

Minutes
PLANNING COMMISSION REGULAR DOCKET
TUESDAY, DECEMBER 12, 2017– 5:30 P.M.
CITY COUNCIL CHAMBERS
NDS Conference Room

I. Commission Work Session (Agenda discussion(s))

Beginning: 4:30 p.m.

Location: City Hall, 2nd Floor, NDS Conference

Members Present: Chairman Lisa Green Vice-Chair; Corey Clayborne, Commissioners Genevieve Keller, Jody Lahendro, Taneaia Dowell, and John Santoski.

Members Absent: Kurt Keesecker

Chair Green called the meeting to order at 4:50pm. A request was made to provide an overview of the process for the E&S appeal and that information was provided. Commissioner Clayborne asked if the applicant for West2nd had provided information on how the affordable housing requirements would be met. Mr. Haluska noted that there is information on what would be required if payment or physical units are chosen but the applicant has not determined what choice they are making.

The Commission asked for clarification of the changes made to the Water Street Promenade site and to verify that the IPP for the Coal Tower structure will remain. It was noted that a future discussion on guidance for when changes to a PUD which can be handled administratively and those needing PC review could be appropriate.

II. Commission Regular Meeting

Beginning: 5:30 p.m.

Location: City Hall, 2nd Floor, Council Chambers

Members Present: Chairman Lisa Green Vice-Chair; Corey Clayborne, Commissioners Genevieve Keller, Jody Lahendro, Taneaia Dowell, and John Santoski.

Members Absent: Kurt Keesecker

Staff: Missy Creasy, Carolyn McCray, Lisa Robertson, Brian Haluska, Marty Silman, David Frazier

Council: Mike Signor, Bob Fenwick, Kathy Galvin, Wes Bellamy

Call to Order: The meeting was called to order by Chairman Green at 5:30 pm

A. COMMISSIONERS' REPORTS

Commissioner Lahendro: reported he attended the Tree Commission meeting on December 5th. A report was presented from the Charlottesville Tree Stewards which have grown to 150 members. They donate 6,000 saplings a year to public education. It was approved to donate two trees to Emancipation Park. Lastly, some of the existing trees on city property are damaged due to construction. Currently the arborist only reviews preliminary site plans, not final contract documents or construction activities. The Tree Commission will be developing recommendations for improving city over site for protecting and saving trees during construction. The Housing Advisory Committee will meet tomorrow Wednesday, December 13th in the city hall basement conference room from 12:00 – 2:00 pm.

Commissioner Keller: said she has no formal report but in speaking with Edwina St Rose, from the Preservers of the Daughters of Zion has specifically ask that she invite the Planning Commission to attend the dedication of the memorial to the unknown at Daughters of Zion Cemetery, this coming Saturday from 2:00 to 4:00 and refreshments will be served following at Tonsler Park and Recreation Center and this invitation would include the public.

Commissioner Dowell: reported on Thursday November 30th she attended the Small School Capital Improvement committee meeting at Public Works. The goal is to figure out how we are going to modernize many of our schools. The newest school we have was built in 1976 which was Jackson Via Elementary School. She said many of the schools need improvement but the decision is whether or not to make small improvements which cost large capital dollars or do we try to figure out how to modernize the schools all together. The first school to get improvements will be Clark Elementary School; and the field house at Charlottesville High School.

Commissioner Clayborne: no report; He recognized Mary Joy Scala, the staff liaison for the Board of Architectural Review who is retiring at the end of this year. He said it was tremendous to work with her and the city will definitely be missing someone special.

Commissioner Santoski: no report

B. UVA REPORT: Brian Hogg: no report; He commented that things are getting started with the Brandon Avenue project and plans are in order for the Ivy Corridor site (the Cavalier site).

C. CHAIR'S REPORT: Lisa Green, no formal report; She noted that the Planning Commission has been meeting sometimes three times a week on the up-coming Comprehensive Plan; and we will meet one more time before the holidays, have a break and start again with discussion before we take our third round of outreach documents to the community. Chair Green also echoed thanks to Mary Joy Scala for all of her help and guidance through entrance corridor review, plans and projects. She will be missed.

Commissioner Keller: asked would it be possible to send her a letter of good wishes on her retirement and thanks for her years of staffing the Entrance Corridor Review Board.

The Planning Commissioners all agreed to have the letter sent to Ms. Scala.

D. DEPARTMENT OF NDS: Missy Creasy said it is the 5th quarter of the regulatory review process, and she is working with staff to finish up the draft of the report to forward to Chair Green. We will turn it into Council by the deadline of December 18th which will give them the update of where we are with the Comprehensive Plan, the Legal Review project, and the Standards and Design Manual project. In this last quarter the Planning Commission had about fifteen work sessions. The update will be completed on time and we will be working to coordinate the future work sessions for our next group discussions for the Comp Plan land use map.

