accessed from the proposed alley in the rear yards of the lots. None of the houses will have a driveway with direct access to Water Street. All the driveways will connect to the proposed alleys for the project.

Landscaping with large shade street trees every 35' on center will line the property along Water Street. The large shade trees will be planted in a minimum of 13'x13' area to allow the trees to reach full growth and caliper. See additional details and information in the landscaping section of the PUD application.

The (19) proposed single-family houses east of the existing Coal Tower shall be constructed along Water Street with a build-to-line of 8' for the house and 0' for the front porches. The front porches shall be positioned to allow room for the large shade street trees along Water Street. The (5) proposed Single Family houses west of the existing Coal Tower will vary in front setbacks to partially open up the viewshed of the existing Coal Tower down Water Street.

The existing Coal Tower is of special historic value to Charlottesville, and the Commonwealth of Virginia. This development proposal is designed protect and preserve the existing Coal Tower individually protected property. The proposed (5) single-family houses have been set back from the street to partially open up the view of the Coal Tower from the streetscape. The Coal Tower shall be preserved within an open space area dedicated to the neighborhood Homeowners Association. The park and the Coal Tower shall be maintained by the HOA. The park around the Coal Tower shall be sodded and landscaped to create an inviting and well-designed public space for use by the community. No benches are intended to be provided in this design. Prior to dedication, a plaque will be erected on the open space to commemorate the historic aspects of the Coal Tower.





DEVELOPMENT PLAN RENDERING
WATER STREET PROMENADE PUD

The Vision for Water Street Promenade

The Water Street Promenade project proposes an urban infill development in an underutilized vacant parcel adjacent to Charlottesville's vibrant downtown city center. The residential component of the project proposed along the Water Street extension is intended to foster a sense of community and connection currently missing between the residences to the west and the Downtown Mall. The buildings shall communicate with the streetscape, and provide an urban, yet residential feel. The building heights, scale, and setbacks shall be harmonious as to height, mass, lot coverage, and setbacks with the existing adjacent uses. The proposed design complements the City of Charlottesville Comprehensive Plan goal to provide a variety of housing types at employment and cultural centers in the downtown district. The Water Street Promenade is a creative usage of a narrow strip or residue land, which shall provide housing and additional tax revenue for the City.

- (1) The development of the Water Street Promenade project as a single family city row home concept is a higher quality product than a strict application of the downtown east zoning ordinance would allow. The existing Downtown Extended Corridor Mixed Use zoning designation on the property does not permit reduced lot widths critical to the communication of the proposed structures with the street. The proposed row homes conform to all the requirements and regulations of the DE zoning district, with the exception of the 50' wide lot requirement.

The purpose of this rezoning is to utilize smaller lots widths to establish the characteristics of this neighborhood with a traditional neighborhood design. This concept is an appropriate design for the narrow and long shape of the residue parcel land. The choice of high quality single-family homes in the city is deliberate. While apartments are located next door and townhomes would be a logical fit for this property, the applicant is pursuing row homes as an urban housing type. The current code makes no allowance for this successful urban housing model, which allows home ownership without shared party walls.

- (2) The Water Street Promenade development row home design shall provide an innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design. The reduced setbacks utilized shall create a street wall of attractive homes and landscaping. Less attractive attributes, such as parking, shall be shifted behind the proposed structures essentially out of view from the street. The building footprints will provide an efficient use of space with garages located within the structures. The concept also respects the existing site environmental conditions, by allowing the City storm box culvert to pass through the site undisturbed without modification to the storm sewer flow patterns.
- (3) The project promotes the inclusion of homes of various sizes. The existing zoning of the subject parcel encourages the construction of a high rise structure to utilize

this narrow strip of land. The 24 single-family homes proposed in this PUD shall vary in form and finishes to provide diversity and visual interest, while remaining clustered in an efficient use of the available land.

- (4) The PUD zoning will allow and encourage the clustering of single-family dwellings along Water Street for a more efficient use of land and provides the ability to preserve open space. By siting the homes more closely together, the Water Street Promenade property allows for an open space buffer at the Coal Tower.
- (5) The Water Street Promenade PUD will allow the Water Street frontage to function as a cohesive, unified project from a pedestrian perspective at the street. The city row home concept will provide continuity between the single family units, and the reduced side setbacks will make it apparent that this is a unified block.
- (6) The Water Street Promenade project will be harmonious with the existing uses and character of the adjacent properties. The proposed single-family units will provide an urban transition from the downtown commercial zone to the adjacent apartment high rises. The active use of the street frontage along Water Street will complete a missing link between the Downtown Mall area and the apartments beyond.
- (7) The proposed Water Street Promenade development shall enhance and respect the existing site resources. The Coal Tower protected historic property shall be preserved and incorporated into open space dedicated to the Homeowners Association. This cultural feature will be available for the community to enjoy and explore.
- (8) The project shall provide for coordination of architectural styles internally within the development, as well as in relation to adjacent properties. The single family row homes shall exhibit a cohesive, unified architectural design that coordinates with the downtown commercial buildings to the west, and the apartment project to the east.
- (9) The project will provide for coordinated linkages among the internal uses, and provide external connections to the adjacent neighborhoods. The Water Street adjacent sidewalk provides a street connection to each single-family building front, while the vehicular alley shall provide access for each unit at the rear. Sidewalk connections will be provided through the development from Water Street.
- (10) The Water Street Promenade PUD shall facilitate access to the development via public transit and public pedestrian systems. The extension of Water Street shall provide a vehicular connection from 10th Street to Carlton Road and beyond. A sidewalk shall parallel Water Street to the north, and a ten-foot wide pedestrian trail shall parallel Water Street, providing access to the Charlottesville Downtown Transit Station and beyond.

General Development Plan

Development Characteristics & Parking

The proposed development plan shall include 24 residential single-family units. The units will front on Water Street, but no unit will have a driveway connection directly onto Water Street. All driveways for the proposed units shall access the proposed alley way in the rear yards of the residential lots. Two parking spaces will be provided for each residential unit in the garage and driveway, and a minimum of one additional guest space will be provided for each unit off of the alleyway. The building heights and lot requirements are listed in the lot layout standards. There will also be street trees and other landscaping features along Water Street as described in the landscaping section of the PUD application plan.

The developer has elected to provide a cash contribution to the city's affordable housing fund in lieu of providing affordable housing on the site. See the proffers proposed with the project.

Transportation & Access

Access to the parcel will be provided with the Water Street extension. All lots will have access to Water Street through the connection to the private alley in the rear yards of the lots. The Charlottesville Downtown Transit Station is located a few hundred feet from the western-most portion of the property, and provides access to the Charlottesville Area Transit (CAT) free trolley and nearly every City bus line. Convenient access to the Charlottesville public transportation hub will reduce private, vehicular traffic and encourage public transportation use.

Pedestrian and bike access will be provided with the trail and sidewalk to be installed with the Water Street extension. These pathways provide tie-in connections between Water Street at 10th Street, and Carlton Road.

Density & Open Space

The proposed site density is calculated from the total project maximums of the original parcel occupied by the City Walk project. The original parcel comprised 10.654 acres, of which 2.04 acres were reserved for the Water Street extension right-of-way. The remaining development area was 8.61 acres. The by-right Downtown East zoning allows 43 DUA for a total of 370 total allowable dwelling units on the site. The City Walk project reserved 301 of these units with its development; hence the remaining density available for the Water Street Promenade is 69 dwelling units.

The Water Street Promenade PUD proposes only 24 single-family units. The applicant has chosen a city row house concept in lieu of a high density apartment or condominium concept over the entire parcel to create cohesion within the existing neighborhood. The proposed density on the 2.16 acre parcel shall be approximately 11 du/acre.

Overall Available Density (By-Right 43 DUA)			
	Area	DU	
Total Project Area	10.65		
Right-of-way	2.04		
Remaining Dev. Area	8.61	370	
City Walk	6.45	301	
Water St. Promenade Remaining Density	2.16	69	
Overall Proposed Density			
	Area	Min DU	Max DU
City Walk	6.45	301	301
ROW	2.04	-	-
Water St. Promenade	2.16	19	24
Total	10.654	320	325
Min DUA	37.0	(320/8.62)	
Max DUA	38.0	(325/8.62)	

The proposed Water Street Promenade project shall incorporate a minimum of 15% open space in the proposed development plan. Currently, there is approximately 0.346 acres of open space proposed with the development plan, providing 16.0% open space over 2.16 acres. The open space areas are shown as Open Space A, B, and C on the development plan on page 9 of the PUD application. Passive recreation and landscaping is proposed in the open spaces provided within the limits of the project. A protective open space totaling a minimum of 0.169 acre shall be established around the existing Coal Tower. All open space along with the amenities within the open space areas, shall be dedicated to the Homeowners Association and shall be owned and maintained by the Homeowners Association. The open space around the Coal Tower will be provided to protect the existing Coal Tower historic resource, provide an amenity space to the

neighborhood for passive recreation, and provide access to the Coal Tower from Water Street.

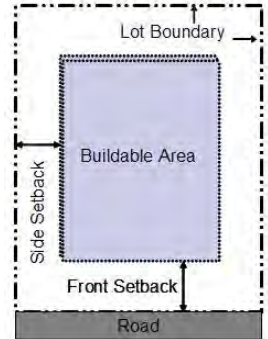
Lot Layout Standards

The lot layout standards for the Water Street Promenade development are intended to create an inviting atmosphere for pedestrians. Minimal setbacks and inviting building facades will be used to create attractive streetscapes and foster a sense of community. Lots shall front the Water Street right-of-way and planting strip. The front setback will be the build-to-line. The construction of all single-family units shall abide by applicable fire rating requirements for the minimized side setbacks incorporated in the plan. The minimum lot width allowed shall be 30 feet, measured at right of way.

Build-to-Lines (Setbacks) & Maximum Building Heights					
Structure	Front	Side	Rear	Min. Height	Max. Height
Single Family (East of Coal Tower)	0'	3'	5'*	35'	50'
Single Family (West of Coal Tower)	0'-20'	0'	0'	35'	80'

*Single Family rear setback measured from alley edge of pavement.

Note: Extensions into any setbacks for eaves, architectural features, and porches are permitted up to 4'. Building heights shall be measured from the main entry at street level. Basements and attics shall be allowed, but not considered towards total height. Buildings shall not exceed four (4) stories.



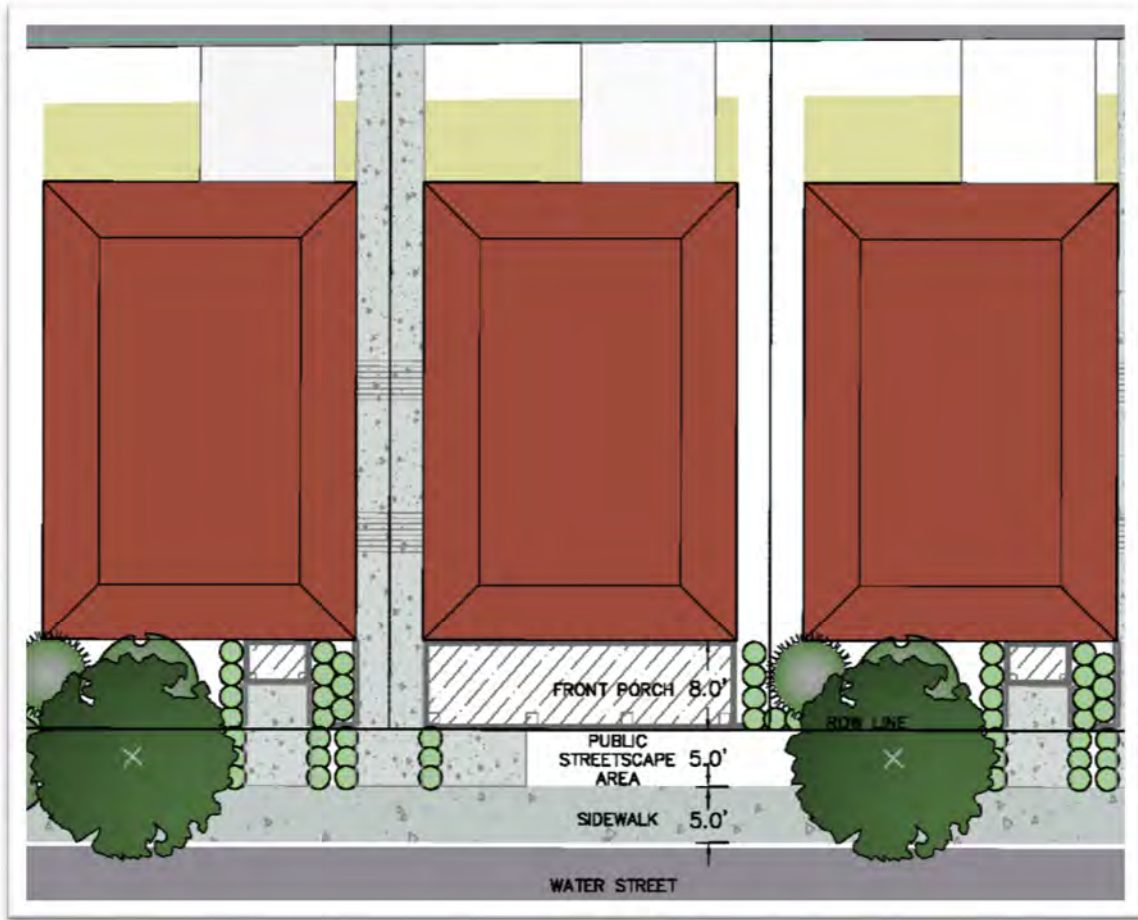


Figure 8: Public Streetscape Dimension Exhibit (Not to Scale)



Figure 9: Proposed Water Street Promenade Street Perspective

Grading & Utilities

The proposed grading in the Water Street Promenade development is permitted to reach 2:1 grades. Any slopes steeper than 3:1 grading will be covered with blanket matting or other low maintenance ground covering. These areas shall not be planted with grass cover for stabilization, and shall adhere to the specifications for ground covering in the Virginia Erosion and Sediment Control Handbook. The grading as shown on the Grading, Utility, and SWM Plan shall include retaining walls for alleys, open space, and lot grading to achieve desired elevations. Wall heights from ground level to top of wall shall not exceed 25'-30'.

No critical slopes exist on the subject property per the City of Charlottesville Code of Development Section 34-1120 (b).

The proposed development plan shall connect to the existing public utilities on site. The Water Street extension shall provide connection for all required water and fire line laterals. The existing City sanitary sewer line running through the site shall be tapped with a manhole, and new sanitary sewer and laterals shall run along the proposed alley behind the single family units.

Sensitive Areas

There exists no land within a floodway or floodway fringe, or wetlands within the subject parcel. The site survey revealed a discontinuity in the existing City storm sewer piping running through the site at the end of the 2'x2' box culvert near the northern boundary of the project site. The proposed development shall investigate the connection point and install additional storm sewer piping as needed to reestablish this connection.

Landscaping

The landscaping in the Water Street Promenade development shall be concentrated between the proposed single family units and Water Street. Attractive trees and shrubs shall be planted to enhance the proposed streetscape. Large shade street trees shall be planted within the limits of the property along Water Street at a maximum distance of 35' on center. These large street trees shall have an open planting space of 13' x 13' minimum to allow for the trees for fully develop and achieve maximum canopy size. The development plan shall include the required open space and landscaping of the front yards and lots as required per the City of Charlottesville Code of Ordinances, Chapter 34, Article VIII, Division 2 – Landscaping and Screening.

All proposed landscaping shall be provided using materials permitted in the city code ordinance and the city's list of approved plantings. Landscaping shall be designed to enhance the recreational and aesthetic value of the site and provide a continuous buffer of vegetation along the Water Street frontage from 10th Street to Carlton Road. All landscaping within the public streetscape areas and open space shall be maintained by the Homeowners Association for the development.



Figure 10: Proposed Water Street Promenade Sidewalk Perspective
WATER STREET PROMENADE PUD APPLICATION

Architectural Elements

The proposed Single Family houses in the development will be subject to review and approval from the developer's Architectural Review board, which will comprise of at least one professional Architect. There will also be Architectural standards and guidelines for the houses that will govern the design elements, features, materials, and changes to the houses in the development. These guidelines will be established by the developer and their architectural review board. The board will be in charge of ensuring these standards are followed, until such time that the control of the review board is given to the Home Owner's association for the development. At that time, the HOA will be in charge of the Architectural review of any final homes being built in the development, and any changes to the existing houses or exterior features.

The guidelines for the Architecture of the houses will follow an urban downtown Row House design. Materials will include brick, stone, and hardi-plank siding. Front porches will extend from the house into the front yard with steps down to the front sidewalk. Roofs will be metal roofs, Architectural shingled roofs, or flat rubber membrane roofs with a balcony area on top of the house. Front porches may extend to the second and third levels of the houses. Windows will be vinyl architectural windows. Shudders, if installed on the houses, will be operable shutters. Wood and metal railings will be used for the porches.

Signage

The signage regulations established in the City Zoning Ordinance shall govern all signage within the Water Street Promenade PUD.

Lighting

The lighting and dark sky regulations established in the City Zoning Ordinance shall govern all lighting within the Water Street Promenade PUD. Each of the 24 proposed single-family units shall have a front post lamp and porch lighting, which will also provide lighting along the sidewalks adjacent to Water Street. These front post lamps and porch lights will meet the city lighting regulations.

ORDINANCE

APPROVING A REZONING OF PROPERTY IDENTIFIED ON CITY TAX MAP 57 AS PARCEL 157A, FROM THE DOWNTOWN EXTENDED MIXED USE DISTRICT (“DE”) WITH PARTIAL HISTORIC OVERLAY, TO THE PLANNED UNIT DEVELOPMENT (“PUD”) DISTRICT, WITH PARTIAL HISTORIC OVERLAY SUBJECT TO PROFFERED DEVELOPMENT CONDITIONS (“WATER STREET PROMENADE PUD”)

WHEREAS, Riverbend Development, Inc. (“Applicant”) has made application for a zoning map amendment, with respect to certain property consisting of approximately 2.1 acres of land, identified as City Tax Map 57 Parcel 157A, currently located within the Downtown Extended (DE) mixed use zoning district, including an area of approximately 4,900 square feet (approximately 0.1 acre) containing an historic coal tower, which was previously designated by city council as an individually protected historic property by ordinance approved September 15, 2008 and as a result is subject to historic overlay (the “Subject Property”); and

WHEREAS, the Applicant has submitted an application seeking a rezoning of the Subject Property to the PUD zoning district (continuing the historic overlay for the coal tower site) subject to the contents of a proposed PUD Development Plan and two proffered development conditions described within a final proffer statement submitted by the Applicant, all part of written application number ZM-13-07-11 (“Water Street Promenade PUD”); and

WHEREAS, this Council finds and determines that, the open space proposed for the Water Street Promenade PUD consists of approximately 16% of the gross area of the development site, inclusive of the coal tower site, and approximately 10.7% of the development site, excluding the coal tower site; it is the determination of Council that the proposed PUD Development Plan, through creative design, and in light of the nature and extent of active recreational facilities provided, will best serve the overall objectives of Chapter 34, Article V (PUD Districts) of the City Code, with the open space provided as shown, whether or not the area of the coal tower site is included in the calculation; and

WHEREAS, this Council finds and determines that in its other aspects, the proposed PUD Development conforms to the criteria and requirements set forth within Chapter 34, Article V of the City Code; and

WHEREAS, following a joint public hearing before this Council and the Planning Commission, duly advertised and held on January 14, 2014, the Planning Commission transmitted its recommendation for approval of this application, and this Council finds and determines that approval of the proposed rezoning, and acceptance of the proffered development conditions, would serve the interests of the public necessity, convenience, general welfare or good zoning practice; and

WHEREAS, Council further finds and determines that the proposed rezoning, and acceptance of the proffered development conditions, is consistent with the City’s adopted Comprehensive Plan; NOW THEREFORE,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Zoning District Map Incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, be and hereby is amended and reenacted as follows:

Section 34-1. Zoning District Map. Rezoning from DE(H) to PUD(H) subject to the PUD Development Plan and to the final proffered development conditions included as part of ZM-13-07-11, all of the property identified on City Tax Map 57 as Parcel 157A, consisting of approximately 2.1 acres (inclusive of the 4,900 square foot area comprising the historic coal tower site).

Water Street Promenade

BEFORE THE CITY COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
IN RE: PETITION FOR REZONING (City Application No. _____)
STATEMENT OF FINAL PROFFER CONDITIONS
For the WATER STREET PROMENADE PUD
Dated as of January 28, 2014

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF THE CITY OF CHARLOTTESVILLE:

The undersigned is the owner of land identified as City of Charlottesville tax map parcel 570157A00, containing 2.16 acres, which is subject to the above-referenced rezoning petition (the "Subject Property"). The Owner/Applicant seeks to amend the current zoning of the Subject Property subject to certain voluntary development conditions set forth below. In connection with this rezoning application, the Owner/Applicant seeks approval of a PUD as set forth within a PUD Development Plan entitled "Water Street Promenade PUD Application Plan" dated January 22, 2014 (the "PUD Development Plan").

The Owner/Applicant hereby proffers and agrees that if the Subject Property is rezoned as requested, the rezoning will be subject to, and the Owner will abide by, the approved PUD Development Plan as well as the following conditions:

1. The owner/applicant shall hereby make a cash contribution of One Hundred Thousand Dollars (\$100,000.00) to the City's affordable housing fund (the "Affordable Housing Contribution"). One twenty-fourth (1/24th) of the Affordable Housing Contribution shall be paid to the City simultaneously with payment of the fee(s) for issuance of a building permit, for each of the first twenty-four (24) dwelling units to be constructed on the Subject Property.

WHEREFORE, the undersigned Owner stipulates and agrees that the use and development of the Subject Property shall be in conformity with the conditions hereinabove stated, and requests that the Subject Property be rezoned as requested, in accordance with the Zoning Ordinance of the City of Charlottesville.

Respectfully submitted this 28th day of January, 2014.

By: Alan Taylor

Print Name: Alan Taylor
Owner

Owner's Address: 321 E. Main
Charlottesville, VA 22902

By: Alan Taylor

Print Name: Alan Taylor
Applicant

Applicant's Address: 321 E. Main
Charlottesville, VA 22902

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date: February 18, 2014

Action Required: Approval of Resolution

Presenter: James E. Tolbert, AICP, Director of NDS

Staff Contacts: James E. Tolbert, AICP, Director of NDS

Title: **Blight Determination/Correction for 201 East Water Street**

Background: On September 10, 2013 NDS Director Jim Tolbert made a preliminary determination that 201 East Water Street met the criteria for a blighted property. In accordance with City Code Sec. 5-193, the property owner was given 30 days to present a plan to cure the blight. The owner instead sent a letter to Mayor Huja that was not responsive to the blight determination.

Discussion: At the request of the Director, and following public notice as required by Sec. 5-194 of the City Code, the Planning Commission conducted a public hearing on this matter on January 14, 2014. In addition, the Planning Commission considered the attached report from the Director, and then made findings and recommendations, including a finding that 201 East Water Street is a blighted property. The Planning Commission's other findings and recommendations are set forth below within this Memorandum, and this Memorandum shall serve as the Commission's report to City Council.

Upon receipt of the Planning Commission's findings and recommendations, City Council may, after an advertised public hearing, affirm, modify or reject the Commission's findings and recommendations. Council may, by ordinance, declare the property as blighted, and approve a final blight abatement plan for the repair or other disposition of the property. If the owner fails to make the repairs and improvements required by the approved abatement plan, the City may carry out the approved plan and shall have a lien on the property to recover the cost of improvements made by the City to bring the blighted property into compliance with applicable building codes or disposal, if any.

Alignment with City Council Vision and Priority Area: Approval of this blight determination will align with City Council vision to be:

- A City with Economic Sustainability
- Smart Citizen Focused Government

Budgetary Impact: The impact to the budget cannot be determined at this time.

Community Engagement: There was a public hearing on this item at the Joint City Council/Planning Commission meeting on January 14, 2014.

Recommendation: The Planning Commission voted to find that the property constitutes a blighted property, and voted to approve the following recommendations set forth within the Director's proposed blight abatement plan.

- a. Rebuild the green perimeter fence, at a height of 10 feet using the attached specifications.
- b. Install additional fencing around the staircase to prevent access to upper floors.
- c. Install additional fencing around the second floor of the building, to prevent access gained from an adjacent building.
- d. Install security cameras with recording capability, so that there can be a record of any person entering the property.
- e. Request a written designation from the Owner, authorizing police officers to enter upon the property and giving the police department authorization to enforce trespass violations on behalf of the owner.
- f. Engage a contractor to enter the property and remove the graffiti.
- g. Secure any loose building materials throughout the building.

Additional Recommendations:

The Commission also approved a second motion initiated by Ms. Sienitsky, recommending, in addition to items (a) through (g), above, that **(1)** an evaluation of the historic portion of the building be completed, to determine the structural integrity of the historic portion and to determine what measures may be necessary to protect the historic portion; and **(2)** that measures be implemented to weatherize the entire building, such weatherization to be completed within 30 days.

The Commission approved another motion initiated by Mr. Keesecker, recommending

a longer term remediation plan for the site, as follows: requiring the owner to obtain a professional evaluation of the entire structure, including the historic portion, and provide to the City ongoing reports prepared by a Virginia licensed professional, of the structural condition of the entire building. The first report shall be provided within 90 days. Following that initial report, an updated report shall be submitted to the City every four months. Upon finding of a structural concern, the report would be scheduled for review at a commission meeting. Each structural report received by the City will be forwarded to the Planning Commission regularly, upon receipt.

Alternative: By separate memo (attached) the City Attorney's office has expressed reservations about the scope of the two Additional Recommendations approved by the Planning Commission, after reviewing the legal implications further following the Planning Commission's hearing. As a result, I offer the following for Council's consideration:

- That the owner be requested to engage a contractor to complete an evaluation of the structural integrity of the structure, such evaluation to be performed by a structural engineer, licensed in the Commonwealth of Virginia, who is not an employee of the owner, and that the owner transmit a written report of the completed evaluation to the Director within 90 days of Council's adoption of an ordinance declaring the property to be a "blighted property." The evaluation must analyze the condition of the building, including the historic part of the building (the marble former bank building) and must identify measures necessary to protect the integrity and life of the historic portion, as well as to render the building a safe structure in accordance with the requirements of Virginia's USBC. Thereafter, the owner will be required to implement the recommended protective measures identified within the report within 120 days of the Director's receipt of that report.
- Additionally, staff will visually monitor conditions at the site and make reports to the Planning Commission and City Council at four month intervals.

Attachments: Planning Commission Staff Report Package; City Attorney Memo Resolution

CITY OF CHARLOTTESVILLE
"A World Class City"

Department of Neighborhood Development Services



City Hall • P.O. Box 911
Charlottesville, Virginia 22902
Telephone 434-970-3182
Fax 434-970-3359
www.charlottesville.org

January 7, 2014

Mr. John K. Dewberry
Dewberry Capital
One Peachtree Pointe
1545 Peachtree Street
Suite 250
Atlanta, GA 30309

RE: 201 East Water Street

Dear Mr. Dewberry:

I received your letter to Mayor Huja and City Council members regarding your property at 201 East Water Street in Charlottesville. I do not consider this letter a response to my letter of September 10, 2013 regarding your blighted property, because it did not contain a plan to remedy the blight.

As such, this issue will be before the Charlottesville Planning Commission on January 14, 2014 for the Planning Commission to make a recommendation to the City Council as to whether the property is a blighted property, and if so, what is an appropriate plan to remedy the blight. Attached is a copy of the staff report that will be presented to the Commission.

Sincerely,

James E. Tolbert, AICP
Director

JET:sdp

Attachment

CITY OF CHARLOTTESVILLE
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
STAFF REPORT



**REQUEST FOR APPROVAL OF
SPOT BLIGHT ABATEMENT PLAN**

PLANNING COMMISSION REGULAR MEETING
DATE OF PLANNING COMMISSION MEETING: January 14, 2014

Author of Staff Report: Jim Tolbert, AICP
Date of Staff Report: January 6, 2014
Property Address: 201 East Water Street
Tax map parcel: 280031000
Property Owner: Dewberry Capital
One Peachtree Pointe
1545 Peachtree Street, Suite 250
Atlanta, GA 30309

Zoning: DC (Downtown Corridor)

Applicable City Code Provisions: City Code Division 5 Sec. 191 (Purpose), Sec. 5-192 (Definition), Sec. 5-193 (Administrative determination of blight), Sec. 5-194 (Planning Commission hearing), Sec. 5-195 (report of Planning Commission), Sec. 5-196 (City Council hearing), Sec. 5-197 (Recovery of costs).

Tax Status: There is no debt on this property. Taxes are current to date.

Background

This proposed spot blight abatement concerns a building on which construction was initiated in 2007 and stopped in 2009. When construction stopped, staff requested the owner and/or the bank holding the loan to secure the building. That work, consisting of an eight foot board fence on three sides of the site and boarding of the stair well, was completed by the bank. Over the three years since that work was completed, the City has repaired the fence when it has been damaged by vandals. However, earlier this year, representatives of Dewberry Capital made it clear to the staff that they did not want staff or others to access the building.

On September 10, 2013, a preliminary determination that the above-referenced property is a "blighted property" was made pursuant to City Code Section 5-193, and the owner of the property was notified (Attachment 1).

On October 28, 2013, I received a copy of a letter from Mr. John K. Dewberry of Dewberry Capital addressed to Mayor Huja and the City Council (Attachment 2). This letter may have been intended to be a response to the September blight finding letter but it is mostly unresponsive to the requirements of that letter. An earlier conversation with Mr. Dewberry and the Chief Deputy City

Attorney and the Director of Neighborhood Development Services also failed to identify a plan to abate the blighting conditions.

At this time, pursuant to City Code §5-193, the Planning Commission is asked to conduct a public hearing and make findings and recommendations concerning the repair or other disposition of this property. Following a public hearing, the Planning Commission will be required to make specific findings and recommendations to City Council. The remaining portion of this report sets forth analysis and pertinent factual information, as it relates to the matters on which the Commission is required to make findings.

Findings Required of the Planning Commission

(1) **Is this a Blighted Property?** City Code §5-192 defines a blighted property as follows:

“any property with buildings or improvements which, by reason of dilapidation, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these or other factors, are detrimental to the safety, health, or welfare of the community.”

See Attachment 1, in which I described to the Owner my determination that the condition of the property fits this definition of a blighted property.

The presence of graffiti on upper floors of the building is evidence that the property has not effectively been secured against entry by the public. There is some evidence that, on at least one occasion, one or more individuals set up a board from an adjacent property and walked across (above the fencing) onto this property. Once individuals gain access to the property, they are at risk of injury on this unfinished construction site, and present a safety risk to other persons either by falling themselves, or by dropping or causing items to fall from an upper story onto the mall, sidewalk or right-of-way areas below. One issue is that the fence is not high enough, and a wooden/board fence is easily damaged. Since the construction of the property was abandoned, the City has repaired the fencing on a number of occasions using our property maintenance contractor. These dates are shown below:

5/28/2010	Board Property
9/27/2010	Board Property
2/23/2011	Board Property
5/25/2011	Board Property
8/18/2011	Board Property
12/6/2011	Board Property
3/6/2012	Board Property
6/14/2012	Board Property*
4/2/2013	Board Property*

*only the last two instances have been since Mr. Dewberry acquired the property, but they point to the concern that this new owner, just the same as the last owner, either

does not take an interest in the maintenance and safety of the property, or does not have the financial ability to either maintain it or to proceed with construction.

In addition to the security issues there is graffiti visible in several locations from the Water, Main and 2nd Street right-of-way. According to the City Code Section 5-146, the City is authorized to remove such graffiti.

(2) Has the owner, after reasonable notice, failed to cure the blight, or to present a reasonable plan to do so?

The owner did not cure the violation nor did he present a reasonable plan to cure the blight after notice was given. The determination of Blighted Property notice was mailed on September 10, 2013. The Director of Neighborhood Development Services and the Chief Deputy City Attorney had a phone call with the owner on October 7, 2013 during which the owner indicated that he would send a letter in response the next week. He indicated that the letter would address the blight issues. To date, the only correspondence we have received has been the October 21, 2013 letter addressed to Mayor Huja and the City Council which does not present a plan to cure the blight.

(3) Is this property currently occupied for residential purpose? What is/are the other current land uses? This project was started as a hotel but was not completed. As a vacant building it could become any permitted use in the zoning district.

(4) Has this property been condemned for human habitation? What is the status of any outstanding Building Code Violations? Because the building was not completed it was never granted a Certificate of Occupancy. It has not been inspected for building code compliance since the project was not completed.

(5) Is the Director's plan reasonable, and is it in accordance with the requirements of the City's comprehensive plan, zoning ordinance, and other applicable City ordinances or regulations? The Plan is to either securely fence the building to prevent unauthorized access or to demolish the structure. Both actions are consistent with the City Comprehensive Plan and other ordinances.

(6) Is this property listed on the National Register, or locally designated a protected property? This property is not listed on the National Register of Historic Properties, nor is it a locally designated protected property. It is located within a design control district and the design did receive a Certificate of Appropriateness for the design.

Recommendation:

It is the staff's opinion that any further attempt to elicit the property owner's cooperation and follow-through with a plan for the repair and rehabilitation of this property would be futile because he has not made a commitment for abatement of the blighted conditions of this property. In light of these circumstances, I recommend:

Option 1:

- a. Rebuild the green perimeter fence, at a height of 10 feet using the attached specifications.
- b. Install additional fencing around the staircase to prevent access to upper floors.
- c. Install additional fencing around the second floor of the building, to prevent access gained from an adjacent building.
- d. Install security cameras with recording capability, so that there can be a record of any persons entering the property.
- e. Obtain a written designation from the Owner, authorizing police officers to enter upon the property and giving the police department authorization to enforce trespass violations on behalf of the owner.
- f. Engage a contractor on behalf of the City, and authorize the contractor to enter the property and remove the graffiti, following the process referenced in City Code 5-146(e).
- g. Secure any loose building materials throughout the building.

Option 2: Demolish the partially-constructed building.

Suggested Motions:

I move to approve the attached resolution, and to transmit our findings and recommendations to City Council.

Or

I move to recommend that 201 East Water Street is not a blighted property, because we are unable to make specific findings as the matters referenced in Section 5-195 of the City Code.

Attachments

- 1) Notice of Blight – September 10, 2013
- 2) Owner’s letter dated October 21, 2013
- 3) City’s response dated November 14, 2013.
- 4) Tax Payer Information Sheet
- 5) Proposed Resolution



DEWBERRY
CAPITAL

October 21, 2013

The Honorable Satyendra Huja, Mayor of Charlottesville
1502 Holly Road
Charlottesville, Virginia 22901

Council Members
City Hall
P.O. Box 911
Charlottesville, Virginia 22902

Re: 201 East Water Street

Dear Mayor Huja, Council Members, and other distinguished public servants,

We have not had the privilege of meeting but certainly hope to do so in the near future.

I visited Dewberry Capital's Charlottesville hotel property on both the morning and late evening of October 11th and between 5-6:30am on October 12th. The property is secured with a padlock and there is no evidence of physical breach of the eight (8) foot fence surrounding the site.

I am certain, if one is desirous, one can scale the wooden wall and climb onto the property. Just as I am certain, if one is desirous, one can enter each of your homes. Also, I am certain many have been the victim of what is known as "rolling a yard." This is when you wake up Saturday morning to a front yard draped in toilet paper.

I can never remember a property owner being held responsible for these acts of trespassing and vandalism. The perpetrator of these petty crimes is sought, not the owner of the property.

I can no more control a graffiti artist from climbing the fence at my property than you can a bunch of teenagers head strong to "roll" your home, trees, and yard. As one of Charlottesville's finest told me as I stood in the rain last week, "Mr. Dewberry, the 8' fence is padlocked. That says stay out! You have done your job."

I can suggest one solution we have used to deter birds from soiling our class A office buildings, "pigeon wire". This could be installed on top of the fence. We have attached a picture for your convenience. Once again, birds are not strong enough to pull this down but a graffiti artist is certainly capable.

Furthermore, while I was buying coffee for three of Charlottesville's disadvantaged on the walking mall at 5:30 in the morning, I queried them on whom the best local graffiti artists were. None of them knew who I was or why I was asking, but were quick to say they were not, and were also quick to point out that the city has provided a wall for them under the bridge by the train station. That seems odd to me. Charlottesville provides a graffiti wall for graffiti artists but wants to prosecute me for graffiti trespassers? Hmmm.

Folks, I am much more frustrated than you. None of you have spent \$7mm (and climbing) on this asset. When I purchased this property, I said I would not develop it until I begin construction of The Dewberry Hotel in Charleston, S.C. The financing for the Charleston hotel has not come through yet, and therefore, we have not started that project yet. I am told a loan proposal is forthcoming and hope to begin construction in Charleston by February 1, 2014. Once we do, we will begin design on Charlottesville.

Respectfully,



John K. Dewberry

Cc: Kristin Szakos, Vice Mayor of Charlottesville
Kathy Galvin, City Council Member of Charlottesville
Dave Norris, City Council Member of Charlottesville
Dede Smith, City Council Member of Charlottesville
James Tolbert,
Director, Department of Neighborhood Development Services
Lisa Robertson, Chief Deputy City Attorney
Mary Joy Scala, Preservation and Design Planner
Patricia Carrington, Property Maintenance Official
Robert Highsmith, Holland & Knight Executive Partner

CITY OF CHARLOTTESVILLE
"A World Class City"



Department of Neighborhood Development Services

City Hall • P.O. Box 911
Charlottesville, Virginia 22902
Telephone 434-970-3182
Fax 434-970-3359
www.charlottesville.org

September 10, 2013

**NOTICE: DETERMINATION OF BLIGHTED
PROPERTY PER CITY CODE §54-193**

Dewberry Capital
Attention: Sally Brakebill
One Peachtree Pointe
1545 Peachtree Street, Suite 250
Atlanta, GA 30309

RE: 201 East Water Street - TMP 28-31 – NOTICE of Preliminary blight determination

Dear Ms. Brakebill:

Our records show that you represent Dewberry Capital, of the above referenced property. Pursuant to the authority granted to me within the Charlottesville City Code, Chapter 5, Article 5, Division 54, the purpose of this letter is to notify Dewberry Capital that I have preliminarily determined that this property constitutes a *blighted property*, as defined within §5-192(a) of the City Code.

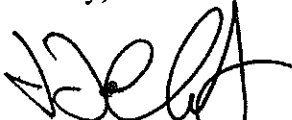
This determination is based on the following factors and circumstances. The property has been vacant for many years. It appears to be in a deteriorating condition and continues to be an eyesore on our historic downtown mall. The security fence around the site is often breached and individuals are able to enter the property, which due to its state of incomplete construction, presents unsafe and unsanitary conditions, including lack of light and sanitary facilities for the persons who are entering and using the premises. There is graffiti painted on inside and outside walls. By reason of the building's dilapidation and deleterious land use, the property has become detrimental to the safety, health and welfare of the community.

PLEASE TAKE NOTICE that you have at least thirty (30) days from this Notice to contact us and to respond with a plan of action that will cure the blight. At a minimum, the plan must address the following: compliance with applicable provisions of the Virginia Uniform Statewide Building Code, including its Building Maintenance requirements; a detailed plan and time frame in which construction of the building will be completed; and a report on the structural integrity of the building, prepared by licensed professional. Any repair or security plan is subject to review by the Board of Architectural Review.

If you fail to respond to us on or before October 15, 2013 with an acceptable plan to cure the blight, then this matter will be referred to the Charlottesville Planning Commission for a public hearing and for the Planning Commission to make findings and recommendations concerning the repair or other disposition of the property. Attached is a copy of the City Code provisions (Spot Blight Abatement) under which a disposition may be achieved.

It is important that you immediately contact me at 434-970-3182 or Patricia Carrington, the Property Maintenance Official for the City of Charlottesville at 434-970-3081.

Sincerely,



James E. Tolbert, AICP

Director, City of Charlottesville Department of Neighborhood Development Services

JET:sdp

Attachment

cc: Lisa Robertson, Chief Deputy City Attorney
Mary Joy Scala, Preservation and Design Planner
Patricia Carrington, Property Maintenance Official

Charlottesville, Virginia, Code of Ordinances >> - CODE >> Chapter 5 - BUILDING REGULATIONS;
PROPERTY MAINTENANCE >> ARTICLE V. - BLIGHTED PROPERTY >> DIVISION 5. SPOT BLIGHT
ABATEMENT >>

DIVISION 5. SPOT BLIGHT ABATEMENT

Sec. 5-191. Purpose.

Sec. 5-192. Definition(s).

Sec. 5-193. Administrative determination of blight.

Sec. 5-194. Planning commission hearing.

Sec. 5-195. Report of planning commission.

Sec. 5-196. City council hearing.

Sec. 5-197. Recovery of costs.

Sec. 5-198. Alternate remedies available to city.

Sec. 5-191. Purpose.

The purpose of this division is to set forth the powers of the city and procedures for the acquisition or repair of blighted property, as defined herein, which are located within the city.

(7-16-01(1), § 2)

Sec. 5-192. Definition(s).

For the purposes of this division the following terms shall have the meanings ascribed below:

- (a) *Blighted property* shall mean and refer to any property with buildings or improvements which, by reason of dilapidation, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these or other factors, are detrimental to the safety, health, or welfare of the community.
- (b) *Director* shall mean and refer to the director of neighborhood development services and his designee(s).

(7-16-01(1), § 2)

Sec. 5-193. Administrative determination of blight.

The director shall make a preliminary determination that a property is a blighted property. Upon making such a preliminary determination, the director shall notify the owner of the blighted property, specifying in writing the reasons why the property is considered blighted. A property owner shall have thirty (30) days from the director's written notice of the preliminary determination to respond with a plan to cure the blight within a reasonable time. If the owner fails to respond within the thirty-day period with a plan that is acceptable to the director, then the director may request the planning commission to conduct a public hearing and make findings and recommendations concerning the repair or other disposition of the property in question.

(7-16-01(1), § 2)

Sec. 5-194. Planning commission hearing.

- (a) In the event a public hearing is scheduled by the planning commission:
- (1) The director shall prepare a plan for the repair or other disposition of the subject property. The director's plan shall include any aspect(s) of a plan submitted by the property owner which the director deems to be reasonable.
 - (2) Notice of the public hearing, including the director's plan for the intended repair or other disposition of the property, and including the time and place of the hearing at which persons affected may appear and present their views, shall be given by the planning commission as follows:
 - (i) By regular and also by certified mail, to the following: (i) the owner of the blighted property, or the agent designated by the owner for receipt of service of notices concerning the payment of real estate taxes within the city;(ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area, and
 - (ii) By publication, at least twice, with not less than six (6) days elapsing between the first and second publications, in a newspaper published or having general circulation in the city, and
 - (iii) By posting on the property itself.
- (b) The public hearing shall take place not less than six (6) days nor more than twenty-one (21) days after the second newspaper publication.

(7-16-01(1), § 2)

Sec. 5-195. Report of planning commission.

- (a) Following a public hearing, the planning commission shall make specific findings as to whether:
- (1) The property is a blighted property, as defined within City Code section 5-192
 - (2) The owner has failed to cure the blight or to present a reasonable plan to do so;
 - (3) The property is occupied for personal residential purposes,
 - (4) The property has been condemned for human habitation for more than one (1) year;
 - (5) The director's plan for the repair or other disposition of the property is reasonable and in accordance with the city's adopted comprehensive plan, zoning ordinances, and other applicable land use regulations;
 - (6) The property is located within an area listed on the National Register of Historic Places. In the event of such a determination, then the planning commission shall consult with the board of architectural review regarding the director's proposed plan for repair or other disposition of the property.
- (b) The planning commission shall report its findings and recommendations concerning the repair or other disposition of the blighted property to the city council.

(7-16-01(1), § 2)

Sec. 5-196. City council hearing.

Upon receipt of findings and recommendations from the planning commission, the city council may, after an advertised public hearing, affirm, modify or reject the planning commission's

findings and recommendations. If the repair or other disposition of the property is approved, the city may carry out the approved plan in accordance with the approved plan and applicable law.

(7-16-01(1), § 2)

Sec. 5-197. Recovery of costs.

The city shall have a lien on all property repaired or acquired under an approved plan, to cover the cost of improvements made by the city to bring the blighted property into compliance with applicable building codes and the cost of disposal, if any. The director shall prepare an affidavit certifying the amount of such costs. The lien shall be filed in the circuit court and shall be subordinate to any prior liens of record. The city may recover its costs of repair from the owner of record of the property when the repairs were made, at such time as the property is sold or disposed of by such owner. If the property is acquired by the city through eminent domain, the cost of repair may be recovered when the city council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any sale of the property.

(7-16-01(1), § 2)

Sec. 5-198. Alternate remedies available to city.