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

F. CONSENT AGENDA

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

1. Minutes - October 10, 2017– Pre meeting and Regular meeting
2. Minutes – October 24, 2017 - Work Session
3. Site Plan – Cedars Court Apartments

Motioned by Commissioner Lahendro to approve the Consent Agenda, Seconded by Commissioner Clayborne, motion passes 6-0; (with one minor change)

Adjourned for a break at 5:45 until 6:00

III. JOINT MEETING OF COMMISSION/ COUNCIL

Beginning: 6:00 p.m.

Continuing: until all public hearings are completed
Format: (i) Staff Report, (ii) Applicant, (iii) Hearing

1.SP17-00007 - 200 2nd Street SW (West2nd)

Brian Haluska, Principal Planner, said the staff does support the increase in residential density on the site. Where the debate on this falls is in the proposed amendments to those conditions that the applicant has requested. Under the new proposal, there would be 46,035 square feet of office space, 16,190 square feet of retail space and a 24,390 square foot open plaza in the southeast corner of the lot that would serve as the market. There would be 252 parking spaces built into the structure. Of those, 156 must be made available to the public based on the terms of the City Council's request for proposals. Since the original permit was approved, affordable housing has become a much more pressing issue in the community. Commissioners had asked for more information on how the West2nd project would comply. Mr. Haluska stated that with this project, Stacy Pethia, City Housing Coordinator did review the proposal and did make a note based on the drawings, their requirements are for 25 affordable unit's on- or off-site or an approximate cost of \$450,000 and they are actively pursuing off-site units.

Sacha Rosen, R2L Architects: said I am speaking for Keith Woodard, developer and we would be starting construction of this project if everything was ready, but however, the project due to increasing construction costs and complexity of design it was no longer feasible. He said the project was revised to find ways to bring down the cost of construction. For instance, 3½ levels of underground parking have become two. An indoor space that had been intended to serve as a public event space will now be retail. Mr. Woodard is now requesting an amendment to the permit to increase the allowed residential density to 83 units per acre, which would allow for a total of 97 residential units. That's up from 69 units and also substitutes new design drawings. Mr. Woodard said his plan is to build affordable units elsewhere in the city.

Commissioner Dowell: asked what made you take some of the interior market space away?

Mr. Rosen: said the market would use that space one morning per week. In the previous design they were trying to find some alternative use for that space the rest of the week, and an idea that was brought was to use it as an event space. In order to use it as an event space you would need a kitchen, a clearer floor space and attempt to make it a double height space. All of those things were quite expensive and drove up the cost.

Commissioner Lahendro asked about the size of a typical market stall size, square footage wise.

Mr. Rosen: said the typical model they are using is 10ft x 10ft. In this particular plan, there are some stalls that are 10ft x 20ft. We are now working with Parks and Recreation and have discovered the stall sizes range from 6ft x 6ft up to about 12ft x 20ft.

Commissioner Santoski: said he sees a lot of stalls on South Street which would mean closing South Street off which he doesn't think it was intended in the previous plan.

Mr. Rosen: said it was intended in the previous plan to close off South Street during the market.

Commissioner Santoski: said not to put stalls there; in the original plan?

Mr. Rosen said there are stalls along the sidewalk so the public would be walking in South Street - that is a change; and this plan is several weeks old and during the public meeting we did hear of concerns regarding the privately used parking space. We have revised our stall lay out to not use that so those folks can continue to use their cars to pull in and out even on market days. He said the design of South Street had

continued to evolve. We are trying to work with all of the stakeholders on the use of South Street.

Chair Green said in mentioning the stakeholders, the original stakeholders were the city market users and vendors, not fire and rescue, etc. She said have you met with the original market vendors and users for this original RFP.

Mr. Rosen said they are getting information from Parks and Recreation and interpreting what the vendors want.

Chair Green said the short answer is you have not met with the vendors.

Mr. Rosen said correct.

Brian Hogg, said you show all residential floors 10 feet except the top two floors which are 11 and 12; is that constant with how the building was approved initially?

Mr. Rosen said no, the floor to floor heights have changed. For the residential floors they were 10 feet before, but there was not enough clear height on some of the floor to allow duct transfers and other mechanical equipment so, for that reason we have had to adjust some of the floor and floor heights.

Commissioner Lahendro said it doesn't look as significant to him as before; what is the difference in how far the building is stepping back after 45 feet? He said maybe it was the difference in materials because the prior design had a darker color brick for the street wall up to 45 foot and then setback with lighter material and that might be what he did perceive not necessarily was the depth of the setback.