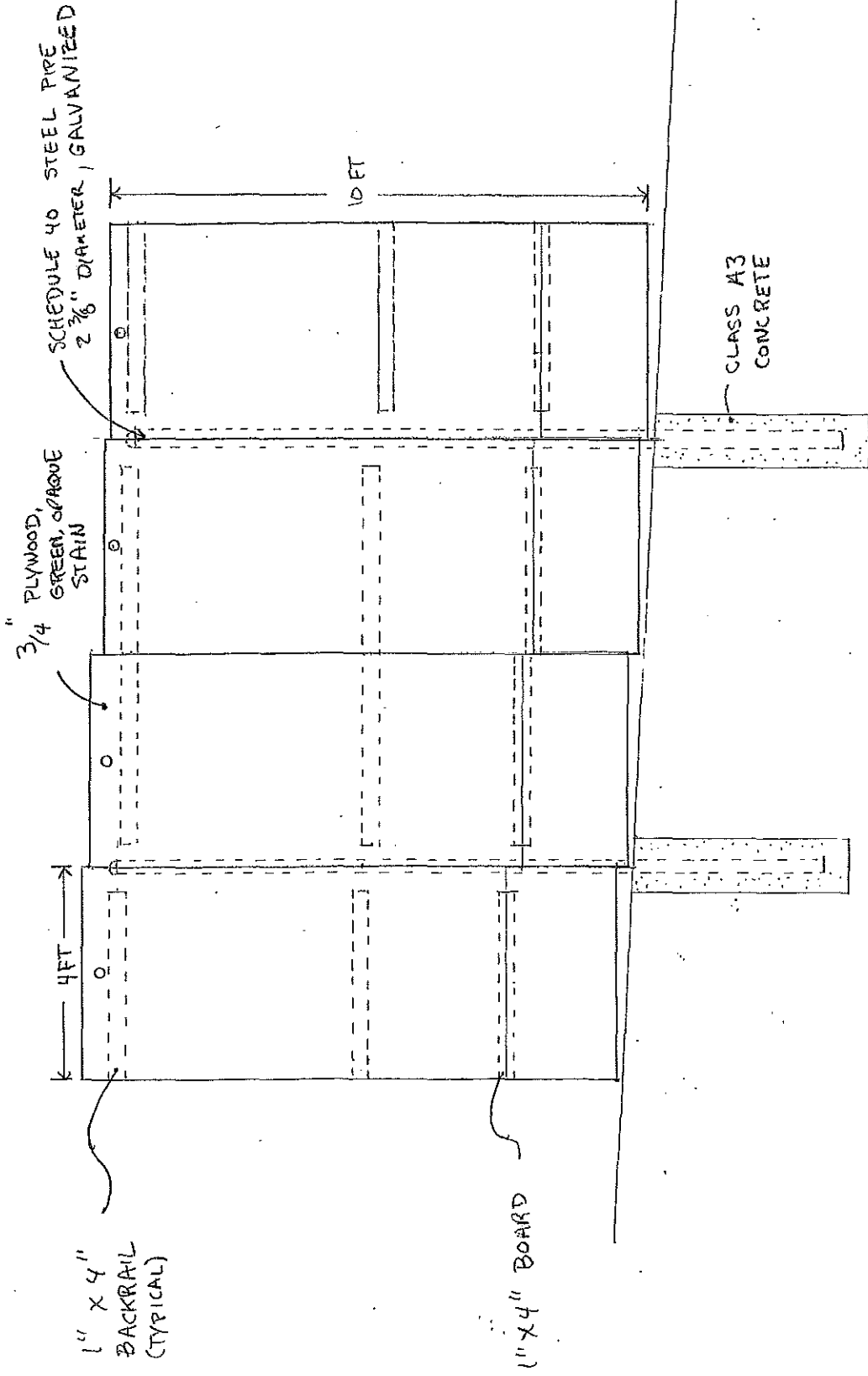
- (a) In lieu of the acquisition of a blighted property by the exercise of the city's powers of eminent domain, and in lieu of the exercise of other powers listed in this division, the city council may, by ordinance, make findings that a property constitutes a blighted property, as defined within City Code section 5-192, declare such blighted property a nuisance and thereupon abate the nuisance.
- (b) Such ordinance shall be adopted only after written notice by certified mail to the owner(s) of the property, at the last known address of such owner(s) as shown on the current real estate tax assessment books or current real estate tax assessment records. The notice shall advise the property owner that if corrective action is not taken by the property owner of the date(s) on which the ordinance will be considered by council, and a copy of the proposed ordinance shall be attached to the notice. A copy of such notice and proposed ordinance shall also be sent by certified mail to any lienholder(s) of record. Copies of certified mail receipt(s) shall be sufficient evidence of mailing.
- (c) The abatement process shall be as follows:
 - (1) If the property owner fails to abate the blight prior to the date on which an ordinance is adopted by council, the director shall give a final notice to the owner and shall also send a copy of the final notice to any lienholder(s) of record. A copy of the ordinance adopted by council shall be attached to the final notice. The final notice shall state that, no fewer than fifteen (15) days from the mailing thereof, the city will commence to abate the blight, taking any corrective action the city deems appropriate, including, without limitation, removal of the building or other structure so as to abate the blight on the property. In the event the director determines that a removal of a building or structure is necessary to abate the blight on the property, the final notice shall give the owner and any lienholder of record at least thirty (30) days in which to abate the blight. The property owner shall have the right, upon reasonable notice to the city, to seek equitable relief, and the city shall initiate no corrective action while a proper petition is pending before a court of competent jurisdiction.
- (d) The final notice shall be given to the owner and any lienholder(s) of record, as follows:
 - (1)

To an individual who can be found within the city, by hand-delivering a copy of the notice to such person. Where hand-delivery is utilized the director shall prepare an affidavit certifying the hand-delivery. If the person named in the notice cannot be found after a diligent search, then notice shall be sent by certified mail, return receipt requested, to the last known address of such person and a copy of the notice shall also be posted in a conspicuous place on the premises; this latter procedure shall be deemed the equivalent of personal notice. Copies of certified mail receipt(s) shall be sufficient evidence of mailing; an affidavit of the director shall be sufficient evidence of hand-delivery.

- (2) To an individual under the age of eighteen (18) years ("infant"), or who is otherwise legally incompetent, then notice shall be provided by hand-delivering a copy thereof to such person's parent, guardian or committee. If such parent, guardian or committee cannot be found after a diligent search, the notice shall be sent by certified mail, return receipt requested, to the last known address of such parent, guardian or committee and a copy of the notice shall also be posted in a conspicuous place on the premises. If there be no guardian or committee, notice shall be given by delivering a copy thereof to any person found at the infant's or incompetent's usual place of abode who is a member of his or her family and who is sixteen (16) years of age or older. If such infant or incompetent resides at a residential or other treatment facility, adult care facility or nursing home, notice shall be given by delivering a copy to the officer or official who is in charge of such facility. If a family member or an officer or official cannot be located after reasonable efforts to do so, then a copy of the notice shall be posted at the front door of the infant's or incompetent's usual abode and a copy of the notice shall also be posted in a conspicuous place on the unsafe premises. Compliance with the procedure(s) set forth in this paragraph shall be deemed the equivalent of personal notice. Copies of certified mail receipt(s) shall be sufficient evidence of mailing; an affidavit of the director shall be sufficient evidence of hand-delivery.
- (3) To a corporation, bank, trust company, or other corporate or business entity, then notice shall be provided by hand-delivering a copy thereof to its president or other officer, director, manager, managing partner or agent thereof who is located in the city; or, if an individual cannot be found at the regular office or place of business in the city, by hand-delivering a copy to any employee thereof found at such office or place of business; or, if no such employee is found at such office or place of business, by leaving a copy of the notice posted at the front door of such office or place of business and sent by certified mail, return receipt requested, to the last known address of the corporate or business entity. A copy of the notice shall also be posted in a conspicuous place on the unsafe premises. Compliance with the procedure(s) set forth in this paragraph shall be deemed the equivalent of personal notice. Copies of certified mail receipt(s) shall be sufficient evidence of mailing; an affidavit of the director shall be sufficient evidence of hand-delivery.
- (4) To a person whose identity is unknown or who has no place of abode, office or place of business in the city, and if, after reasonable efforts, the city cannot locate a last known address for such person, notice shall be given by publishing a copy of the notice in a newspaper of general circulation in the city, once per week, for two (2) successive weeks, in a newspaper having general circulation within the city. A certificate of publication provided by the newspaper shall be sufficient evidence of the required publication.
- (5)

Where the final notice is sent by certified mail, or notice of publication is utilized, no action shall be taken by the city to remove any building or structure for at least thirty (30) days following the later of the return of a certified mailing receipt or newspaper publication.

(7-16-01(1), § 2)



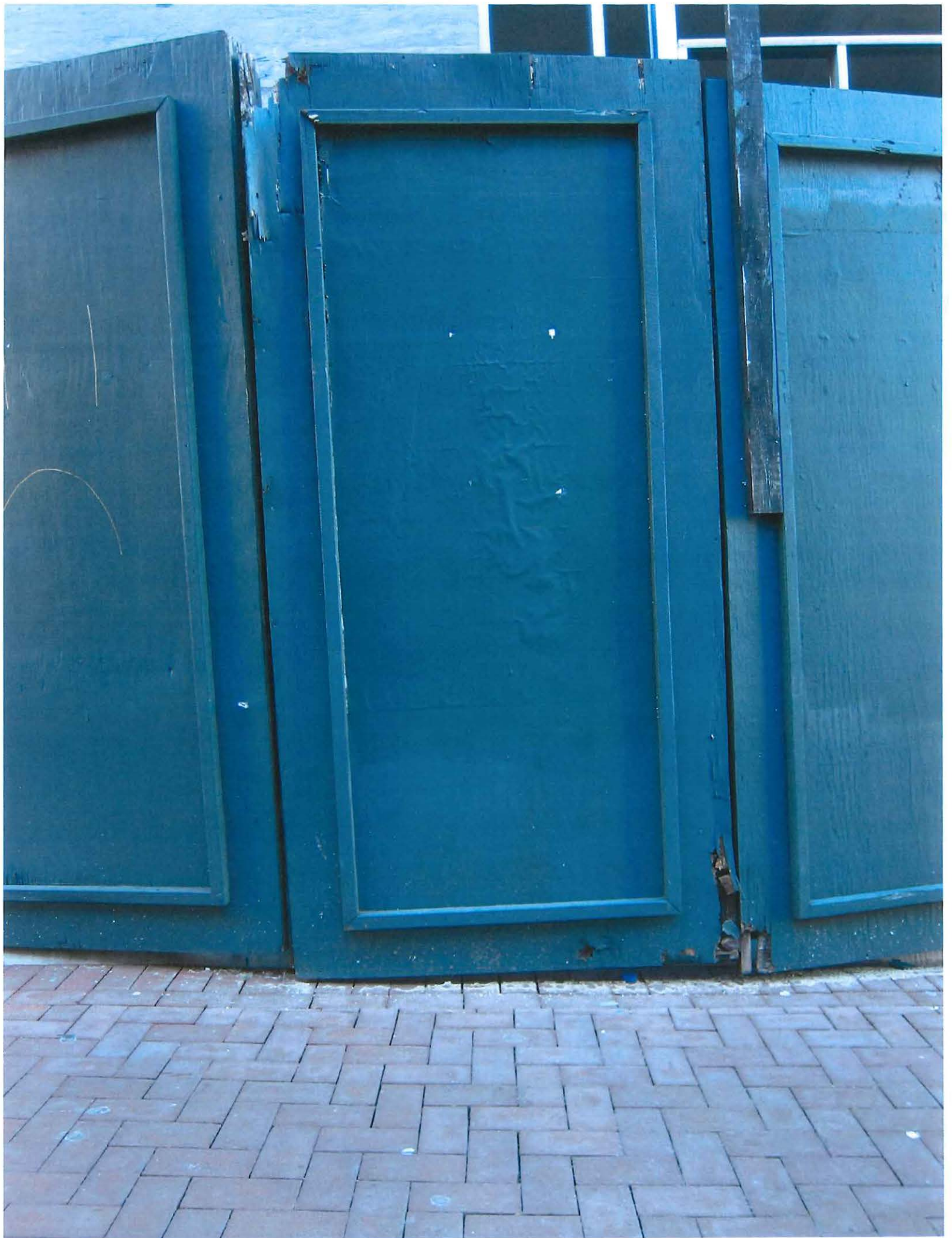
NOTE:

- 1. UVA STYLE 2" X 2" BOARDS DRESS FACADE (NOT SHOWN)
- 2. FASTENERS NOT SHOWN

1" = 3 FT

PRELIMINARY FENCE DESIGN FOR LANDMARK HOTEL SITE SKETCH

















11.19.2013



11.19.2013



Handwritten text in white chalk on a dark surface, appearing to be a signature or initials.

11.19.2013



11.19.2013



11.19.2013

MEMORANDUM

TO: City Council

FROM: S. Craig Brown, City Attorney
Lisa A. Robertson, Chief Deputy City Attorney

DATE: January 27, 2014

RE: Blighted Property—Landmark Hotel Property

The purpose of this Memo is to advise you on two matters: (I) whether City Council may, as part of a spot blight abatement plan, require a structural analysis of the building; and (II) an alternative means of addressing the conditions on the site (i.e., declaration of a public nuisance) that is available to you following a determination that the property is a “blighted property”.

I. MAY CITY COUNCIL REQUIRE A STRUCTURAL ANALYSIS OF THE BUILDING?

We have been asked to provide an opinion as to whether, as part of a plan to abate spot blight on a property, or to abate a public nuisance, the City may require a property owner to provide an engineer’s structural evaluation and, if the owner refuses, whether the City has the authority itself, or through a contractor, to enter upon the property to conduct a structural evaluation. We did not have an opportunity to research this issue in advance of the Planning Commission’s public hearing on January 14, 2014, so we are providing our analysis to you for your consideration in making your final determinations.

BACKGROUND INFORMATION

Historic Characteristics of the Property--The Landmark Hotel Property is located within an area that is listed on the National Register of Historic Places. In 2004 the previous owner of the Landmark Hotel Property sought and received a certificate of appropriateness from the City’s Board of Architectural Review (BAR), authorizing a partial demolition of the building that existed on the property at that time. However, the BAR determined that the black granite [front] façade of the building contributes to the character of the historic district (“contributing structure”) and must be preserved. The area to be preserved is 12-foot deep, for the full width (53 feet) of the previous building. Later, in 2008, the owner of the property sought the BAR’s permission to demolish the black granite façade, but a certificate of appropriateness was denied. Pursuant to the 2004 partial demolition approval, the black granite wall was preserved, but the owner was allowed to take out the interior floors and other components of the previously-existing building that had supported the granite wall. The owner was required to take measures necessary to provide support for the granite wall during construction of the new building into which the wall would be incorporated.

“Blighted Property” (local issue) versus “Unsafe Structure” (USBC issue)—In the proceedings before Council at this time, the question is whether the property is a blighted property. A “blighted property” is one which, by reason of dilapidation, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these or other factors, are detrimental to the safety, health, or welfare of the community, see City Code Sec. 5-192. Your decision as to whether blight exists must be based on the information that you have in front of you, and any actions that you approve to become part of a spot blight abatement plan must be designed to remedy the conditions that are causing the blight.

Although a component of the definition of a “blighted property” refers to conditions detrimental to public health, safety or welfare, Virginia’s Uniform Statewide Building Code (“USBC”) contains more specific, and very detailed, processes and procedures to be followed by the building official and/or building maintenance official, in the event that **(1)** a building that is under construction has become unsafe during construction (see Sec. 118 of the 2009 USBC, Part I), or **(2)** an existing building, other than one under construction presents a threat to the health or safety of the occupants of any building or structure, or to the owner, occupant or tenant of any nearby building or structure (referred to under the USBC as an “Unsafe Structure”, see Sec. 105 of the 2009 USBC, Part III). The USBC supersedes all building codes and regulations of the City, see VA Code Sec. 36-98. If a property owner does not grant permission authorizing an inspection of the property, and unless the building official can determine, without an inspection, that exigent circumstances exist, the building official will need to obtain an administrative inspection warrant authorizing entry upon the property for purposes of investigating possible violations of the USBC.

ADVICE

In our opinion, City Council’s authority, in the context of its consideration of whether this property is a “blighted property,” and if so, how to remedy the blight, is as follows:

A spot blight abatement plan may include provisions:

- *requesting* the owner to perform, and to provide the City with a report of the results of, an analysis of the structural integrity of the building components located on site, including the Black Granite Wall, its structural components, and the other elements of the partially-constructed building.
- *requesting* the owner to grant permission for the City’s building official and/or building maintenance official, to enter the building or structure for the purpose of determining whether, under the USBC, the building/structure as it currently exists on site, is an unsafe building or unsafe structure.
- *requesting* the building official/ building maintenance official, in the event that the requested report and/or permission are refused by the owner, to interview adjacent property owners and to monitor the property and, at such time as sufficient information is available indicating that official action should be taken under the USBC, to proceed with all available action.
- *requiring* the owner to take specific steps necessary to correct any current conditions of disrepair that may have been observed by staff, Council, or adjacent property owners to-date, and that are producing a detrimental effect on the character of the architectural design district, or the remaining life of the Black Granite Wall. Examples of such steps might include weatherproofing of the black granite wall and its current support mechanisms; removal of any graffiti or deteriorated areas located on the Wall; etc.

A spot blight abatement should not be used to require studies, reports or evaluations for the purpose of determining whether or not a “blighted condition” or USBC violation may exist.

- Council’s spot blight abatement should be based on the conditions that have already been observed and that form the basis of Council’s blight determination.

II. CAN THE CITY PROCEED TO REMEDY THE PROBLEM THROUGH ITS GENERAL AUTHORITY TO ABATE PUBLIC NUISANCES, AND, IF SO, WHAT ARE THE BENEFITS OF THAT?

Yes, state law (VA Code Sec. 36-49.1:1(G)) and the City Code (Sec. 5-198(a)) state that, in lieu of exercising their powers to implement a spot blight abatement plan, City Council may, by ordinance, make findings that a property constitutes a blighted property and declare such blighted property a nuisance. After doing so, City Council may authorize abatement of the public nuisance in accordance with general enabling legislation set forth in VA Code Sec. 15.2-900 or 15.2-1115.

What’s the difference? It appears that the difference between the two remedies is one of scope, as well as the process for obtaining reimbursement of costs through the lien process.

Spot blight abatement—the scope of the plan for abatement is set forth within a spot blight abatement plan approved by Council. The plan becomes effective following the adoption of an ordinance by council declaring the property to be blighted, following notice to the property owner enclosing a copy of the final approved spot blight abatement plan. Thereafter, if the City is required to perform the work, the City shall have a lien on the property to recover the cost of “improvements made by [the City] to bring the blighted property into compliance with applicable building codes.” See VA Code Sec. 36-49.1:1(D) and (E).

Public nuisance abatement—if, in addition to declaring the property a blighted property, the City Council chooses to declare the property a public nuisance, then the City has the authority by general law to abate the nuisance pursuant to VA Code Sec. 15.2-900 or Sec. 15.2-1115.

VA Code 15.2-900: authorizes the City to maintain a legal action to compel the owner to abate, raze or remove the public nuisance.

VA Code 15.2-1115: authorizes the City to compel the abatement or removal of a public nuisance and if, after reasonable notice as the City may prescribe, the owner fails to abate the nuisance, then the City may do so and charge and collect the cost thereof from the owner.

According to VA Code 36-49.1:1(G): if the owner does not abate or remove the nuisance and the City does so at its expense, the costs of the removal or abatement shall be a lien on the property and such lien shall bear interest at the legal rate of interest established in § [6.2-301](#), beginning on the date the removal or abatement is completed through the date on which the lien is paid.

**RESOLUTION
APPROVING A SPOT BLIGHT ABATEMENT PLAN
FOR PROPERTY LOCATED AT 201 EAST WATER STREET
(LANDMARK HOTEL PROPERTY)**

WHEREAS, City Council is considering an ordinance to declare certain property located at 201 East Water Street (“Landmark Hotel Property”) to be a “blighted property” as defined in City Code Sec. 5-192; and

WHEREAS, following the approval of an ordinance declaring the Landmark Hotel Property to be blighted, and if Council decides to proceed pursuant to Sec. 5-196 of the City Code, this Council must approve a spot blight abatement plan to guide the repair or other disposition of the Landmark Hotel Property in order to remove the blighting conditions; and

WHEREAS, following a public hearing before the planning commission, duly advertised and held on January 14, 2014, the Planning Commission reported its findings and recommendations to Council; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville THAT, in the event that an ordinance is approved declaring the Landmark Hotel Property to be a blighted property, and if Council decides to proceed pursuant to City Code Sec. 5-196, the following plan for the repair or other disposition of the Landmark Hotel Property is approved as the Spot Blight Abatement Plan and the City’s Director of Neighborhood Development Director (“Director”) is hereby given all necessary authority to abate the blighting conditions in accordance with this approved Spot Blight Abatement Plan and applicable law, if the Owner fails to complete the tasks within **30 days of the date of City Council’s approval** of an ordinance declaring the Landmark Hotel property to be a blighted property:

- a. Rebuild the green perimeter fence, at a height of 10 feet using the specifications included with the planning commission’s report;
- b. Install additional fencing around the staircase to prevent access to upper floors;
- c. Install additional fencing around the second floor of the building, to prevent access gained from an adjacent building;
- d. Install security cameras with recording capability, so that there can be a record of any person entering the property;
- e. Remove all graffiti. If the Owner fails to do so, then the City will follow the process referenced in City Code 5-146(e) in removing the graffiti;
- f. Secure loose building materials throughout the building;

- g. Obtain a professional evaluation of the historic portion of the structure (“granite wall”) assessing the structural integrity of the granite wall and identifying measures necessary to prevent deterioration of the granite, to ensure effective waterproofing, and to otherwise prevent conditions that would adversely affect the character or continued viability of the historic granite wall; transmit a copy of a written report of the evaluation to the Director; and implement the measures identified by the evaluator as being necessary to protect the granite wall;
- h. Effectively weatherize the entire structure, including the historic portion;
- i. Make arrangements for a professional engineer licensed within the Commonwealth of Virginia to periodically complete evaluations of the structural integrity of the entire structure, including the historic portion, and transmit a written report of each evaluation to the Director. The first report shall be completed and delivered to the Director within 90 days after Council’s approval of an ordinance declaring the property to be blighted; thereafter, subsequent reports shall be delivered to the Director every four (4) months.

AND BE IT FURTHER RESOLVED THAT the Director is instructed, as part of the Spot Blight Abatement Plan:

- j. To request the owner to give the police department written authorization to enforce trespass violations on behalf of the owner, and to enter upon the premises for the purpose of enforcing trespass violations, and if the owner is willing, to facilitate the completion of the necessary paperwork;
- k. To request the owner (A) to engage an independent contractor (not an employee of the owner) who is a licensed engineer within the Commonwealth of Virginia, to complete a structural evaluation of the existing structure, including the historic portion, analyzing the condition of the structure and identifying measures necessary to protect the integrity and life of the historic portion, as well as any measures necessary to render the structure, including the historic portion, a safe structure in accordance with applicable provisions of Virginia’s Uniform Statewide Building Code (USBC); and (B) to complete protective measures identified as being necessary within 120 days of the date of the report of the evaluation.
- l. To require staff of the Department of Neighborhood Development Services to monitor conditions at the Landmark Hotel Property, and make reports to the Planning Commission and City Council at four-month intervals. However, at any time, if staff receives information indicating that the existing structure is an “unsafe structure” as that term is used in Virginia’s USBC, the building official or building maintenance official, as may be applicable, shall take action as necessary to enforce the requirements of the USBC, and shall report such action to the Planning Commission and City Council as soon as possible under the circumstances.

ORDINANCE
TO DECLARE THE PROPERTY LOCATED AT 201 EAST WATER STREET
A BLIGHTED PROPERTY

WHEREAS, on September 10, 2013 the Director of Neighborhood Development Services made a preliminary determination (“Director’s Determination”) that the property located at 201 East Water Street in downtown Charlottesville (“Landmark Hotel Property” or “Property”) is a blighted property; and

WHEREAS, notice of the Director’s Determination was provided to the owner of the Landmark Hotel Property in accordance with the requirements of Sec. 5-193 of the Code of the City of Charlottesville (“City Code”) and Sec. 36-49.1:1(B), and the owner failed to respond with a reasonable plan to cure the blight; and

WHEREAS, the Director requested the City’s Planning Commission to conduct a public hearing and make findings and recommendations concerning the repair or other disposition of the Property in question, in accordance with Sec. 5-193 of the City Code, and the Planning Commission conducted the public hearing on January 14, 2014, following notice to the public and to the owner as required by Sec. 5-194 of the City Code; and

WHEREAS, following the January 14, 2014 public hearing, the Planning Commission made a finding that the Landmark Hotel Property is a blighted property, as defined within Sec. 5-192 of the City Code, and adopted the other findings set forth within the Director’s Determination, including: the owner has failed to cure the blight or to present a reasonable plan to do so; the Property is not occupied for residential purposes; the Property has not been condemned for human habitation for more than 1 year; and the Property is located within an area listed on the National Register of Historic Places; and further, the Planning Commission voted to make certain recommendations to City Council concerning the repair or other disposition of the Property and those recommendations are set forth within a Council Agenda Memorandum dated February 3, 2014; and

WHEREAS, Council conducted a public hearing on this matter on February 3, 2014, after notice and advertisement required by Sec. 5-196 of the City Code, and has consider all of the information, facts, data and recommendations presented; and now,

THEREFORE, BE IT ORDAINED that the Charlottesville City Council hereby finds and declares the Landmark Hotel Property to be a “blighted property,” as that term is defined within Sec. 5-192 of the City Code.

ORDINANCE
TO DECLARE THE PROPERTY LOCATED AT 201 EAST WATER STREET
A BLIGHTED PROPERTY AND A PUBLIC NUISANCE

WHEREAS, on September 10, 2013 the Director of Neighborhood Development Services made a preliminary determination (“Director’s Determination”) that the property located at 201 East Water Street in downtown Charlottesville (“Landmark Hotel Property” or “Property”) is a blighted property; and

WHEREAS, notice of the Director’s Determination was provided to the owner of the Landmark Hotel Property in accordance with the requirements of Sec. 5-193 of the Code of the City of Charlottesville (“City Code”) and Sec. 36-49.1:1(B) of the Virginia Code (“VA Code”) and the owner failed to respond with a reasonable plan to cure the blight; and

WHEREAS, the Director requested the City’s Planning Commission to conduct a public hearing and make findings and recommendations concerning the repair or other disposition of the Property in question, in accordance with Sec. 5-193 of the City Code, and the Planning Commission conducted the public hearing on January 14, 2014, following notice to the public and to the owner as required by Sec. 5-194 of the City Code; and

WHEREAS, following the January 14, 2014 public hearing, the Planning Commission made a finding that the Landmark Hotel Property is a blighted property, as defined within Sec. 5-192 of the City Code, and adopted the other findings set forth within the Director’s Determination, including: the owner has failed to cure the blight or to present a reasonable plan to do so; the Property is not occupied for residential purposes; the Property has not been condemned for human habitation for more than 1 year; and the Property is located within an area listed on the National Register of Historic Places; and further, the Planning Commission voted to make certain recommendations to City Council concerning the repair or other disposition of the Property and those recommendations are set forth within a Council Agenda Memorandum dated February 3, 2014; and

WHEREAS, Council conducted a public hearing on this matter on February 3, 2014, after notice and advertisement required by Sec. 5-196 of the City Code, and after written notice by certified mail to the owner at his last known address as shown on the current real estate tax assessment books or records, and Council has considered all of the information, facts, data and recommendations presented within these proceedings; and now,

THEREFORE, BE IT ORDAINED by the Charlottesville City Council:

THAT Council hereby finds and declares that the Landmark Hotel Property is both a “blighted property,” as that term is defined within Sec. 5-192 of the City Code, and a public nuisance;

AND FURTHER, Council hereby directs the Director of Neighborhood Development Services, on behalf of the City, to take the following actions:

1. To provide written notice to the owner, by certified mail, compelling the owner to abate the nuisance; and
2. If the owner shall fail to abate the nuisance within 60 days of receiving notice from the Director, the Director shall implement all reasonable steps necessary to obtain the abatement of the public nuisance pursuant to Sec. 15.2-900 or 15.2-115 of the VA Code, and shall have all necessary authority to effect the abatement, including, without limitation, the authority to

engage contractors to perform work and the authority to initiate legal action to compel the owner to abate the nuisance.

3. If the owner does not abate or remove the nuisance and the City removes the nuisance at its expense, the costs of the removal or abatement of the nuisance shall be a lien on the property and such lien shall bear interest at the legal rate of interest established in Sec. 6.2-301 of the VA Code, beginning on the date the removal or abatement is completed through the date on which the lien is paid;

AND FURTHER, consistent with Sec. 36-49.1:1 of the VA Code, City Council hereby reserves any and all other rights and remedies as may be authorized by law for spot blight abatement.

DRAFT AGREEMENT

THIS AGREEMENT (the “Agreement”), made and entered into this 18th day of February, 2014, by and between Dewberry Capital Corporation (“Dewberry”) and the City of Charlottesville, Virginia (“City”);

WITNESSETH THAT:

WHEREAS, Dewberry manages the property located at 606 East Market Street, Charlottesville, Virginia 22902, commonly referred to the Landmark Hotel Property (“Landmark Hotel Property”);

WHEREAS, the City of Charlottesville has expressed concern regarding certain security issues at the Landmark Hotel Property;

WHEREAS, Dewberry and the City have come to an agreement to remedy such security concerns and all parties hereto have agreed upon a corrective plan of action to be undertaken on the terms and conditions set forth below;

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, Ten and No/100 Dollars (\$10.00) in hand paid each to the other, and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, Dewberry and the City hereby covenant and agree as follows:

Section 1. Correction action to be performed by Dewberry. Subject to the terms and conditions set forth herein, Dewberry hereby agrees to perform the following on or with respect to the Landmark Hotel Property:

1.1 Hire a local engineering firm to be selected by Dewberry in its sole and absolute discretion to perform a structural evaluation of the existing structure located on the Landmark Hotel Property on or before the week of February, 24, 2014;

1.2 Clean ground level and first floor of trash and debris present as of the date such cleaning work is to commence, such work being scheduled to commence the week of March 3, 2014;

1.3 Reasonably secure east side of Landmark Hotel Property to prevent access from CVS Pharmacy roof area, such work being scheduled to commence the week of March 3, 2014;

1.4 Reasonably secure all stairwell access points from ground level to prevent ground level intrusion, such work being scheduled to commence the week of March 3, 2014;

1.5 Remove and install a new ten foot (10’) fence with proper support to prevent ground level intrusion, such work being scheduled to commence the month of March, 2014;

1.6 Remove the graffiti from all floors of the Landmark Hotel Property in existence as

of the date such removal work is to commence, such work being scheduled to commence the week of March 3, 2014;

1.7 Place material over windows on the north side of the first floor of the existing structure to block visibility, in a manner and of a material to be determined by Dewberry in its sole and absolute discretion, such work being scheduled to commence the month of March, 2014; and

1.8 Review and consider all plans submitted to Dewberry by the City to paint the aforementioned ten foot (10') fence for aesthetic purposes, with any approval of such plans to be in Dewberry's sole and absolute discretion.

Section 2. Correction action to be performed by the City. Subject to the terms and conditions set forth herein, the City hereby agrees to:

2.1 Arrest and prosecute all trespassers on the Landmark Hotel Property;

2.2 With the exception of any painting performed and approved by Dewberry as set forth in Section 1.8 above, arrest and prosecute all graffiti artists who paint on any portion of the Landmark Hotel Property; and

2.3 Perform any and all future clean-up of trash and debris and to remove any and all graffiti on the Landmark Hotel Property placed thereon after Dewberry substantially completes the work set forth in Section 1 herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed under seal as of the day and year first above written.

DEWBERRY:

CITY:

Dewberry Capital Corporation,
a Georgia corporation

City of Charlottesville, Virginia,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[CORPORATE SEAL]

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	February 18, 2014
Action Required:	Public Hearing and First Reading of Ordinance (1 st of 2 readings)
Presenter:	Craig Brown, City Attorney
Staff Contacts:	Craig Brown, City Attorney
Title:	Conveyance of City Land (Pen Park Lane) to Meadowcreek Development, LLC for Lochlyn Hills Subdivision Entrance

Background: In 1955 the City of Charlottesville acquired a portion of Pen Park Lane in Albemarle County in order to ensure access to the former Meadow Creek Wastewater Treatment Plant. The City-owned portion of Pen Park Lane is 20 feet wide, with 10 foot wide access easements on either side, creating a 40 foot wide right of way for properties located along the road. The total area of the City's property is approximately 7,187 square feet, as shown on the attached plat dated February 10, 2014, made by Kirk Hughes and Associates. Pen Park Lane has never been accepted into the City street system for maintenance.

In 1999 the City conveyed the former treatment plant property to Meadowcreek Development, LLC ("Meadowcreek"), for development as a residential subdivision. The City's deed to Meadowcreek specifically transferred to Meadowcreek not only the 25 acres of property, but also the easement rights in Pen Park Lane and "the right to dedicate said strips of land to public use for the purposes of a public road or street."

Meadowcreek is now developing the property as a new residential subdivision called Lochlyn Hills, which will be located partly in Albemarle County and partly in the City of Charlottesville, with an entrance from the City-owned portion of Pen Park Lane in the County. The development plan indicates that this portion of Pen Park Lane will be significantly improved and reconfigured in order to provide better access to the subdivision. In order to make these improvements certain portions of the City's property must be formally dedicated for public use. Despite the language in the deed that gave Meadowcreek the right to dedicate the City's property, Albemarle County has directed Meadowcreek to obtain the dedication from the City. Representatives of Meadowcreek have informed the City that the County, and ultimately the Virginia Department of Transportation, will only accept a dedication of that portion of the City's land that is needed for the reconfigured road. That is problematic from the City's perspective, as it would leave the City with ownership of a small remnant of land (3,680 sq. ft.) in Albemarle County, that has no value or use to the City.

Discussion: Both the developer and the County appreciate that it would not be in the City's best interest to retain ownership of a portion of the old right-of-way. As an alternative we are proposing that the City convey the entirety of the property to Meadowcreek, which will allow Meadowcreek to dedicate the required right-of-way to the County. Meadowcreek would then retain (or convey to a

homeowner's association) the remainder of the property that is not needed for the reconfigured street / subdivision entrance.

The attached letter from Meadowcreek's legal counsel asks that this conveyance be made without compensation. While it is the City's normal practice to require payment for a conveyance of real property, there are some justifications for not requiring the payment of consideration in this particular case:

- As noted in the attached letter, the developer already acquired the right to dedicate the property for a public street in 1999;
- The property has no intrinsic value to the City due to its shape (20 ft. in width), location (in Albemarle County) and use (as a public road);
- There is some liability exposure that attaches to the ownership of land that is open to public use, which would be removed if title to the property was conveyed by the City.

As part of the development, Meadowcreek has asked the City Gas Division to install natural gas lines in the subdivision, and it is anticipated that the gas main will need to be installed within the newly configured Pen Park Lane. If Council approves the conveyance, we will reserve on behalf of the Gas Division an easement over that portion of the conveyed property, for the future installation of a gas line.

The developer has also requested that Council waive the second reading of the ordinance, as time is of the essence in getting County approval of the subdivision plat and road dedication. The City Code authorizes the adoption of an ordinance after one reading, if the second reading is waived by a 4/5ths vote of City Council. Since this is property currently devoted to a public use, I am of the opinion that the conveyance itself must also be authorized by the so-called "supermajority" (4/5ths) vote of City Council.

Community Engagement: A public hearing is required by law whenever the City conveys property. Notice of the public hearing has been advertised in accordance with state law.

Alignment with City Council's Vision and Priority Areas: Not applicable.

Budgetary Impact: There would be no impact on the budget if compensation is not required for a conveyance of the property.

Recommendation: Staff recommends approval of the Ordinance conveying the subject Property to Meadowcreek Development, LLC.

Attachments:

Request Letter from Developer's Attorney
Proposed Ordinance
Plat
Drawing of Reconfigured Pen Park Lane



**ROYER
CARAMANIS &
McDONOUGH**

PETER J. CARAMANIS
Attorney at Law
pcaramanis@rcmplc.com
200-C Garrett Street
Charlottesville, VA 22902
(434) 260-8767 ■ Fax (434) 710-4061

REAL ESTATE ■ BUSINESS ■ BANKING ■ WILLS, TRUSTS & ESTATES ■ CIVIL LITIGATION ■ CRIMINAL DEFENSE ■ BANKRUPTCY

COLLISON F. ROYER
PETER J. CARAMANIS
STACEY L. McDONOUGH
JESSICA F. PHILLIPS

LEE P. DUNHAM,
OF COUNSEL

February 11, 2014

Craig Brown, City Attorney
Charlottesville City Hall
Charlottesville, VA 22902

Via Email

RE: Conveyance to Meadowcreek Development, LLC

Dear Craig:

Enclosed are a proposed deed and plat for the conveyance of certain City owned property (the "Property") to Meadowcreek Development, LLC ("Meadowcreek"). You will recall that this property was the subject of prior City Council action back in 1999, when Council approved the transfer of adjacent lands to Meadowcreek, and granted Meadowcreek an easement interest over the Property, as well as the right to dedicate the Property for public road use in the future. I have enclosed a copy of the deed which granted those rights for your reference.

That time has come, and Meadowcreek desires to dedicate certain portions of the Property to Albemarle County for public road use in connection with its Lochlyn Hill development. Accordingly, Meadowcreek is asking the City to deed the Property to it in fee to facilitate that dedication in furtherance of its prior agreement with the City.

I understand this matter is on City Council's agenda for approval on February 18, 2014 and that proper advertisement has occurred. Given the unique nature of this transaction, having already been noticed, publicly heard and decided back in 1999, Meadowcreek asks that the second reading of this ordinance be waived so as not to unnecessarily delay the pending approvals in the County for the road dedication.

Furthermore, for clarity, I would like to point out that compensation was negotiated and paid back in 1999 for Meadowcreek's rights over the Property. Given Meadowcreek's easement rights and right to dedicate, there remains no value in the Property to the City which has not already been paid. Therefore, compliance with this request to execute the enclosed deed is not a transaction for which additional compensation should be due, but rather a pre-approved formality to "finish" the deal made back in 1999, and to allow the Property to be dedicated by Meadowcreek.

Please share these thoughts with Council, and if you or any Councilor may have specific questions for me in advance of the hearing on the 18th, please do not hesitate to call or e-mail. Thank you.

Best regards.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter J. Caramanis". The signature is fluid and cursive, with the first name being the most prominent.

Peter J. Caramanis

Enclosures

cc: Meadowcreek Development, LLC (via email)(w/encl)

**AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF
CITY-OWNED LAND ON PEN PARK LANE
IN ALBEMARLE COUNTY TO MEADOWCREEK DEVELOPMENT, LLC**

WHEREAS, the City of Charlottesville is the owner of land currently known as Pen Park Lane in the County of Albemarle, shown and labeled “7,187 S.F.” on the attached plat dated February 10, 2014 (hereinafter the “Property”); and

WHEREAS, Meadowcreek Development, LLC (“Meadowcreek”) wishes to acquire the Property in order to relocate and re-configure a portion of Pen Park Lane to serve as an entrance to the new Lochlyn Hills Subdivision; and

WHEREAS, in accordance with Virginia Code Section 15.2-1800(B), a public hearing was held on February 18, 2014 to give the public an opportunity to comment on the proposed conveyance of City land as requested by Meadowcreek;

WHEREAS, natural gas lines may need to be installed by the City within a portion of the Property to serve the new subdivision, and Public Utilities has approved the proposed conveyance subject to reservation of a utility easement for such natural gas facilities;

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that the Mayor is authorized to execute a Quitclaim Deed, in form approved by the City Attorney, to convey said Property to Meadowcreek Development, LLC, shown on the attached plat dated February 10, 2014 made by Kirk Hughes and Associates, being a total of approximately 7,187 square feet in area. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said property conveyance.

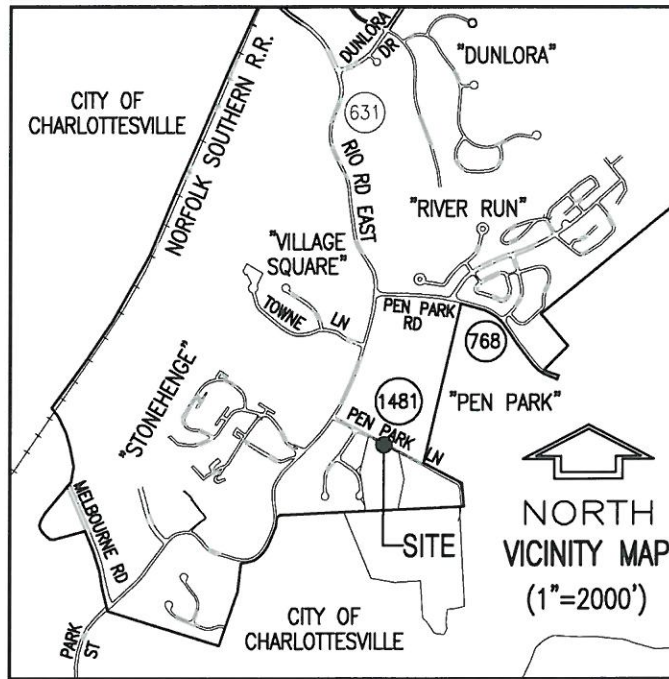
NOTES:

THE UNDERSIGNED, BEING A LICENSED LAND SURVEYOR OF THE STATE OF VIRGINIA (LIC. NO. 1458) DOES HEREBY CERTIFY TO MEADOWCREEK DEVELOPMENT, LLC AS FOLLOWS:

- 1.) THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THEREFORE DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES/EASEMENTS OR IMPROVEMENTS ON THIS PROPERTY. THIS SURVEYOR HAS MADE NO INDEPENDENT SEARCH OR INVESTIGATION FOR RESTRICTIVE COVENANTS, EASEMENTS OF RECORD, OWNERSHIP TITLE EVIDENCE, ENCUMBRANCES, OR OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
- 2.) THIS PLAT WAS PREPARED FROM AN ACTUAL AND CURRENT FIELD SURVEY AND COMPLIES WITH THE MINIMUM STANDARDS AND PROCEDURES ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS TO THE BEST OF MY KNOWLEDGE AND BELIEF.
- 3.) PROPERTY LIES WITHIN FLOOD ZONE "X"; NOT A FEMA DEFINED 100-YEAR FLOODPLAIN.
- 4.) MAY BE SUBJECT TO ADDITIONAL EASEMENTS AND RESTRICTIONS OF RECORD.
- 5.) UNLESS OTHERWISE NOTED IRON RODS ARE TO BE SET AT ALL CORNERS UPON THE COMPLETION OF ROAD CONSTRUCTION.
- 6.) THE 7,187 S.F. AS SHOWN HEREON IS HEREBY RESERVED FOR FUTURE OPEN SPACE AND RIGHT OF WAY DEDICATION.
- 7.) THE PARCEL SHOWN HEREON DOES NOT HAVE A TAX MAP DESIGNATION OR GEOGRAPHIC PARCEL IDENTIFICATION NUMBER.

TITLE SOURCE:

- CITY OF CHARLOTTESVILLE, VA.
D.B. 318, PG. 467
- D.B. 175, PG. 191, 192 (PLAT)
- D.B. 448, PG. 346, 351 (PLAT)(OFF CONVEYANCE)
- D.B. 628, PG. 599 (PLAT)(OFF CONVEYANCE)



BOUNDARY SURVEY OF
7,187 S.F.

BEING THE REMAINDER OF THE LANDS ACQUIRED BY THE
CITY OF CHARLOTTESVILLE, VA.

IN DEED BOOK 318, PAGE 467

TO BE CONVEYED TO

MEADOWCREEK DEVELOPMENT, LLC

RIO MAGISTERIAL DISTRICT
ALBEMARLE COUNTY, VIRGINIA

FEBRUARY 10, 2014

KIRK HUGHES & ASSOCIATES
LAND SURVEYORS AND PLANNERS
220 EAST HIGH STREET
CHARLOTTESVILLE, VA. 22902
(434) 296-6942

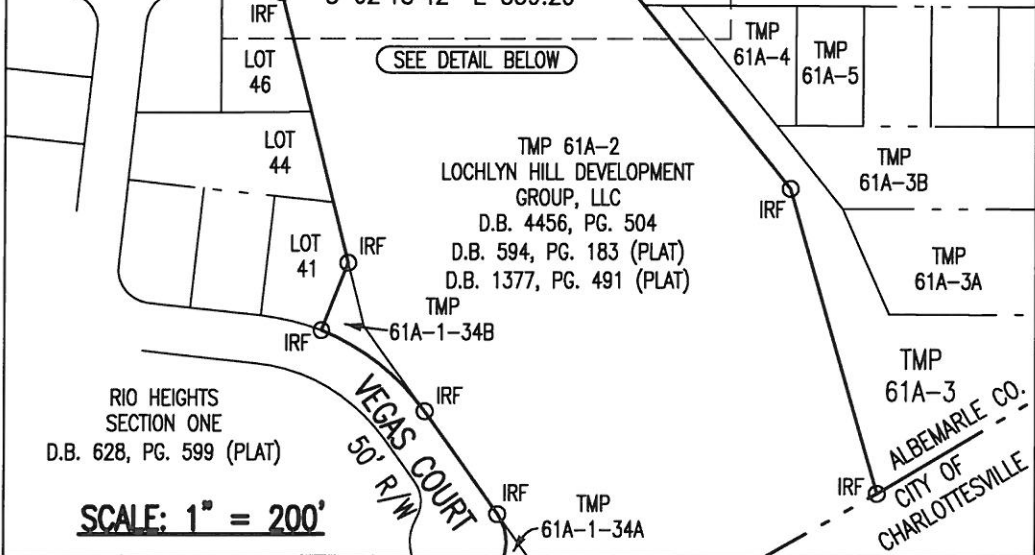
FILE: 2013-138, W.O. 2013-138

C:\UDD\SURVEYS\2013\2013-138\CITY BOUNDARY\2013138-05.DWG

TMP 61A-14 TMP 61A-16 TMP 61A-18 61A-25 TMP 61A-19 TMP 61A-20 61A-21 TMP 61A-22 TMP 61A-23A

PEN PARK LANE (VARIABLE WIDTH R/W) S 62°15'42" E 359.20'

SEE DETAIL BELOW



LINE DATA:

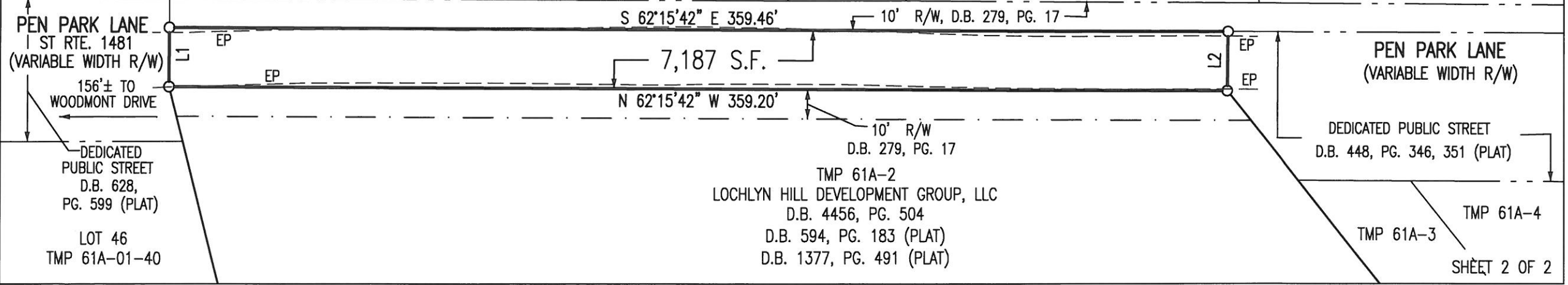
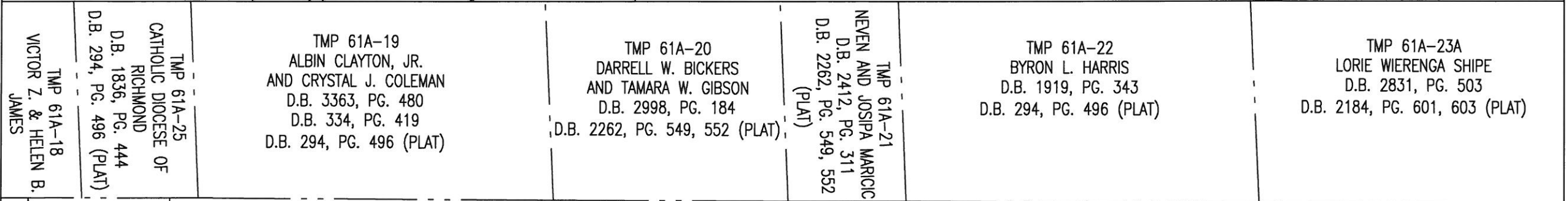
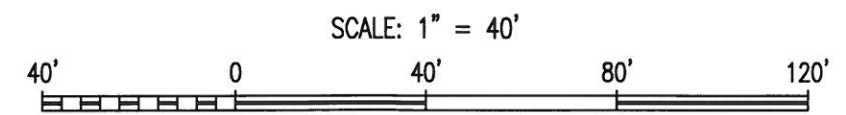
NO.	BEARING	DISTANCE
L1	N 27°34'30" E	20.00'
L2	S 28°18'11" W	20.00'

LEGEND:

- D.B. = DEED BOOK
- PG. = PAGE
- IRF = IRON ROD FOUND
- TMP = TAX MAP AND PARCEL
- S.F. = SQUARE FEET
- R/W = RIGHT OF WAY
- EP = EDGE OF PAVEMENT



SCALE: 1" = 200'



CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



Agenda Date: February 18, 2014

Action Required: Allocation of Funds

Presenter: Brian Daly, Parks & Recreation Director
James E. Tolbert, AICP, Director of NDS

Staff Contacts: Brian Daly, Parks & Recreation Director
James E. Tolbert, AICP, Director of NDS
Tony Edwards, City Engineer

Title: **Repair of Downtown Mall Crossings - \$120,000**

Background: In 2007, the City undertook a major renovation of the Downtown Mall from 6th Street, East to Old Preston that had been developed over 25 years earlier. Work that was completed included the following:

- Replacement of all bricks, except the drainage runnels and soldier course at the building fronts, with longer aspect bricks on a sand bed rather than with mortar.
- Replacement of all electrical and utility lining and replacement.
- Replacement of pedestrian lights.
- Addition of drinking fountain
- Replacement of concrete banding with granite as had originally been designed by Lawrence Halprin.
- Addition of more flower pots
- Addition of newly design benches

As this project was designed, one of the guiding principles was to honor the design of Lawrence Halprin to the maximum extent possible. A primary focus was to replace the concrete banding with granite as he had designed. During the original construction the concrete was substituted for granite as a cost savings.