Mr. Rosen said our setback is greater than what was previously approved. He said both are open to exploring new colors for the building.

Commissioner Lahendro asked what will animate the park as you are designing it now.

Mr. Rosen said we are adding a series of eight trees along South Street and two on Water Street. The trees will be set in planters and raised eighteen inches above the plaza paving.

Commissioner Santoski: said from the previous plan it looks like you are losing about 26 parking spots.

Mr. Rosen said the previous SUP showed 262 parking spaces, and the final approved plans that had a building permit had 256 parking spaces and we are proposing 251.

Commissioner Santoski said you are showing 100 spaces for the public to use but a lot more people are driving larger cars than compact cars, so is the space going to be usable due to the smaller spaces for compact cars?

Mr. Rosen said that is true because one of the major changes was we went from three levels to two levels, and saved quite a bit of money. We continue to make modifications to the parking garage and we have converted a substantial number of compact spaces to full size spaces.

Commissioner Santoski: said the original SUP that was approved was based off the original RFP, which was replied to and everybody responded to, do you believe that the SUP that you are asking to be amended now responds to the original RFP that Council set forth many years ago?

Mr. Rosen said he does believe it responds to the RFP and it does respond to the approved SUP with the modifications set forth for requested.

Councilor Szakos, How many units will there be?

Mr. Rosen said we are asking for approval for 97 units but we will probably have 87 units and providing one parking space per unit

Councilor Szakos said at the very bottom of the right hand picture are those vendor spots, and are those spots necessary to fulfill the obligation for the number of spots that are required in the SUP?

Mr. Rosen said those spots are not required to meet the requirements of the SUP. The requirement in the SUP is one hundred 10 x 10 stalls and there is no requirement for the width of stalls.

Councilor Szakos said when this first started the appurtenance, the top was more than a mechanical room, is it a mechanical room?

Mr. Rosen said as of today we have included two residential units in the roof top structure. The zoning use has changed since that time.

Councilor Szakos said 25 affordable units and we can't require them on site so where are you envisioning those?

Mr. Rosen said the applicant is attempting to provide the affordable housing off site on Harris Street.

Councilor Fenwick, said you are building 97 units?

Mr. Rosen said we are asking for an approval of 97 but our current plan today is 87 units.

Mr. Fenwick said what you are contributing to the affordable housing fund is \$450,000 which is \$18,000 per unit.

Keith Woodward, the developer, said he is not sure how this number of twenty-five came about because our calculations have been more like six or eight or maybe ten units but it is all based on the formula that is required and we will certainly meet that formula. We plan to build twelve or sixteen units on Harris Street; not twenty-five units.

Councilor Fenwick said you mentioned efficiencies, are they still going to be marketed as luxury units.

Mr. Rosen said when speaking about efficiencies and he means the amount of sellable square footage to the total gross square footage constructed and that means more of the space inside the building is usable.

Councilor Fenwick asked about the number of reserved units, what was the deposit to reserve them?

Keith Woodward said that depends on the size of the unit and it was either 10,000, 20,000, 30,000 dollars. Yes they are all refundable deposits at this point and will convert to contract once we have more documents.

Mayor Signor, regarding the construction, what have you done to insure what happen last time won't happen again?

Mr. Rosen said Mr. Woodard has brought in an experienced team to work together to deliver a number of high rise projects. We have a long strong history of completing these projects. We strongly believe that we are going to make this happen and we have never failed before as a team.

Open the Public Hearing

Jennifer Larimer: said she is in objection to the closure of South Street and against the closing of South Street on Saturdays which is one of the most difficult times for us to exit our homes. As residents and business owners and tenants fronting on and gaining principle access from South Street we strenuously object to any closure of South Street. We have significant concerns over impacts to accessibility for emergency vehicles serving the South Street property. If the development program cannot be accommodated within the limits of the private property and outside the limits of private right-of-ways, perhaps it is time for the developers and the city to take pause and reconsider the design and the economics of the project. If the project cannot be financial viable without the extraordinary and unprecedented consumption of public right-of-way then the city and the developer should return to the basics. They should re-negotiate the purchase agreement, and redesign the project to fit within the limits of the property available for development. She presented a petition of 59 signatures from residents on South Street.

Beverly Ball, 100 Ridge Street, Midway Manor: said she was very happy to hear Mr. Santoski say he didn't know South Street is going to be closed. She said that is the way she feels, because she is 81 years old and in the last four months she's been to the emergency room three times. She is just one of the 100 residents at Midway Manor. She said the rescue squad comes quite often to Midway Manor and the fire engine too. We have visitors who can only come to us on Saturday morning. Please do not let them close South Street on Saturday mornings because we do need that excess.