When the Mall was constructed it was built as a truly pedestrian space. It was never envisioned that 2nd Street and 4th Streets would be opened to vehicular use, particularly by tractor trailers and beer/beverage delivery vehicles. Those trucks are very heavy and do great damage to the bricks.

A significant decision that was made, with influence of the BAR, was to keep the mortared soldier course adjacent to the buildings and in the drainage runnels as a reflective element of the original mall work. While these provide an existing defined hard edge they also provide edges that can cause rocking of the longer aspect bricks and the granite.

The decisions about how the crossings were reconstructed was a decision reached after a public process, review by a design advisory committee, and approval of the Board of Architectural Review.

On July 21, 2008 at a regular meeting of the City Council, the following decisions were made by the Council regarding the design of mall improvements.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville that the following design decisions are made:

- The project scope extends from 6th Street to Old Preston, the area of the original Halprin Project.
- Refurbish the existing fountains.
- Use existing lights – comply with dark skies and use LED lights if determined appropriate.
- No permanent café enclosures.
- Add newspaper box corrals as bid alternate
- No Sister City plaza.
- No additional public art.
- Do not alter tree patterns (nothing but two red maples and one stump to be removed).
- Yes to WIFI.
- Yes to use of Granite, but no new banding.
- Yes, add drinking fountains.
- Study for future possibility, a play area for children.
- Use 4 x 8 sand set bricks in the pedestrian crossings.
- Work to determine ways to employ the local community in the construction of the project.

BE IT FURTHER RESOLVED that the City Council of the City of Charlottesville instructs the design team to use 4 x 12 brick pavers that are set in sand. Council has determined that this is the optimum method for brick installation in light of the maintenance plan proposed by City Parks & Recreation and in an effort to honor the Lawrence Halprin design.

On October 21, 2008 the BAR considered several additional design elements of the mall including the vehicular crossings. The staff report for that meeting included the following:

A. Vehicular Crossing

The Vehicular Crossings of the Downtown Pedestrian Mall at 2nd St. West and 4th St. East have been developed by the Mall Design Advisory Committee. The Vehicular Crossings will have speed humps at the entrance and exit of the Mall crossing as a traffic calming feature. Further, the Mall Design Advisory Committee has concluded that, in keeping with the rhythm and progression of the accent bandings throughout the Mall, the existing outermost concrete bandings should be replicated beyond the limits of the vehicle crossing with the new granite accent banding. In an effort to differentiate the areas of the vehicle crossing from the pedestrian zones, the inner bands and quatrefoils will not be reinstalled in the new construction of the vehicle crossings. In order to both further define the limits of the vehicular crossings and to provide the ADA required detectable warning surfaces, a 2 foot wide precast concrete tactile warning surface will be installed on either side of the drive aisles. To further differentiate the vehicle crossings from the field of the Mall, the crossings will be constructed with 4" x 8" brick masonry unit pavers installed at an angle of 45 degrees from the Mall pattern centerline. This rotation of the pavers also serves to strengthen the flexible pavement by providing additional vertical face interaction for load transfer within the paver field. The original drainage runnel will be reconstructed with existing materials, as advised by the Mall Design Advisory Committee. Material selection (tactile warning surfaces and CIP concrete color, finish and texture) for the vehicle crossings will be in keeping with those used in the Mall Extension and 3rd Street in an effort to provide a sense of uniformity with new versus original construction.

Minutes from the October 21st meeting reflect that the crossing design was carried over to a future meeting.

Certificate of Appropriateness Application
BAR 07-12-03

Charlottesville Downtown Pedestrian Mall
MMM Design Group, Applicant/City of Charlottesville, Owner
Vehicular crossings design, fire lane, drinking fountains, brick and granite colors

Ms. Scala gave the staff report. MMM was last before the Board in August at which time approval was granted for: 4 x 12 bricks for the Mall with 4 x 8 bricks in the crosswalk; mortar set, reconstructed runnels and soldier courses on either side; the light fixtures; granite insert; newspaper boxes; and lighting levels. The applicant was to bring back to the Board: color samples of the brick and granite, which was seen by the Board on the Mall earlier in the day; tree preservation plan; the light poles – the applicant had decided to use the existing light poles; and additional design work for the vehicular crossings – a submittal had been provided. Two new drinking faucets were proposed. The designer had eliminated the interbanding and quatrefoil design.

Ms. Gardner, having considered the standards set forth within the City Code including City Design Guidelines for Public Improvements, moved to find that the proposed changes in items B, fire lane delineations, C, drinking fountains with the Halsey Taylor model 3420, brick color as submitted and granite samples as submitted satisfy the BAR's criteria and are compatible with this property and other properties in this district, and that the BAR approves the application as submitted. Mr. Hogg seconded the motion. Mr. Wolf wondered if they should make note they are deferring on item A. Ms. Gardner amended her motion to include that they find the design intention of item A, vehicular crossing to be compatible, but at this time are not satisfied with the level of design or detail as submitted and request that they come back to the Board for review. Mr. Hogg accepted the amendment. The motion carried unanimously.

At the next meeting of the BAR, on November 18, 2008 the vehicular crossing design was approved as shown below in the minutes:

Certificate of Appropriateness Application
BAR 07-12-03
Charlottesville Downtown Pedestrian Mall
MMM Design Group, Applicant/City of Charlottesville, Owner
Vehicular crossings design

Ms. Scala gave the staff report. This was last before the Board in October when fire

lane demarcation, drinking fountain, and brick and granite colors were approved. The design intention of the vehicular crossing was approved, but not the level of detail. The design now includes tactile strips in the runnel; the strips would be in a V-shape so as not to disrupt the work of the runnels. The applicant has provided three new alternate designs.

Mr. Joseph Schinstock of MMM, explained the design was an attempt to be sensitive to the Mall being included on the National Register and to serviceability issues.

This decision was confirmed in a letter, dated November 24, 2008 from Mary Joy Scala, Preservation and Design Planner, to MMM Design Group.

November 24, 2008

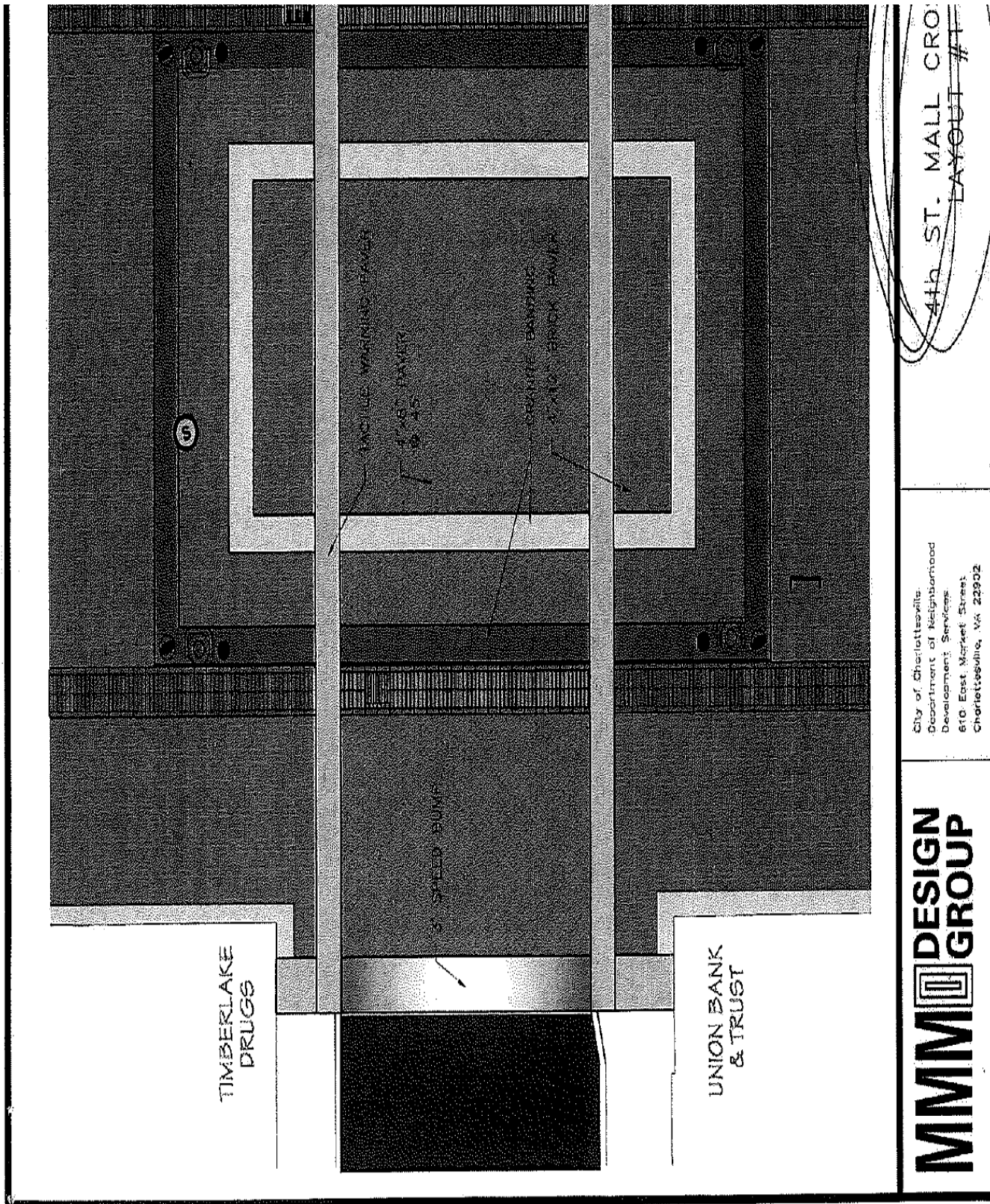
MMM Design Group
1025 5th Street, NE
Charlottesville, VA 22902
ATTN: Chris McKnight (email)

Certificate of Appropriateness Application
BAR 07-12-03
Charlottesville Downtown Pedestrian Mall
MMM Design Group, Applicant/City of Charlottesville, Owner
Vehicular Crossing Design

Dear Mr. McKnight:

The above referenced project was discussed before a meeting of the City of Charlottesville Board of Architectural Review (BAR) on November 18, 2008.

The BAR approved (8-1) the drawing received at the meeting described as 4th St. Mall Crossing Layout #1," but keeping the 4"x8" crossing bricks in the same orientation as the mall bricks.



Attached to this report is a copy of the original sketch of the selected Option One as presented, along with three other options, to the design advisory group and a copy of the final drawing.

Over the last couple of years we have seen a deterioration of the bricks and the granite in both the 2nd Street and 4th Street crossings. After analysis by the City Engineer, MMM Design Group, and the Parks Maintenance staff, it is believed that the problems are caused by:

- The fact that the 30 year old drainage runnels were left in place with mortared joints.
- Longer aspect bricks adjacent to the runnels and granite tiles will continue to rock under traffic loads.
- Use of granite that is not as durable as concrete.
- Continued use of the crossings by heavy delivery vehicles.

It is clear to all who have been involved with this project since the beginning that no one is to blame for the failure at the crossings. Rather it is a combination of the factors outlined above – and most likely the daily traffic by heavy delivery vehicles. The design process for this project tried to satisfy many interests, and in doing so there were probably decisions made that have contributed to the current problems. There is now an opportunity to repair the problems, but doing so without restricting the heavy vehicles will be a wasted opportunity to enhance the chances of success.

Discussion: After the analysis staff worked with MMM Design to develop two alternative designs for reconstruction of the crossings. The difference in the two approaches is that one keeps the runnels and one does not. The runnels will be flat along with field brick pavers and 4” x 8” bricks will be used. The alternative chosen is the one that removes the runnels. Key facets of the planned approach are:

- Will eliminate the granite pavers and the runnels.
- Will use only the heavy duty 4x8 pavers laid on an asphalt sand setting bed.

Alignment with City Council’s Vision and Priority Areas: Approval of this agenda item aligns with the City Council visions to be “A Smart Citizen Focused Government”.

Citizen Engagement: While there has been no direct citizen engagement, the issue of mall maintenance and the condition of the crossings has been mentioned often and was a concern of the Downtown Mall Work Group.

Budgetary Impact: The cost to make these repairs is estimated at \$100,000 to \$120,000. It is recommended that funding come from the Capital Contingency.

Recommendation: Staff recommends approval of the allocation of \$120,000 from the Capital Contingency to repair the 2nd Street and 4th Street Downtown Mall Crossings as proposed with the attached plan. In addition staff recommends that the crossings be restricted to not allow trucks over two axels in size at any time. The only exception would be the CAT trolley. Work will be scheduled at a time to be as descriptive as possible. During construction the crossings will be closed to vehicles.

Alternatives: To not repair the crossings.

Attachments: 2008 Plan
2013 Specifications/Estimate

RESOLUTION

Repair of Downtown Mall Crossings \$120,000

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby transferred in the following manner:

Transfer From

\$120,000

Fund: 426 Funded Program: CP-080

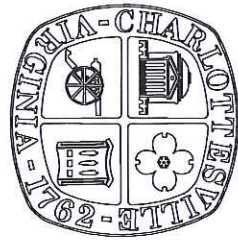
G/L Account: 59999

Transfer To

\$120,000

Fund: 426 Funded Program: P-00144

G/L Account: 59999



CITY OF CHARLOTTESVILLE, VIRGINIA
DEPARTMENT OF PARKS AND RECREATION
 1300 PEN PARK ROAD
 CHARLOTTESVILLE, VA 22901

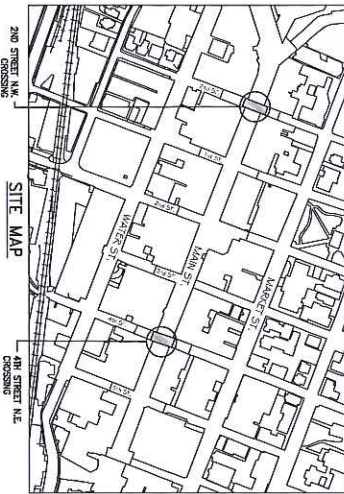
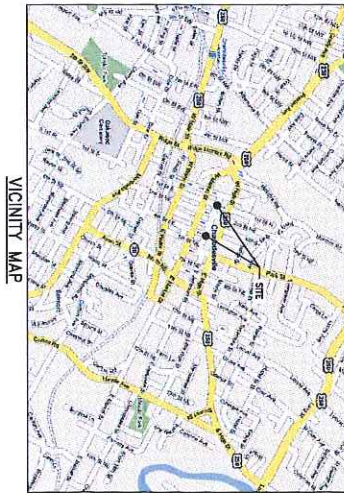
REPAIRS TO THE PEDESTRIAN MALL VEHICULAR CROSSINGS

SCOPE OF WORK:

- THE WORK GENERALLY CONSISTS OF REPAIRING DAMAGED CURBS AND BRICK PAVING UNITS FROM THE PEDESTRIAN CROSSINGS AT 2ND STREET NW AND 4TH STREET NE AND REPAIRING THESE UNITS WITH NEW CAY PAVES SET IN A REINFORCED STIFFING BED. ADDITIONALLY, THE ADJACENT SET SQUARE CURBS ADJACENT TO THE SPEED BUMP WILL BE REPAIRED AND REPLACED WITH A BRUNNINGS SET REPAIRER BAND. THE ADA DETECTABLE WARNING PAVES WILL ALSO BE REPLACED IN REQUIRED LOCATIONS.

DRAWING INDEX

- C000 TITLE SHEET
- C001 PROJECT PROCEDURES & MATERIALS
- C100 EXISTING CONDITIONS & DEMOLITION PLAN - 2ND STREET N.W.
- C101 EXISTING CONDITIONS & DEMOLITION PLAN - 4TH STREET N.E.
- C200 CROSSING REPAIRS - 2ND STREET N.W.
- C201 CROSSING REPAIRS - 4TH STREET N.E.
- C300 TYPICAL DEMOLITION DETAILS
- C301 TYPICAL CONSTRUCTION DETAILS



16 15 14 13 12 11 10 9 8 7 6 5 4 3 2

LEGEND:

- ⊗ SANITARY SEWER MANHOLE
- ⊙ ADA DETECTABLE WARNING PAVES
- ⊙ TELEPHONE MANHOLE
- ⊙ WATER VALVE
- ⊙ STORM MANHOLE
- ⊙ STORM INLET, EXISTING
- ▣ EXISTING BRICK FIELD
- ▣ EXISTING CONCRETE BANDING

GENERAL CONSTRUCTION NOTES:

- THE WORK SHALL BE EXECUTED IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- DRAWINGS HAVE BEEN PREPARED BASED ON THE CONDITIONS THAT EXIST AT THE TIME OF THE DESIGN. ALL CONDITIONS NOT TO BE SHOWN IN THE DRAWINGS SHALL BE RECORDED FOR THE FIELD. ALL CONDITIONS, MATERIALS, DIMENSIONS, LOCATIONS AND EXISTING CONDITIONS TO BE SHOWN IN THE FIELD BEFORE PROCEEDING WITH ANY WORK. IF CONDITIONS VARY FROM WHAT IS REPRESENTED IN THE DRAWINGS, THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER.
- EXISTING CONSTRUCTION SHOWN IN THESE DRAWINGS SHALL BE USED AS REFERENCE POINTS AND ARE TO BE VERIFIED IN THE FIELD BY THE CONTRACTOR. IF DELETED OR TYPICAL FOR PROPER EXECUTION OF THE WORK.
- CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DUST AND ODOR CONTROL MEASURES.
- VEHICULAR AND PEDESTRIAN TRAFFIC MUST BE MAINTAINED AT ALL TIMES THROUGHOUT THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL TRAFFIC CONTROL MEASURES AND ALL NECESSARY SIGNAGE AND FLAGMEN SHALL BE PROVIDED BY THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL NECESSARY SIGNAGE AND FLAGMEN TO MAINTAIN TRAFFIC CONTROL THROUGHOUT THE PROJECT.
- ALL WORK AREAS SHALL BE CLEANED DAILY.
- CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF BUILDINGS ADJACENT TO WORK AREAS. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COSTS OF DAMAGES RESULTING FROM CONSTRUCTION ACTIVITIES.
- SECTION CUTS AND DETAIL CALLOUTS INDICATED IN THE DRAWINGS ARE TYPICAL FOR THE PROJECT. THEY ARE TO BE CONSIDERED TYPICAL FOR SIMILAR CONDITIONS AND HAVE NOT BEEN SHOWN OTHERWISE IN THIS SET.
- CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR JOB SITE SAFETY.
- CONTRACTOR IS RESPONSIBLE FOR PROTECTION OF ALL CONSTRUCTION.
- STAKES IN THE DRAWINGS ARE NOT TO SCALE.
- ALL WORK SHALL BE UNDO-OUT FROM TO RECONSTRUCTION OF NEW WORK. ALL NECESSARY SIGNAGE AND FLAGMEN SHALL BE PROVIDED BY THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL NECESSARY SIGNAGE AND FLAGMEN TO MAINTAIN TRAFFIC CONTROL THROUGHOUT THE PROJECT.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGE TO THE EXISTING BUILDINGS AND ADJACENT CONDITIONS AND PROPERTY CAUSE BY THE CONSTRUCTION OF THIS PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGE TO THE EXISTING BUILDINGS AND ADJACENT CONDITIONS AND PROPERTY CAUSE BY THE CONSTRUCTION OF THIS PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGE TO THE EXISTING BUILDINGS AND ADJACENT CONDITIONS AND PROPERTY CAUSE BY THE CONSTRUCTION OF THIS PROJECT.
- PROTECTION OF THE WORK. PROTECT EXISTING ALL UTILITIES AND REPAIRS DURING THE ENTIRE PERIOD OF CONSTRUCTION. REPAIRS TO ALL UTILITIES AND EQUIPMENT DAMAGED, USE OR STOLEN WITHOUT APPROVAL, COST TO THE CITY.
- WHERE WORK REQUIRES EXISTING UTILITIES TO BE REMOVED, CLEANED AND REPAIRED, THROUGH THESE OPERATIONS WITHOUT DAMAGE TO THE UTILITIES THE CONTRACTOR SHALL PROVIDE AND MAINTAIN ADEQUATE FIRE PROTECTION IN THE FORM OF FIRE EXTINGUISHERS OR OTHER EXTINGUISHER MEANS OF PROTECTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGE TO THE EXISTING BUILDINGS AND ADJACENT CONDITIONS AND PROPERTY CAUSE BY THE CONSTRUCTION OF THIS PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGE TO THE EXISTING BUILDINGS AND ADJACENT CONDITIONS AND PROPERTY CAUSE BY THE CONSTRUCTION OF THIS PROJECT.
- EXTENSIVE SIGNAGE AND TRAFFIC CONTROL SHALL BE PROVIDED THROUGHOUT THE PROJECT AND NEAR ALL NECESSARY SIGNAGE AND FLAGMEN TO MAINTAIN TRAFFIC CONTROL THROUGHOUT THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGE TO THE EXISTING BUILDINGS AND ADJACENT CONDITIONS AND PROPERTY CAUSE BY THE CONSTRUCTION OF THIS PROJECT.
- ALL MATERIALS SHALL BE STORED IN FRONT OF THE CONSTRUCTION. THIS PREVENTS ACCESS. THE CONTRACTOR SHALL MAINTAIN ACCESS PROCEDURES WITH THE FIRE DEPARTMENT.
- TRUCKS AND OTHER DAMAGED LOGS SHALL BE STORED AND DEPOSITED FROM UL LISTED SAFETY CONTAINERS IN CONFORMANCE WITH THE NATIONAL BOARD OF THE UNDERGROUND RECOMMENDATIONS.
- STAKEPLAYS ARE NOT REQUIRED. CONTRACTOR LEADS TO USE THE PROPOSED PROJECT LEADS. STAKEPLAYS WILL BE REQUIRED IF CONTRACTOR WANTS TO USE ALTERNATE PRODUCTS. ALL ALTERNATE PRODUCTS ARE SUBJECT TO REVIEW AND APPROVAL BY THE ENGINEER AND CITY.

C000
 SHEET NUMBER:
 SHEET 1 OF 8

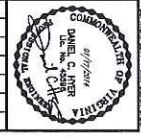
MMM DESIGN GROUP
 182 2ND ST. NE
 CHARLOTTESVILLE, VA 22902
 434-252-8700

DESIGNED BY: ZOI
 CHECKED BY: DCH
 APPROVED: DCH
 DATE: JAN. 17, 2014
 DRAWN BY: DCH
 SHEET NUMBER: C000

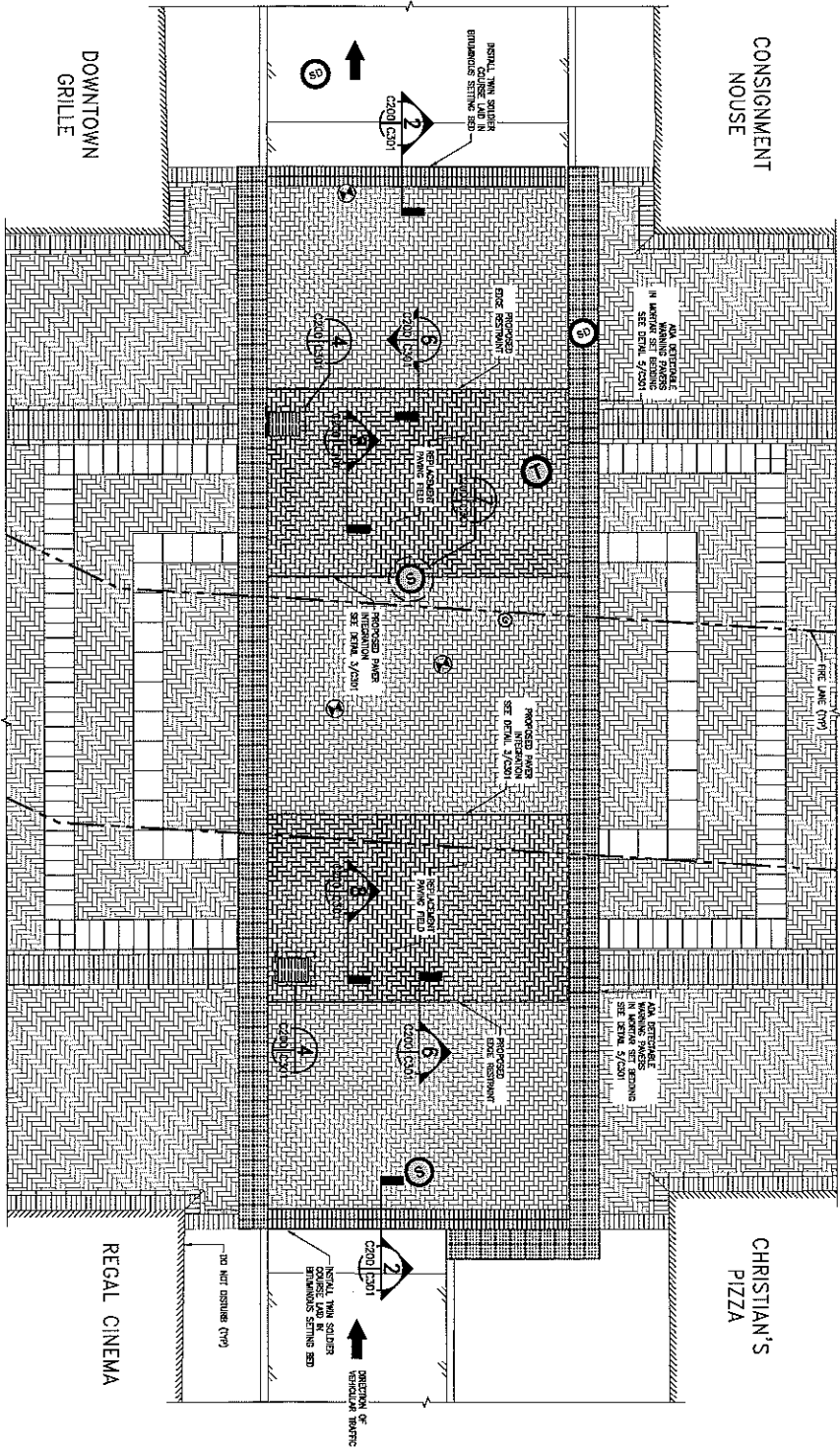
**REPAIRS TO PEDESTRIAN MALL
 VEHICULAR CROSSINGS**

TITLE SHEET

NO.	DATE	REVISIONS



18
15
14
13
12
11
10
9
8
7
6
5
4
3
2



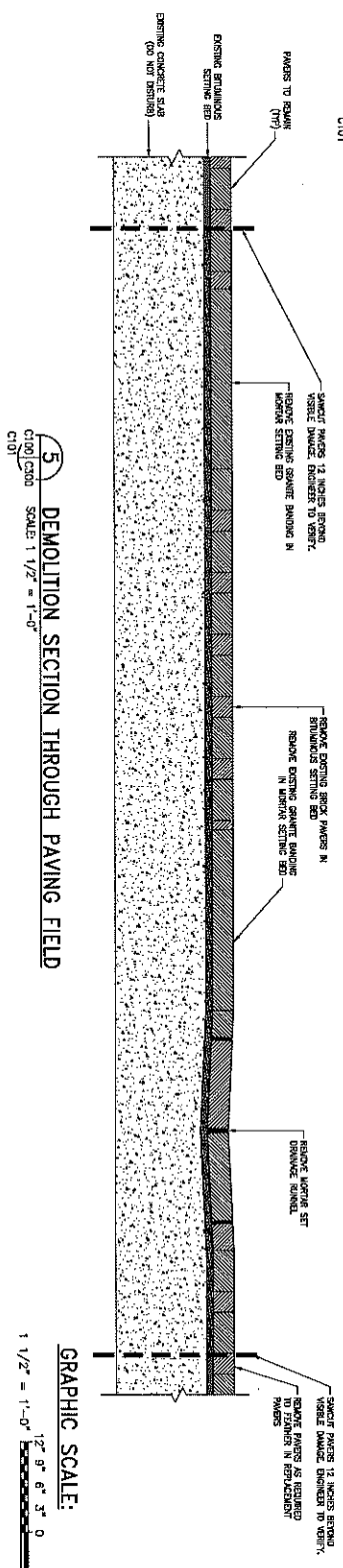
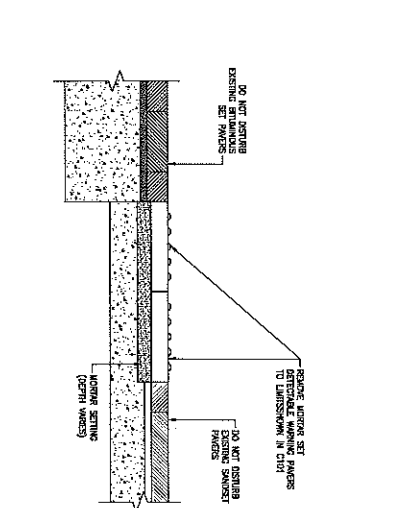
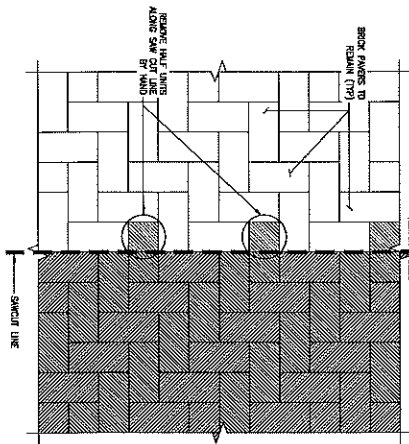
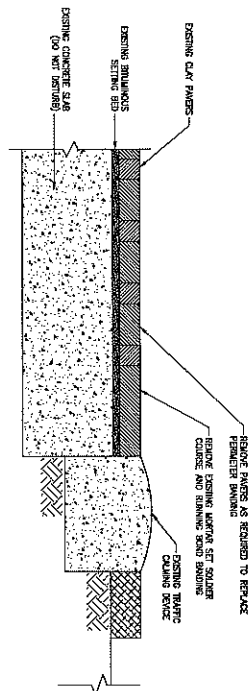
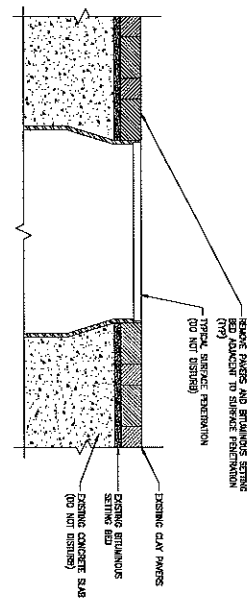
1 2ND STREET N.W. VEHICULAR CROSSING
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE:



	REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS CROSSING REPAIRS - 2ND STREET N.W.		<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISIONS</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	REVISIONS									
	NO.	DATE		REVISIONS											
SHEET 5 OF 8 C200	DATE: JAN. 17, 2014 DRAWN BY: J. B. B.	CHECKED: DCH APPROVED: DCH													





GRAPHIC SCALE:
 1 1/2" = 1'-0"
 12" 9" 6" 3" 0

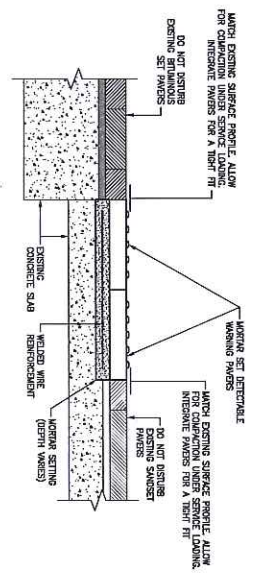
18 15 14 13 12 11 10 9 8 7 6 5 4 3 2

		REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS TYPICAL DEMOLITION DETAILS	
NO.	DATE	REVISIONS	

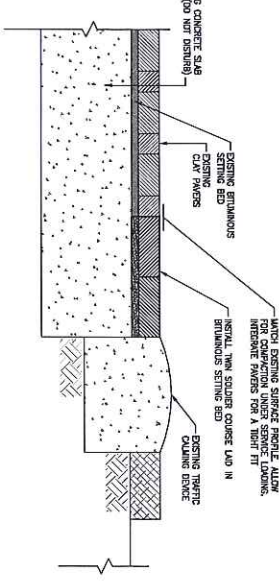
MMMM DESIGN GROUP
 105 5TH ST. NW
 CHARLOTTEVILLE, VA 22602
 434-223-2700

DESIGNER: ZSD
 CHECKER: DCH
 APPROVER: DCH
 DATE: JAN. 17, 2014
 DRAW NO.: 1161416
 SHEET NUMBER: C300

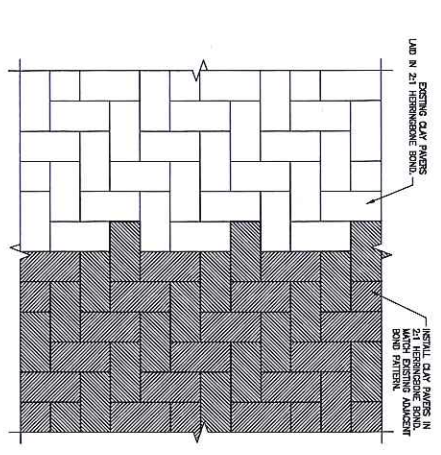
SHEET 7 OF 8



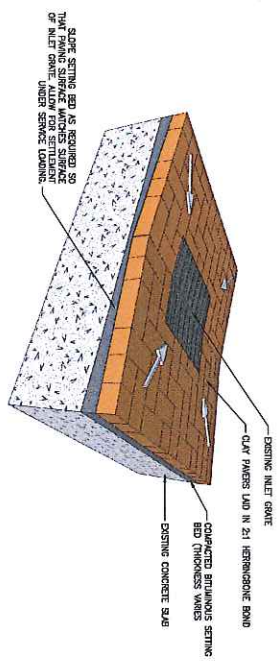
1 ADA DETECTABLE PAVES INSTALLATION
SCALE: 1/2" = 1'-0"



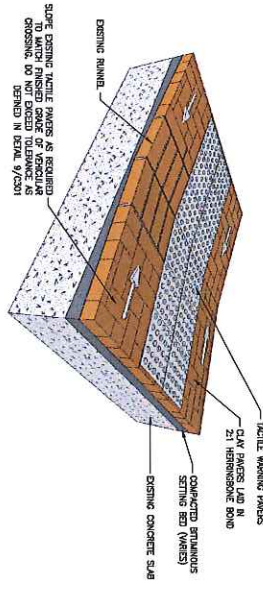
2 PERIMETER BANDING REPLACEMENT
SCALE: 1/2" = 1'-0"



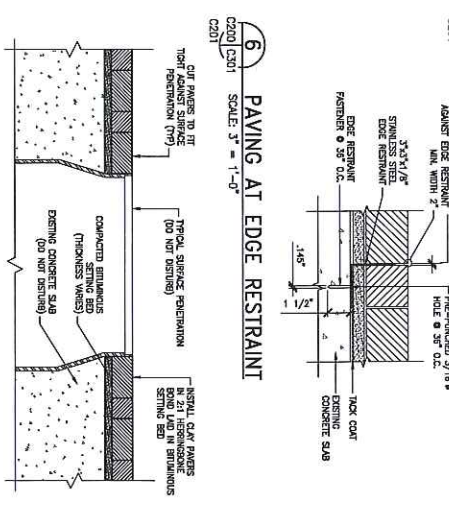
3 PROPOSED PAVING INTEGRATION
SCALE: 1/2" = 1'-0"



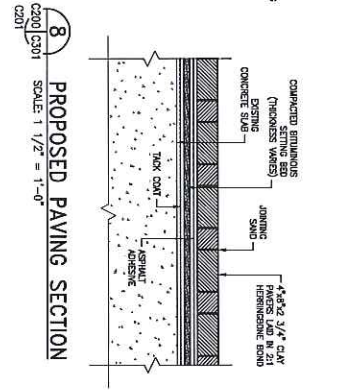
4 PAVING AT EXISTING INLET
SCALE: NTS



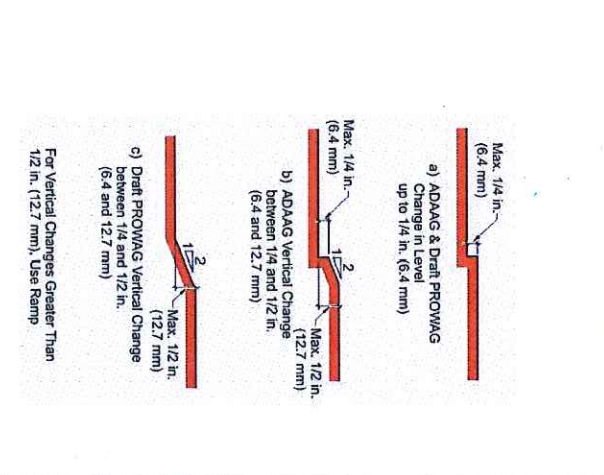
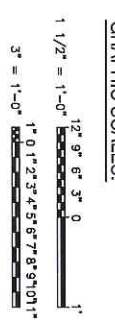
5 ADA DETECTABLE PAVES INTEGRATION
SCALE: NTS



6 PAVING AT EDGE RESTRAINT
SCALE: 3" = 1'-0"



8 PROPOSED PAVING SECTION
SCALE: 1/2" = 1'-0"



9 ADAAG PAVING SURFACE THRESHOLDS
SCALE: NTS



NO.	DATE	REVISIONS

REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS
TYPICAL CONSTRUCTION DETAILS

MMM DESIGN GROUP
107 S.W. 5th Ave., Suite 2002
Miami, FL 33130
Phone: 305-442-6700
Fax: 305-442-6700

DATE: JUN. 17, 2014
DRAWN BY: DCH
CHECKED BY: DCH
PROJECT: DCH
SHEET NUMBER: C301
SHEET 8 OF 8

PROJECT CODE:
GROSS AREA (GSF):

REPAIR COST ESTIMATE

PREPARED BY: DCH
DATE PREPARED: 1/17/2014

PROJECT TITLE: Repairs to the Pedestrian Mail Vehicular Crossings
PROJECT LOCATION: Charlottesville VA

BASIS OF ESTIMATE
Code A - No Design Completed
Code B - Preliminary Design
x Code C - Final Design
Other: Schematic Design

SYSTEM DESCRIPTION	QUANTITY	MATERIAL	LABOR	EQUIPMENT	TOTAL
39 - SITE IMPROVEMENTS		\$ 14,740.50	\$ 11,171.25	\$ 1,825.00	\$ 27,736.75
42 - SITE DEMOLITION		\$ 524.00	\$ 7,032.33	\$ 3,620.33	\$ 11,176.67
ENGINEER CA SERVICES		\$ -	\$ 3,000.00	\$ -	\$ -
SUB-TOTAL COST ESTIMATE		\$ 15,264.50	\$ 21,203.58	\$ 5,445.33	\$38,913.42
GEOGRAPHICAL + ESCAL. FACTORS		1.00	1.00	1.00	
SUB-TOTAL		\$ 15,265	\$ 21,204	\$ 5,445	\$41,913.42
5.3% SALES TAX		\$ 809	\$ -	\$ -	\$ -
SUB-TOTAL		\$ 16,074	\$ 21,204	\$ 5,445	\$42,722.43
LABOR 28%		\$ -	\$ 5,937.00	\$ -	\$ -
SUB-TOTAL		\$ 16,074	\$ 27,141	\$ 5,445	\$ 48,659
OH and PROFIT 15%		\$ 2,411.03	\$ 4,071.09	\$ 816.80	\$ 7,298.91
SUB-TOTAL		\$ 18,485	\$ 31,212	\$ 6,262	\$ 55,958
ESTIMATING CONTINGENCY (10%)		\$ 1,848.45	\$ 3,121.17	\$ 626.21	\$ 5,596
TOTAL COST ESTIMATE		\$ 20,333.00	\$ 34,332.64	\$ 6,888.34	\$61,554.18

SYSTEM DESCRIPTION	QUANTITY		MATERIAL		LABOR		EQUIPMENT		TOTAL COST
	NO UNITS	UNIT OF MEAS.	PER UNIT	TOTAL	PER UNIT	TOTAL	PER UNIT	TOTAL	
39 - SITE IMPROVEMENTS									
Prime Coat	15.0	GAL	3.50	\$ 52.50	3	\$ 45.00	\$ -	\$ -	\$ 97.50
Bituminous Bedding	1300.0	SF	1.50	\$ 1,950.00	1.25	\$ 1,625.00	\$ 1.25	\$ 1,825.00	\$ 5,200.00
Tack Coat	30.0	GAL	3.50	\$ 105.00	3	\$ 90.00	\$ -	\$ -	\$ 195.00
Clay Paving Units (4x8x2-3/4)	1150.0	SF	\$ 6.50	\$ 7,475.00	\$ 7.00	\$ 8,050.00	\$ -	\$ -	\$ 15,525.00
Jointing Sand	1.0	LS	\$ 38.00	\$ 38.00	\$ 200.00	\$ 200.00	\$ -	\$ -	\$ 238.00
Stainless Steel Edge Restraint (3x3x1/8)	100.0	LF	\$ 40.00	\$ 4,000.00	\$ 6.00	\$ 600.00	\$ 2.00	\$ 200.00	\$ 4,800.00
Steel Fasteners	50	EA	\$ 8.00	\$ 400.00	\$ -	\$ -	\$ -	\$ -	\$ 400.00
Replace ADA Detectable Pavers	40.0	EA	\$ 8.00	\$ 320.00	\$ 12.50	\$ 500.00	\$ -	\$ -	\$ 820.00
ADA Detectable Pavers Altic Stock	25.0	EA	\$ 8.00	\$ 200.00	\$ 1.25	\$ 31.25	\$ -	\$ -	\$ 231.25
Welded Wire Fabric	1.0	LS	\$ 200.00	\$ 200.00	\$ 30.00	\$ 30.00	\$ -	\$ -	\$ 230.00
SUB-TOTAL THIS SECTION				\$ 14,740.50		\$ 11,171.25		\$ 1,825.00	\$ 27,736.75

SYSTEM DESCRIPTION	QUANTITY		MATERIAL		LABOR		EQUIPMENT		TOTAL COST
	NO UNITS	UNIT OF MEAS.	PER UNIT	TOTAL	PER UNIT	TOTAL	PER UNIT	TOTAL	
42 - SITE DEMOLITION									
Unit Paver Removal - Mortar Set	740.0	SF	\$ -	\$ -	\$ 3.50	\$ 2,590.00	\$ 3.00	\$ 2,220.00	\$ 4,810.00
Unit Paver Removal - Bituminous Set	610.0	SF	\$ -	\$ -	\$ 3.50	\$ 2,135.00	\$ 1.50	\$ 915.00	\$ 3,060.00
Bituminous Setting Bed Removal + Prep Slab	118.0	SY	\$ -	\$ -	\$ 4.00	\$ 472.00	\$ 3.00	\$ 354.00	\$ 826.00
Mortar Setting Bed Removal	13.3	SY	\$ -	\$ -	\$ 8.50	\$ 113.33	\$ 2.50	\$ 33.33	\$ 146.67
Saw-cutting (up to 3" deep)	200.0	LF	\$ 0.12	\$ 24.00	\$ 0.61	\$ 122.00	\$ 0.49	\$ 98.00	\$ 244.00
Flagger - Traffic Control	80.0	HR	\$ -	\$ -	\$ 20.00	\$ 1,600.00	\$ -	\$ -	\$ 1,600.00
Signage	1.0	LS	\$ 500.00	\$ 500.00	\$ -	\$ -	\$ -	\$ -	\$ 500.00
SUB-TOTAL THIS SECTION				\$ 524.00		\$ 7,032.33		\$ 3,620.33	\$ 11,176.67

CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



Agenda Date:	February 18, 2014
Action Required:	Approval of Resolution
Presenter:	Kathy McHugh, Housing Development Specialist
Staff Contacts:	James E. Tolbert, AICP, Director of NDS Kathy McHugh, Housing Development Specialist
Title:	Affordable Dwelling Unit Ordinance Regulations

Background:

Section 34-12 of the Code of the City of Charlottesville, 1990, as amended (Zoning Ordinance), allows for the provision of on-site or off-site "Affordable Dwelling Units" or a cash contribution to the City's affordable housing fund, in lieu of such units, as a condition of approval of a rezoning or special use application for residential or the residential portion of mixed use projects with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre.

To date, developers have opted to utilize the cash contribution option; however, should they elect to provide actual units, the City currently has no regulations in place to dictate how this should happen and what the City expects.

On September 3, 2014, City Council approved change to both the zoning code and subdivision ordinance to incorporate regulations for administration of the provisions of Section 34-12. Changes were also integrated at Sections 34-827, 34-828, and 29-110 to ensure that affordable units are described and included in preliminary site plans, final site plans, and plats for subdivisions within these sections respectively.

Discussion:

The attached Standard Operating Procedure (SOP) specifies what is required for the payment of the cash contribution, as well as the on-site and off-site affordable dwelling units (ADUs) whether for rent or for purchase/sale. It also incorporates a provision for enforcement pursuant to Section 34-82(b)(1). Specific regulations for committed affordable units (CAUs) are called out in either Schedule 1 (for rental ADUs) or Schedule 2 (for purchase/sale ADUs).

Community Engagement:

The proposed regulations were drafted with assistance by the City Attorney's office. These regulations underwent extensive discussions by the Housing Advisory Committee at the

September and October 2013 meeting and were finalized and formally recommended for approval by City Council at the January 2014 meeting.

Alignment with City Council's Vision and Priority Areas:

Approval of this agenda items aligns directly with Council's vision for Charlottesville to provide quality housing opportunities for all.

Budgetary Impact:

As the regulations could potentially encourage on-site or off-site development of affordable dwelling units, the City could see a reduction of payments in lieu; however, the gain in affordable housing would well off-set any such reductions. It is far more expensive to construct actual units than to pay into the housing fund and units constructed pursuant to this ordinance would have to remain affordable for a period of 30 years.

Recommendation:

Staff recommends approval of the proposed regulations.

Alternatives:

Council could suggest alternative language and/or changes to the proposed draft; however, some form of regulations need to be in place to provide developer guidance.

Attachments: Resolution; Proposed ADU Standard Operating Procedures and Regulations

RESOLUTION

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, that this Council hereby approves the attached Affordable Dwelling Unit Regulations, and the City Manager is hereby authorized to sign the following document, in form approved by the City Attorney or his designee.

Standard Operating Procedure (SOP) providing regulations governing the affordable dwelling unit requirements of City Code Sec. 34-12 on residential housing projects that are approved by rezoning or special use permit.

**CITY OF CHARLOTTESVILLE
STANDARD OPERATING PROCEDURE**



Type of Policy: ZONING REGULATIONS	Department: NDS
Subject: Implementation of City Code 34-12 (Affordable Dwelling Units)	
Authorization: Charlottesville City Code Sec. 34-12(g)	
Approval by City Council: _____, 2014	Effective Date:

I. PURPOSE OF REGULATIONS

The purpose of these zoning regulations is to assure the performance of affordable dwelling unit obligations by developers who obtain approval of rezonings and special use permits subject to the provisions of Sec. 34-12 of the Charlottesville City Code (“City Code”). These regulations may be referred to as the City’s “Affordable Dwelling Unit Regulations”.

II. ENABLING ORDINANCES/LEGISLATION

These provisions of these zoning regulations are authorized and enabled by Sec. 34-12 of the Charlottesville City Code, pursuant to Chapter 311 of the Acts of the Virginia General Assembly (2008); by Sec. 15.2-2200 *et seq.* of the Virginia Code; by Sec. 50.7 of the Charter of the City of Charlottesville; and by Chapter 34 (Zoning) of the City Code.

III. DEPARTMENTS/DIVISIONS AFFECTED

These regulations will primarily affect the employees and officials of the City’s Department of Neighborhood Development Services, but may also affect the City Attorney’s Office.

IV. REGULATIONS AND PROCEDURES

A. Definitions

1. For the purpose of these regulations, the term “affordable dwelling units” shall have the meaning set forth in Sec. 34-12(c) of the City Code. The acronym “ADU” shall mean “affordable dwelling unit.”
2. The acronym “HDS” shall mean the City’s Housing Development Specialist employed within the Department of Neighborhood Development Services.

3. The acronym “CAU” shall mean “committed affordable dwelling units”, i.e., the number of dwelling units committed, by legally binding agreements and reservations, for rent or for sale as ADUs.
 4. For the purpose of these regulations, the term “Project” shall mean the approved residential project or residential portion of a mixed-use project subject to the requirements set forth in Sec. 34-12(a).
 5. Supported Affordable Housing are units with various sources of public funding and mechanisms ensuring their affordability including, but not limited to: HUD, VHDA, the City of Charlottesville, Housing Choice (Section 8) vouchers, and/or deed restrictions. Support may be project-based for multiple units (i.e., Friendship Court), be attached to individual locations (deed restrictions and land trusts), or reside with individual households (Housing Choice Vouchers or downpayment assistance).
- B. The City’s HDS shall be responsible for administering and enforcing these regulations, under the direction of the City’s Director of Neighborhood Development Services (“Director”). An applicant aggrieved by a decision of the HDS may request a review by the Director, by submitting a written request for review within 5 days of the HDS’ decision.
1. Following receipt of a written request for review, the Director shall render a written decision 5 days.
 2. In the event an applicant is aggrieved by a decision of the Director, the applicant shall have the right of appeal to the City’s Board of Zoning Appeals (BZA), pursuant to the authority of Virginia Code § 15.2-2309(1) and 15.2-2311. The person aggrieved by the Director’s decision shall have 30 days from the date of the Director’s written decision to file a written notice of appeal with the BZA.
- C. **Cash Contributions to City’s Affordable Housing Fund**: Regulations applicable to Cash Contributions made pursuant to Sec. 34-12(d)(2) of the City Code are as follows:
1. Prior to approval of any building permit authorizing construction of improvements on land subject to the requirements of Sec. 34-12(a) of the City Code, the person seeking the building permit shall provide evidence satisfactory to the City that the cash contribution required by Sec. 34-12(d)(2) and 34-12(e) has been paid. Satisfactory evidence shall include, without limitation, cancelled check(s); written receipts; written acknowledgement letter(s) received from a city official, etc.
 2. The required evidence of payment shall be submitted to the HDS.
 3. In the event that a building permit should be approved prior to the City’s receipt of the required evidence of payment, issuance of such permit shall not be deemed or construed as proof or evidence of payment. The owner of the property shall be and remain obligated to make payment of the cash contribution, until such time as satisfactory [documentary] evidence of actual payment is received by the HDS.

- D. **On-Site ADUs for Rent**: regulations applicable to On-Site ADUs provided pursuant to Sec. 34-12(a) of the City Code are set forth within **Schedule 1** appended to these Affordable Dwelling Unit Regulations.
- E. **On-Site ADUs for Sale**: regulations to On-Site ADUs provided pursuant to Sec. 34-12(a) of the City Code are set forth within **Schedule 2** appended to these Affordable Dwelling Unit Regulations.
- F. **Off-Site ADUs for Rent or for Sale**: regulations applicable to Off-Site ADUs provided for rent or for sale, pursuant to Sec. 34-12(d)(1), are as follows:
1. Prior to the issuance of any building permit authorizing construction of improvements on land subject to the requirements of Sec. 34-12(a) of the City Code, the person seeking the building permit shall provide evidence satisfactory to the City that an off-site location has been reserved for the number of ADUs required pursuant to Sec. 34-12(d)(1) of the City Code. Satisfactory evidence may include, without limitation, written instruments recorded within the chain of title for the off-site location. The proposed off-site units must be located in the City.
 2. The required evidence of a reserved off-site location for ADUs shall be submitted to the HDS.
 3. In the event that a building permit should be approved prior to the City's receipt of the required evidence of the reserved off-site location, issuance of the building permit shall not be deemed or construed as evidence of compliance with Sec. 34-12(d)(1). The owner of the property that is subject to the requirements of Sec. 34-12(a) shall be and remain obligated to provide ADUs in accordance with Sec. 34-12(d)(1) until such time as satisfactory [documentary] evidence of a reserved off-site location is received and determined by the HDS to be satisfactory.
 4. Requirements may be met through the preservation of existing Supported Affordable Housing units where it can be demonstrated that those units are at risk of losing the existing support mechanism within the next 5 years.
 5. In all other respects, **(i)** off-site ADUs for rent shall be subject to the requirements of Paragraph (D), above, and **(ii)** off-site ADUs for sale shall be subject to the requirements of Paragraph (E), above.

V. CONSEQUENCES OF VIOLATION OF REGULATIONS

Pursuant to Sec. 34-82(b)(1) of the City Code, a violation of these regulations shall constitute unlawful conduct in violation of the City's zoning ordinance.

VI. RELATED FORMS; INTERPRETIVE GUIDELINES; SCHEDULES

- A. Subject to approval by the City Attorney, the City's Director of Neighborhood Development Services is hereby authorized to develop forms, agreements, deeds and other written instruments, and to identify related federal and state indexes and

guidelines, necessary for the proper administration and interpretation of the provisions of these regulations, subject to approval by the City Attorney.

B. The following Schedules are appended to these regulations:

1. Schedule 1
2. Schedule 2

SCHEDULE 1 To City's ADU Regulations:
**Regulations Applicable to On-Site ADUs provided pursuant to Sec. 34-12(a) of the
City Code, for Rental**

- (1) **Owner's CAU Commitment.** The Owner shall construct and reserve within the Project a mixture of 1-, 2-, and 3-bedroom CAUs (as appropriate to the planned development), as follows:
- (a) The Owner and the HDS shall calculate the minimum square footage of gross floor area (GFA) to be reserved within the Project for CAUs, based on the requirements of Sec. 34-12(a) ("CAU Commitment"), which shall be set forth within a written CAU Commitment executed by the Owner prior to approval of any site plan or subdivision plat for the Project, or if no such approval is required, then prior to issuance of any building permit. The square footage reserved for CAUs shall be configured and designed as follows:
 - (i) The CAU Commitment shall specify a total square footage to be devoted to CAUs as well as a minimum number of bedrooms to be provided within the reserved CAUs. Further, the CAU Commitment shall identify how many of those bedrooms will be in 1-, 2-, 3-, and 4- bedroom units. Based on current market need, the HDS has discretion to express preference for projects that contain a mixture of units that accommodate seniors/singles as well as families.
 - (ii) CAUs shall be dispersed throughout the Project, with no more than 25% of the CAUs located on any one floor of a building, or within any one section or development phase of the Project, except in cases where the Owner demonstrates to the satisfaction of the HDS that requirements of a federal or state funding program necessitate alternate arrangements, or if by reason of lot configuration or other circumstances of the development render such dispersal unachievable, undesirable, or impractical.
 - (iii) Each CAU shall have substantially similar exterior quality and appearance as other dwelling units within the Project. Also, to the maximum extent possible, CAUs will incorporate energy efficient design to increase durability, and operational efficiency—thereby promoting continued affordability.
 - (b) The details of the CAU Commitment shall be noted by the Owner on the final building construction plans prepared for submission in connection with an application for final building permit approval ("Final Proposed Construction Plans"). Specific CAUs do not have to be identified on the construction plans. The Owner will submit the Final Proposed Construction Plans to the HDS for review, *prior to* submission to the Building Official. The HDS will review the Final Proposed Construction Plans within five (5) business days of receipt, for compliance with the requirements of Paragraph (1)(a), above. If the Final Proposed Construction Plans include adequate notation of the CAU Commitment as set forth within Paragraph (1)(a), above, then the HDS shall provide written verification to the Owner and to the Building Official. Before a CO is issued, the

Owner must specify which units will be designated as affordable for the purposes of the CAU Commitment.

- (c) If the Final Proposed Construction Plans do not include a notation that meets the specifications set forth within Paragraph (1)(a) above, or if the Building Official does not have written verification from the HDS that the CAU Commitment is adequately set forth within the plans, then the Building Official shall not approve a building permit.
 - (d) Prior to the issuance of the first certificate of occupancy for any building or unit within the Project, the Owner shall specify to the HDS which specific dwelling units will be designated as CAUs, and the Owner shall cause to be recorded among the land records of the City of Charlottesville, Virginia, a written instrument sufficient to (i) give third parties notice of the Owner's obligations under Sec. 34-12 and the Owner's CAU Commitment within the development, and (ii) to assure that Owner's CAU Commitment within the development will be binding on the Owner and his heirs, successors and assigns, in a manner that will implement the requirement of Sec. 34-12(c) for each CAU to be and remain an affordable unit for a period of 30 years.
 - (e) Following approval of a certificate of occupancy, and from time to time throughout the 30-year commitment period, the Owner shall have the right to change the units designated as being reserved as CAUs, following advance written notice to the HDS and a determination by the HDS that the change will not lessen or remove the CAU Commitment. Alternative units proposed should be consistent with the initial CAU Commitment per Paragraph (1)(a)(i), above, based on a determination by the HDS.
 - (f) If an otherwise qualified tenant residing in a CAU has an increase in income that exceeds the HUD guidelines specified in Paragraph (2)(a)(i), that CAU unit will still be considered as meeting the CAU Commitment for a period of three (3) years commencing on January 1 of the calendar year succeeding the year in which the income increased subject to the rent provisions at 2(a)(iii)(A).
 - (g) The Owner must keep current records for CAUs at all times and the HDS must be provided access to such records at reasonable times, at the location where the records are kept, upon request by the HDS.
 - (h) If at any time prior to the end of the 30-year commitment term, the Project is converted to a condominium, or other form of individual ownership, the CAU Commitment shall continue in full force and effect and the required number of CAUs shall be leased to Qualified Tenants throughout the 30-year commitment term, or, in the alternative, the CAUs may be sold to buyers meeting the current HUD Guidelines, as specified in Paragraph (2)(a)(i). Upon a sale of any such converted CAU, the requirements set forth in Schedule 2 to these Regulations shall apply to the remaining 30-year commitment term.
- (2) **Terms and Conditions for Rentals.** Owner shall offer the CAUs for rental to Qualified Tenants, subject to Owner's standard form lease agreement. These regulations are not intended to conflict with State and Federal requirements. The HDS has the option of subordinating the following if in conflict. Otherwise, terms and conditions applicable to such

rentals shall be as follows:

(a) Qualified Tenants.

- (i) For the purposes of these regulations, the term “Qualified Tenant” shall mean a tenant whose household income is 60 percent or less of the area median income for Charlottesville, Virginia, adjusted for household size (“Median Income”) as published annually by the U.S. Department of Housing and Urban Development Multifamily Tax Subsidy Project Income Limits (“HUD Guidelines”).
- (ii) In determining whether or not to approve a Qualified Tenant for a lease agreement, the Owner may apply its typical credit (including any minimum income requirement) and background check requirements to tenants of CAUs; however, any requirement for a minimum income shall be suspended: (i) for participants in the Housing Choice Voucher program, or (ii) if Owner’s typical minimum income requirement exceeds 60 percent of Median Income.
- (iii) Upon the commencement of each tenancy of a CAU, the Owner shall document that the tenant meets the criteria for a “Qualified Tenant.” Thereafter, Owner shall document the tenant’s continued eligibility for status of a Qualified Tenant on an annual basis.
 - A. If a CAU tenant’s household income increases above the limit for a Qualified Tenant, then such tenant may be permitted a grace period by the Owner to remain in the same unit for a period of up to three (3) additional years, subject to yearly increases in the current rent (as of the beginning of the grace period) based on the percentage increase in HUD fair market rents for the most recent calendar year. After the three (3) year period, the Owner may allow the tenant to remain in the same unit; however, the Owner shall provide the City with notice that they are amending the prior CAU designation to transfer the CAU status of that particular unit to a different unit within the Project. Nothing within these regulations shall preclude the Owner from allowing a tenant whose household income increases above the limit to move to a different, non-CAU designated unit within the Project, subject to a lease at market rent at the conclusion of the three (3) year grace period.
 - B. Each lease agreement for a CAU shall contain a provision stating that the tenant’s failure to meet the criteria for a Qualified Tenant, or the Tenant’s failure or refusal to provide information necessary for recertification, will constitute non-compliance with the lease and that the lease may be terminated for such non-compliance.
 - C. In the event that a previously qualified tenant is being evicted or removed for non-compliance, the Owner will continue to be considered in compliance with these regulations if the Owner is diligently pursuing possession of the CAU through available legal means.

- D. No later than January 31 of each year, the Owner shall provide to the HDS a Committed Affordable Unit Occupancy Annual Report that includes data on each CAU ("Annual Report"). The Annual Report shall include tenant identification information showing name, address, date and term of current lease, current household size, and current income level. There is no specified format; therefore, any report generated to meet a similar requirement may be used as long as the CAUs are identified and required information is included. . Upon request the HDS or other authorized representative of the City shall be permitted by the Owner to inspect the owner's books and records that are the source of information contained in the Annual Report, including, without limitation:
- (i) tenant's rental application;
 - (ii) tenant's signed lease agreement;
 - (iii) tenant's income verification and supporting documentation;
 - (iv) tenant's Occupancy Affidavit to verify use as primary domicile.
- E. The City or its designee shall have the right, following reasonable notice to the Owner and subject to the rights of the tenants under their leases and applicable law, to inspect the CAUs.

(b) Maximum Monthly Rent.

- (i) The maximum monthly rent for a CAU will be established by determining the median income level for each CAU according to the following schedule of stated household sizes, dividing by 12 and multiplying by 30%:
- 1 Bedroom Apartment – 1.5 person¹ household Median Income
 - 2 Bedroom Apartment – 3.0 person household Median Income
 - 3 Bedroom Apartment – 4.5 person household Median Income
 - 4 Bedroom Apartment – 6.0 person household Median Income
- (ii) If Owner requires all its tenants to pay their own utility charges, the maximum monthly rent will be reduced by a Utility Allowance. The Utility Allowance shall be determined with reference to the federal guidelines titled "*Allowances for Tenant Furnished Utilities and Other Services*", published by HUD.
- (iii) It is the responsibility of the Owner (and not the City) to establish rents for the CAUs in accordance with these regulations. Upon request, the HDS will review Owner's maximum monthly rent calculations for compliance with these regulations.
- (iv) Owner shall not increase the maximum monthly rent for any CAU more frequently than once per year of a lease term. Annual rent increases (adjustments) for CAUs shall be based on current HUD Guidelines, minus any applicable Utility Allowance.

¹ If imputed household size is calculated to include a partial (0.5) value, then take the average between the lower and higher person median income levels. Example, median income for 1.5 person household is calculated by taking the one person limit of \$32,580 and 2 person limit of \$37,200 and calculating the average of \$34,890.

Tenants shall be given a minimum of 30 days' advance written notice of any proposed rent increase.

- (v) When a CAU becomes vacant, maximum monthly rent shall be determined in accordance with these regulations, as of the Median Income per HUD guidelines and other regulations/procedures in effect as of the date of commencement of the new Qualified Tenant's lease.
- (c) Acceptance of Vouchers. Owner must accept HUD Housing Choice Vouchers from otherwise Qualified Tenants. However, Owner shall not be required to give any preference or priority to prospective tenants with such vouchers over other applicants for the same CAU.
- (d) Occupancy Requirements. Owner may establish rental occupancy requirements for CAUs, if such occupancy requirements have been established for the other units within the Project. However, for any Qualified Tenant who relies on federal or state vouchers or other funding to cover some or all of his maximum monthly rent, Owner's occupancy requirements shall not be more restrictive than any federal or state guidelines applicable to the tenant's funding source (for example, the guidelines of section 3-23 of the 4350.3 HUD Occupancy Handbook, applicable to certain Housing Vouchers).
- (e) Lease Terms. Initial leases for the CAUs shall provide for a minimum term of one (1) year, after which time the lease term may be done on an annual, bi-annual, or monthly basis.
- (f) Access to amenities. Occupants of the CAUs shall have full access and right to use all amenities and facilities available to other tenants within the Project, subject to any rules, regulations and conditions established by the Owner to govern such use and access.
- (g) Customary Fees. Tenants of a CAU may be required to pay any customary fees and charges imposed on Owner's other tenants, such as fees for garage or other parking spaces (if applicable), security deposit, move-in fee, move-out deposit, utility deposit, pet fees, etc.

(3) Marketing Plan.

- (a) Marketing, "Initial Lease Up". Owner shall conduct a pre-occupancy marketing program for the CAUs (the "Pre-Occupancy Marketing Program"), commencing at least 45 days prior to the issuance of any certificate of occupancy for any building containing a CAU or for any individual dwelling unit within such building. This Program does not have to be separate and distinct from marketing initiatives undertaken for other efforts, as long as the information is consistent with CAU requirements noted at 3(a)(i)(B) below.
 - (i) Information regarding the Pre-Occupancy Marketing Program shall be submitted to the HDS for approval.
 - A. At a minimum, the Pre-Occupancy Marketing Program shall identify a schedule of advertisements/outreach efforts that are intended to reach the target

market. If the City of Charlottesville develops a program / database for listing CAUs, the Owner will be required to utilize it. If any of the CAUs are handicapped accessible, those Accessible units shall be advertised on [websites](#) targeted to individuals and agencies seeking information on the availability of such units within the City of Charlottesville.

B. Any advertisement/outreach effort shall include the following information:

1. The rental price range of the CAUs;
2. The income ranges needed to qualify for the CAUs;
3. A note that HUD Housing Choice Vouchers are accepted;
4. If the CAUs include any handicapped accessible units or incorporate universal design; and
5. The Equal Housing Opportunity logo.

C. The HDS's approval shall be given upon a finding that the written Pre-Occupancy Marketing Program includes the minimum requirements and has otherwise been reasonably designed to effectively reach prospective tenants who may meet the criteria of a Qualified Tenant.

(ii) The Pre-Occupancy Marketing Program shall contain a component specifically designed to reach potentially Qualified Tenants with physical disabilities, who may be interested in leasing the accessible CAUs, (if applicable).

(b) Duration of Pre-Occupancy Marketing Program. Owner may cease its Pre-Occupancy Marketing Effort once all CAUs are leased to Qualified Tenants.

(4) Processing of Lease Applications

(a) Owner shall process applications for leases of the CAUs on a first-come, first-served basis, except for the preference described following below.

(b) If any accessible CAUs (if applicable) are vacant, despite Pre-Occupancy Marketing Program efforts, then those accessible CAUs may be leased to Qualified Tenants without disabilities. Thereafter, individuals with disabilities who apply to become tenants of the CAUs shall be given preference in leasing the accessible units until such time as no other CAU non-accessible units, of the same unit type, are available. Upon initial lease-up, the units shall be the last CAUs of each unit type (one-bedroom, two-bedroom, etc.) held vacant if they are not leased to persons with disabilities. Upon subsequent vacancy of the units, the re-marketing effort shall conform to section (3)(a)(i), with the further stipulation that the accessible units shall be marketed for 30 days before being released to a non-disabled household.

(5) Remarketing

(a) After the conclusion of the first and each subsequent tenancy of a CAU,

(i) Owner shall re-market the CAU using the same efforts described in the Pre-

Occupancy Marketing Plan (section 3 herein), or

(ii) Owner shall lease the CAU to a Qualified Tenant on its Waiting List. (Owner shall not be required to maintain any Waiting List; however, if Owner maintains a Waiting List that includes prospective Qualified Tenants for the CAUs, and re-lets a vacant CAU to a Qualified Tenant on the waiting list, then the Owner shall not be required to re-market the CAU).

(b) Any re-marketing effort shall continue for a period of 60 days following the conclusion of the prior tenancy, or until a Qualified Tenant has obtained a lease for the CAU, whichever first occurs.

(6) **[Reserved]**

SCHEDULE 2 To City's ADU Regulations:

Regulations Applicable to On-Site ADUs provided pursuant to Sec. 34-12(a) of the City Code, for Purchase

- (1) Owner's CAU Commitment.** The Owner shall collaborate and work with the HDS to outline the components of the CAU Commitment as provided for at Sec. 34.12, and to provide a plan for implementation of the CAU Commitment within the Project. All units committed will need to be incorporated into the written CAU Commitment based on the following:
- (a) The Owner and HDS shall calculate the minimum square footage of GFA to be reserved within the Project for CAUs, based on the requirements of Sec. 34-12(a), and that minimum GFA shall be specified within the CAU Commitment.
 - (b) The CAU Commitment shall describe the terms, conditions and arrangements by which the affordable dwelling requirements of Sec. 34-12 and the zoning approvals for the Project will be committed for a 30-year term as affordable to households with incomes at 60 percent or less of the area median income.
 - (c) The written CAU Commitment will need to be approved by the HDS and executed by the Owner, prior to approval of any site plan or subdivision plat, or if no such approval is required for the Project, then prior to issuance of any building permit. The HDS will approve a proposed CAU Commitment Agreement, upon a determination that the Agreement sets forth an implementation plan adequate to meet the obligations set forth in (1)(a) and (1)(b), above.
- (2) Terms and Conditions for Sale of CAUs.** Owner shall offer the CAUs for sale to Qualified Purchasers. It is the intention of the City within these Regulations to allow maximum flexibility to the Owner and the HDS for creating a plan for the successful implementation of the CAU Commitment within the development. Therefore, specific terms and conditions applicable to such sales are not prescribed by these Regulations, but should be tailored to the specific Project, as outlined within a written CAU Commitment.

Final details of the Owner's plan for pricing and financing may be submitted to the HDS for approval as an addendum to the CAU Commitment, prior to issuance of any certificate(s) of occupancy for the development, if sufficient data is not available to establish these details prior to site plan or subdivision approval.

(a) Qualified Purchasers.

- (i) For the purposes of these regulations, the term "Qualified Purchaser" shall mean a purchaser whose household income is 60 percent or less of the area median income for Charlottesville, Virginia, adjusted for household size ("Median Income") as published annually by the U.S. Department of Housing and Urban Development Multifamily Tax Subsidy Project Income Limits ("HUD Guidelines").

(ii) For each sale of a CAU, it shall be the obligation of the Owner to verify the Purchaser meets the requirements of paragraph (2)(a)(i), above. Receipt of information sufficient for Owner to make this verification shall be a condition of the Owner's obligation to close the sale, and this condition shall be stated in the written purchase/sale agreement between owner and any prospective Qualified Purchaser.

(b) Sales/Purchase Price and Financing Arrangements.

The Sales Price and the Financing Arrangements shall be detailed within an Addendum to the CAU Commitment, which must be approved by the HDS prior to issuance of any certificate(s) of occupancy for any buildings or dwelling units within the development. It is the intention of these regulations to allow maximum flexibility for the Owner and prospective Qualified Purchasers to arrange for the purchase and financing of a CAU through arrangements that are best suited to the circumstances of a particular transaction. Any number of financing and sales arrangements may satisfy the Owner's obligations under City Code Sec. 34-12 and the provisions of these regulations.

(3) Re-Sale of CAUs. The CAU Commitment will describe how re-sale of CAUs will be handled so that the thirty (30) year compliance period can be satisfied.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date:	February 18, 2014
Action Required:	Report
Presenter:	Brian Daly, Director, Parks and Recreation Chris Gensic, Parks and Trail Planner, Parks and Recreation
Staff Contacts:	Brian Daly, Director, Parks and Recreation Chris Gensic, Parks and Trail Planner, Parks and Recreation
Title:	Park Land Acquisition & Forest Management Update Report

Background:

Staff will provide a presentation at the February 18 meeting outlining park land acquisition, tree planting, stormwater management and invasive plant management activities that have occurred over the past several years.

Discussion:

Land Acquisition

Since 2009, Parks and Recreation has actively pursued acquisition of park land for conservation, connectivity, passive and active recreation purposes. The great majority of new park lands acquired since 2009 are forested stream valleys or other forested land. Lands have been acquired through donations, fee simple acquisitions and sales at assessed value. Additionally, staff has worked diligently to establish easements in certain locations to codify trail connections and continue the implementation of the City's Bicycle & Pedestrian Master Plan.

These efforts have grown the park system by one hundred forty-seven (147) acres, expanding the city's parks by the equivalent land area of McIntire Park. Park lands now comprise close to fourteen (14 %) percent of the total city land area. A detailed matrix of acquisitions and associated costs can be found in Attachment 1. The acquisition of these lands has provided permanent protection for some of the last stands of mature forest in the City and the Rivanna trail system.

Staff continues to seek additional acquisition opportunities consistent with the City's Comprehensive Plan and Council priorities. Ongoing maintenance costs for these lands is covered through the Parks and Recreation annual budget and can average between \$350-\$500 per acre annually. As the great majority of newly acquired lands are forested, major maintenance activities are not required.

Tree Planting & Urban Forest Management

Parks and Recreation, along with other City Departments, have worked diligently for a number of years to improve the urban forest in Charlottesville, through land acquisition, tree planting and invasive plant management.

Charlottesville received Tree City USA designation in 2006 from the National Arbor Day Foundation, a status the City has retained since and requires that Arbor Day commemorations occur as well as tree planting.

Also in 2006, a tree canopy study conducted by the University of Virginia revealed total tree canopy within the City limits at 31.6%. In 2009 a detailed leaf-on tree canopy analysis was conducted by the Virginia Department of Forestry and Virginia Tech. Aerial imagery provided very specific tree canopy information for every parcel of land in the city. This analysis revealed the overall tree canopy in the City to be 47 %, with varying degrees of canopy cover in different areas of the City. As expected, the more urbanized and highly developed portions of the city had lower canopy numbers than older established residential neighborhoods. However, this analysis was critical to inform the City's efforts to increase canopy coverage through strategic tree planting.

In 2008, the City commissioned a tree inventory of trees on public property, recording specific data of specific trees, including DBH, species, condition, hazard ranking and GPS locations. Heavily forested areas were plot sampled to extrapolate values for those areas. The result of that work was included in the City's Geographic Information System, providing a critical tool for staff in the management of the urban forest.

The parcel level canopy study, along with the physical inventory, allowed staff to strategically target new tree plantings in areas of the City where canopy numbers were lower and in locations (such as some entrance corridors) where there were few public trees.

The 2009 Urban Forest Management Plan outlines numerous strategies for improving the forest, including the recommendation to establish a Tree Commission, which the City established in 2011.

Since 2009, Parks and Recreation has planted over one thousand (1,000) new trees in the City. Trees are selected based upon the location and species diversity of a selected area, are planted through a mix of in-house and contracted work, and are watered weekly (when needed) by Parks and Recreation staff throughout the growing season for the first year after planting, and bi-weekly in the second year. New plantings are monitored by the City Arborist and other staff to ensure robust health and survivability.

Specific locations and species of tree plantings in the last several years are provided in Attachment 2. Additionally, all tree canopy studies and canopy analysis documents can be found on the Urban Forestry portion of the Parks and Recreation website at: www.charlottesville.org/parksandrec.

Stormwater Management

Consistent with the Council's green city vision, Parks and Recreation has taken an active role in stormwater management projects in parks and on other public land over the past several years. Growing out of the City's Environmental Management System efforts in the mid-2000's, numerous best management practices have been incorporated into daily operations; as well as the construction of a number of green stormwater management projects in numerous parks.

Each of the major park renovations that have taken place since 2006 have included one or more aspects of modern stormwater management techniques. Biofilters have been constructed at Greenleaf, Pen, Forest Hills, Smith AFC, Meade, Azalea and McIntire Parks and at Greenbrier Elementary School and Charlottesville High School. The current renovations to Rives Park will include a bioswale and the recent acquisition of land adjacent to Quarry Park will allow for the removal of a concrete low water crossing in Moore's Creek.

Staff will provide a brief visual summary of some of these features in the presentation at the Council Meeting.

Invasive Plant Management

The presence of invasive plant species is not a problem unique to central Virginia. Invasive vines, trees, shrubs and grasses are an issue throughout the United States, where they frequently crowd out or destroy native vegetation. In 2007, staff commissioned a study of invasive plants on public lands, which revealed varying levels of infestation and provided a means to strategically address these locations.

High priority over the years has been to address vines in trees as a means to protect tree canopy, addressing plants like English ivy, porcelain berry, grape and other vines. Additionally, staff continue to monitor those areas address by the Americorps team in 2008, ensuring that work remains valid. Staff work with numerous volunteer groups as well as with in-house work to address invasives; including the use of very hungry goats at Pen Park in 2012!

These efforts are ongoing, as complete eradication of these invasive plants will be nearly impossible to accomplish, but staff remain committed to building on the work of the past several years and protecting the urban forest. A visual update of some of this work will be presented at the Council meeting.

Community Engagement:

Numerous opportunities for community engagement occur throughout staff's efforts on all of these fronts. Many volunteers assist in invasive plant management, master planning of new park lands follows the adopted public process and those efforts will continue.

Alignment with City Council's Vision and Priority Areas:

These efforts directly align with The City Council's vision statements of A Green City, America's Healthiest City and A Connected Community through the acquisition and protection of public land, establishment of new methods of connectivity and the preservation of natural resources.

Budgetary Impact:

There is no immediate budgetary impact for this item.

Recommendation:

No recommendation is provided as this is only a report on past and current activities.

Alternatives:

No alternatives are provided as this is only a report on past and current activities.

Attachments:

Attachment 1 – List of Park Land Acquisitions and Costs: 2001-2013

Attachment 2 – List of New Tree Plantings FY2010-FY2014

Attachment 3 – Funding History – Land Acquisition & Parks Cost Center General Funding

PARK LAND ACQUISITIONS - 2001-2014

2/18/2014

Property/ Parcel	Year Acquired	Addition to Existing Park?	Acres	General Description	Acquisition Cost	Other costs	Other Cost Detail	Total Cost	Purpose & Management Strategy
HAAS	2001	Yes - Meadow Creek Valley	13.0	Forested Stream Valley	Donation			\$ -	Conservation & Trails
JAZAN	2009	Yes - Meadow Creek Valley	18.3	Forested Stream Valley	Donation			\$ -	Conservation & Trails
T.E. Wood	2009	No	2.3	Forested Stream Valley	\$ 10,100	\$ 3,000	Survey	\$ 13,100	Conservation & Trails
Locust Meadows Land Trust	2010	No	6.0	Forested Stream Valley	\$ -	\$ 3,000	Survey	\$ 3,000	Conservation & Trails
McElroy	2010	No	0.5	Forested Stream Valley	\$ 29,300	\$ 3,300	Survey	\$ 32,600	Conservation & Trails
Region 10	2011	Yes - Meadow Creek Valley	3.3	Forested Stream Valley	\$ 20,000	\$ 2,750	Survey	\$ 22,750	Conservation & Trails
Cannon Hearthwood	2011	Yes - Meadow Creek Valley	4.5	Forested Stream Valley	\$ 49,500	\$ 85	Title	\$ 49,585	Conservation & Trails
Rivanna Land Swap	2011	No	0.3	Forested River Frontage	Donation			\$ -	Conservation & Trails
Davis Field	2011	Yes - Northeast Park	6.5	1/3 Athletic Field and 2/3 Forested	\$ 750,000	\$ 4,323	Appraisal and Title	\$ 754,323	Conservation & Athletic Field
Southern Development	2011	Yes - Forest Hills Park	1.5	Forested Stream Valley	Donation			\$ -	Conservation & Trails
Jefferson Park Land Trust	2011	No	1.9	Forested with the Fry's Spring Boxes	\$ 30,000	\$ 14,830	Survey and Conservation Easement Monitoring	\$ 44,830	Conservation/Trails/Cultural
Kenwood	2013	Yes - Meadow Creek Valley	1.4	Forested Stream Valley	\$ 156,000	\$ 19,855	Title, Suvery, Asbestos Remediation & Demolition	\$ 175,855	Conservation & Trails
Dillard	2013	Yes - Quarry Park	12.0	Forested Stream Valley with cliffs	\$ 212,500	\$ 6,300	Survey	\$ 218,800	Conservation & Trails
McDaniel	2013	No	2.7	Forested	\$ 11,600	\$ 3,900	Survey & Title	\$ 15,500	Trail Tunnel to Monticello
Free Bridge	2013	No	2.0	Forested River Frontage	\$ -	\$ 281	Title	\$ 281	Conservation & Trails
Frys Spring	2013	No	2.5	Forested with the Fry's Spring Boxes	\$ 257,667			\$ 257,667	Conservation / Stormwater / Trails
Hartman's Mill	2014	No	20.3	Mix of open and forest with old mill ruins	\$ 250,000	\$ 19,000	Survey & Environmental Site Assessment	\$ 269,000	Conservation/Trails/Cultural
VDOT	Pending	Yes - Meadow Creek Valley	49.0	Forested Stream Valley	Donation			\$ -	Conservation & Trails
		TOTAL	147.8		\$ 1,776,667	\$ 80,624		TOTAL \$ 1,857,291	
							Average Cost Per Acre:	\$ 12,563	

ATTACHMENT 2 – TREE PLANTINGS FY2010-14

NOTE: Typical trees planted by contractors or Parks and Recreation staff are two inch caliper balled and burlapped trees. Species are chosen as most appropriate for the location to be planted and to complement other species in the area.

FISCAL YEAR 2010

Trees Planted by Parks & Recreation staff:	42
Trees Planted by Contractors:	99
Total	141

Locations: Charlottesville High School, Edgewood Road, Wayside Place, Locust Avenue, Jackson-Via ES, Meadow Creek Valley, Forest Hills, Belmont, Oakwood Cemetery, And various other locations.

FISCAL YEAR 2011

Trees Planted by Parks & Recreation staff:	75
Trees Planted by Contractors:	135
Total	210

Locations: Charlottesville High School, Riverview Park, Oakwood Cemetery, Preston Avenue, Meade Park, Jefferson Park Avenue, Gordon Avenue, Washington Park, Belmont Park, Elliott Avenue (LEAP office), High Street, University Circle, McIntire Park, Pen Park and various other locations.

FISCAL YEAR 2012

Trees Planted by Parks & Recreation staff:	45
Trees Planted by Contractors:	62
Trees Planted by Volunteers:	30
Total	137

Locations: Locust Avenue, Belmont Park, Meade Park, Tonsler Park, Forest Hills Park, numerous other rights of way locations.

FISCAL YEAR 2013

Trees Planted by Parks & Recreation staff:	33
Trees Planted by Contractors:	217
Total	250

Locations: Old Lynchburg Road, 250 Bypass at Dairy Road, 250 Bypass at Rugby Avenue, Jefferson Park Avenue, Barracks Road, 7th Street NE, Forest Hills Park, Oakwood Cemetery, Tonsler Park, Belmont Park, McGuffey Park, Free Bridge trailhead

FISCAL YEAR 2014 Plan

Trees Planted by Contractors & staff: 169

Locations: Azalea Park, Burnley Moran ES, Greenleaf Park, Venable ES, Walker Upper ES, Greenbrier ES, Roosevelt Brown Boulevard, 9th Street SW, Jefferson Park Avenue, Ridge Street, Old Lynchburg Road

ATTACHMENT 3 – LAND ACQUISITION & MAINTENANCE FUNDING HISTORY

Below are two tables representing the funding history of the Parks cost center (where all park and school grounds maintenance is funded); as well as the CIP Land Acquisition funding history since its inception in Fiscal Year 2010.

Parks Cost Center General Fund Budget History							
	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
Personnel	2,368,531	2,471,326	2,347,562	2,383,697	2,254,222	2,356,452	2,392,702
Operating	1,342,775	1,512,924	1,526,702	1,286,231	1,245,559	1,225,739	1,155,271
Total	3,711,306	3,984,250	3,874,264	3,669,928	3,499,781	3,582,191	3,547,973
FTE - Parks Cost Ctr.	40.0	40.0	38.0	38.0	37.0	37.0	37.0
Land Acquisition Funding History			FY2010	FY2011	FY2012	FY2013	FY2014
CIP-Park Land Acquisition Funds			100,000	250,000	100,000	95,000	95,000
Contribution to Land Acquisition from Ragged Mountain Funds - FY14					Land Acq -	600,000	
					Trails	100,000	
					Urban Forest	50,000	

This page intentionally left blank.

**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	February 18, 2014
Action Required:	Approve Resolution at Staff Recommended Amount
Presenter:	Zakira Beasley, Coordinator, Festival of Cultures
Staff Contacts:	Leslie Beauregard, Director, Budget and Performance Management Maurice Jones, City Manager
Title:	Off Budget Funding Request - Charlottesville's Festival of Cultures - \$2,000

Background:

The Office of Budget and Performance Management received a formal off budget funding request from the Charlottesville City Schools Adult Learning Center on behalf of the Festival of Cultures. The request is outside of the City's normal funding cycle because "anticipated private funding was not provided," according to the proposal. "The Festival committee requests support only for the 2014 spring event and is actively researching alternate funding sources for 2015." The original request made by the festival planners was \$4,000, but this resolution recommends that Council approve \$2,000 which is the cap in City Council's approved policy regarding nonprofit and outside agency funding requests made outside the regular budget process. The Charlottesville City Schools Adult Learning Center is the fiscal agent for this festival and the funds would actually be paid to the schools.

Discussion:

Charlottesville's Festival of Cultures is an annual, one-day event that will be held on May 10, 2014 in Lee Park from 10 A.M. to 4 P.M. In order to demonstrate that we are a united community that values diversity, the festival will feature exhibits, performances and demonstrations by both new and established residents of over 25 cultures. Music and dance performances are complemented by tables with native food, crafts and activities representing many cultures. The performances often include children of new immigrants and refugees, showing the transfer of native culture to the next generation while sharing it with their new home community. The tenth annual Festival took place last year with an estimated 2,500 attendees and 25 cultures represented, including Bhutan, India, Brazil, and Ireland, among others. This year, the committee is aiming for a 10 percent increase in participation.

The Festival is also an opportunity to connect new residents, including immigrants and refugees, to city services and resources. Last year, eleven education and social service agencies were represented. This facilitates the new residents' integration into the social, education and economic sphere of Charlottesville.

Community Engagement:

The City Schools are the primary supporters, involving English language students at the Adult Learning Center and Charlottesville K-12 art students creating publicity posters. This year the Festival has reached out to many community partners to increase its reach. Leadership Charlottesville chose the Festival as a community project with eight community leaders dedicating themselves to increasing participation at the event. The Sister Cities Commission has granted funding for children to complete crafts representing each of Charlottesville's Sister Cities.

Alignment with City Council's Vision and Priority Areas:

C'Ville Arts and Culture

Our community has world-class performing, visual, and literary arts reflective of the unique character, culture, and diversity of Charlottesville. Charlottesville cherishes and builds programming around the evolving research and interpretation of our historic heritage and resources. Through City partnerships and promotion of festivals, venues, and events, all have an opportunity to be a part of this thriving arts, cultural, and entertainment scene. The Festival of Cultures specifically will feature arts, crafts, music, dance and other exhibits from the at least 25 cultures that will be present.

Community of Mutual Respect

In all endeavors, the City of Charlottesville is committed to racial and cultural diversity, inclusion, racial reconciliation, economic justice, and equity. As a result, every citizen is respected. Interactions among city leaders, city employees and the public are respectful, unbiased, and without prejudice. According to the formal request, "As a result of their participation in planning for or attendance at the Festival, new residents will develop a greater awareness of Charlottesville's diverse cultures and resources... All participants benefit from learning about different cultures and resources represented in our community."

Budgetary Impact:

Staff recommends that funding in the amount of \$2,000 be allocated from already appropriated funds in the Community Arts and Festivals account in the General Fund. Each year the budget includes some unallocated dollars in this account for such a request should it occur.

Recommendation:

Although the request is for \$4,000, **staff is recommending that City Council approve up to \$2,000 per their approved policy regarding funding requests outside the budget process.** Ms. Beasley has indicated that if the City only provides \$2,000, that the festival would continue to seek funding from multiple sources, as well as in-kind support. The festival is also working with Leadership Charlottesville to identify strategies which will grow community support both in participation and funding for future years.

Alternatives:

If Council chooses to fund more than \$2,000, there are sufficient funds in the festival account for up to the request being made. If Council chooses to not appropriate the funds, the festival would have to pursue a private funding, a process they have already gone through.

Attachments:

City Council Policy: Nonprofit and Outside Agency Funding Requests that Occur Separate from the Budget Process

RESOLUTION.
Off Budget Funding Request – Charlottesville’s Festival of Cultures.
\$2,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$2,000 is hereby paid from currently appropriated funds in the Community Arts and Festivals account in the General Fund to the Charlottesville City Schools in support of the Festival of Cultures:

\$2,000

Fund: 105

Cost Center: 9753005000

City of Charlottesville



City Council Policy

Nonprofit and Outside Agency Funding Requests that Occur Separate from the Budget Process

Purpose

The City has two processes in place for funding various nonprofit and outside agencies each fiscal year. The Agency Budget Review Team, or ABRT, is a citizen and staff team that provides recommendations on human services, arts and culture, educational and housing agencies. The Office of Budget and Performance Management has a parallel process that provides recommendations each year on those agencies who have a formal agreement, memorandum of understanding or contractual arrangements to provide services in various capacities on behalf of the City. Both processes use an extensive application and review process that takes months to complete to include in the proposed budget each March.

After the annual budget has been adopted and during the fiscal year, City Council will occasionally receive requests from nonprofit and outside agencies to fund initiatives, programs and events. Having not gone through the normal budget process, these requests must have a formal review process in place to ensure that the request is valid and the funds will be used in the best interest of the citizens of Charlottesville. This policy outlines this process and will help guide Council and City staff in determining which requests should be funded outside the budget process.

There are two types of requests that usually come before Council during the year. The first is specific to special events and festivals generally. The second type of request is defined as more policy driven and reflects those requests that align directly with the priorities set by City Council.

A. Donations to Special Events, One Time Programs, Festivals *(Funding to not exceed \$2,000)*

These requests are characterized as smaller requests for special events, programs and/or festivals. The event, program or festival must occur in the City or demonstrate that City residents are attending and/or will be served. Depending on the type and nature of the request, for instance if it's a festival or event that may bring in tourists and outside visitors, the Charlottesville/Albemarle Convention and Visitor's Bureau may be asked to assist in the review of the funding request.

B. Policy Driven Issues Aligned with City Council Vision 2025 and Priorities
(Funding to not exceed \$10,000)

These requests must serve City residents and be aligned directly with one or more areas of City Council's Vision 2025. **The request is expected to include outcomes and measures in the identified vision area(s).**

Charlottesville: A Great Place to Live for All of Our Citizens

- A leader in innovation, environmental sustainability, social and economic justice, and healthy race relations
- Flexible and progressive in anticipating and responding to the needs of our Citizens
- Cultural and creative capital of Central Virginia
- United community that treasures diversity

1. Economic Sustainability
2. A Center for Lifelong Learning
3. Quality Housing Opportunities for All
4. C'ville Arts and Culture
5. A Green City
6. America's Healthiest City
7. A Connected Community
8. Community of Mutual Respect
9. Smart, Citizen Focused Government

Alignment with Council's six priority areas is given special consideration. **The request is expected to include outcomes and measures in the identified priority area(s).**

1. Reduce poverty by increasing sustainable employment among less skilled and educated residents
2. Provide a comprehensive support system for children
3. Build an interconnected network of multi-modal transportation including bikeways, trails and transit system
4. Develop and City Market District downtown
5. Redevelop the City's corridors
6. Cultivate healthy streams and rivers through effective Stormwater management practices

Review Process

1. City Council receives a request for funding from an outside/nonprofit agency
2. The request is forwarded to the City Manager and Director of Budget and Performance Management to start the review process
3. Budget and Performance Management will gather information on the proposal and contact the applicant to make sure all criteria are in place and can be met. If any

information is incomplete or missing, the application may be asked to send the request again and/or provide the missing information.

4. Agencies that make requests to Council outside the budget cycle **will be required to meet all the criteria for funding had the request gone through the formal agency budget review process.**
5. **City staff will recommend, as part of the review, the most appropriate source of funding.**
6. A complete proposal, once reviewed by Budget and Performance Management, will be shared with the City Manager who will then review and provide feedback on the request.
7. The City Manager will communicate the complete proposal with the Mayor and City Council to receive input on including on a future Council agenda or not.
8. **City staff should have at least four working weeks to complete the review process and schedule the item on a future Council agenda.**
9. If the request is funded, funding will only be effective for the current fiscal year that the request is being made. Future requests will be considered only through the City's formal agency budget review process.
10. Agencies will be asked to submit a report back to City staff and Council following the completion of the program, event and/or festival. The timing of this and content of the report will be part of the review agreed upon by City staff and the agency.