Michael Allenby: said he has lived in downtown Charlottesville for 17 years and his front window looks onto the parking lot that we are talking about tonight. He said when looking out his window he sees two very tall buildings with unfulfilled purposes. He remembers having a conversation with the original architect in 2014; and he asked him why they were intending to do this project and the sole answer was because the city asked. He said this is in the city's hands. He said he saw the sign about the zoning and he wondered was this an opportunity to reconsider what is going on due to the transition that Charlottesville has gone through since this original project was intended, and to influence the vision and the purpose of the project. With what is is being considered with the parks and the statues and there is a lot of real estate in the hands of Charlottesville. He thinks this is an opportunity to think about what the purpose of the project is.

Morgan Butler: Southern Environmental Law Center: First, we are not opposed to increasing the density of the project. However, we agree with staff's recommendation that any additional density should be accommodated in the building design that was originally approved. This is because the significant design changes the applicant is proposing would worsen the impacts to adjacent properties and the historic district. Most notably, the height of the building would now rise nearly another 20 feet, reaching right around 130 feet at its highest point. That would dwarf the one to four story buildings that surround it, and make it among the tallest—if not the tallest—building in the City. Also, along Water Street and along 2nd Street, the new design would provide only a 5 (or 6) foot stepback before then climbing to 107 feet. That minimal stepback will do little to mitigate the impacts that 107 foot walls would have on those streets. Second, the applicant is not entitled to the additional height. Though the new design may arguably fit within the 101 feet allowed in this district if the applicant is allowed to average the streetwall into their height calculation, their special use permit allowing that height is clearly conditioned on building the design that was publicly vetted and approved back in 2014. They do not have a blanket permit to build whatever design they want to up to 101 feet. So please do not overlook or give a free pass to the substantial design changes being

requested here. These changes and their impacts should be front and center in your evaluation of this SUP request. Finally, taking a step back and weighing the positives of this proposal against its negative impacts—which is what review of a special use permit request is all about—we don't see how this could be justified to the public. For one thing, it seems half-baked: the applicant has mentioned several important things tonight that have changed since the submission that is presented in your packet. It's not even clear what you're being asked to approved. But more importantly, it appears to us that, at its core, this request is an attempt to take advantage of the problematic way the City has been measuring building height so that the applicant can include more high-end condos in what they themselves label a "luxury living" project. Any public benefit here seems minimal.

Mark Rinaldi: said I am Mark Rinaldi, representing the owners of 100 Ridge Street, who fully support the request to increase the height and density but strongly oppose closure of South Street in any way. As the downtown's primary provider of affordable housing to the elderly and disabled, it is unconscionable that the City would consider closing a street so essential to the ability of emergency vehicles to quickly transport our residents at times when they need it most. Downtown Charlottesville enjoys a gridded street system. Grids are clear, rationale and efficient and are best able to support strategic urbanization. Gridded street systems most efficiently move traffic in areas of higher density and intensity because of the multiple alternative routes afforded. In gridded systems, all streets contribute to the overall efficiency of the system by distributing traffic across the system. Closure of street segments disrupts order and predictability, increases congestion and decreases capacity. Statistics compiled by UVAs Weldon Cooper Center for Public Service reveal that the City will need to accommodate thousands of new housing units by 2025, 2035 and 2045 based on its population projections. Citizens, through on-going Comprehensive Plan input, believe much of the city's residential and economic growth should be accommodated in and near the Downtown. Sound planning practice dictates that efforts to enhance traffic bearing capacity into, through and within the Downtown are essential for accommodating this growth and the long-term viability and vitality of the City's center. City's properly close streets as elements of strategic transportation planning initiatives when other system improvements are provided to off-set system inefficiencies arising from a closure. That a City would close a city street, whether permanently or intermittently, because of a private development's financial infeasibility is troubling and poor community development policy. Sacrificing transportation system efficiency and the utility of the existing system for all other users, many of whom rely on the existing street system for access and the provision of essential and time-sensitive emergency services, would establish a troubling precedent that the City should be loath to set. Some cities have addressed unique situational circumstances through the strategic granting of limited air rights over public rights-of-way, but always premised on the insistence that the utility of the underlying transportation infrastructure not be compromised or degraded in any way. First Street is already proposed to close to vehicular traffic and convert to pedestrian use only. The closure of another street in this section of the Downtown presents an unacceptable imposition upon the public convenience, welfare and safety and will ultimately undermine the City Center's ability to accommodate the growth it is otherwise best suited to accept. Increased building height and density support a long-term vision for a vibrant and mixed-use Downtown; additional street closures do not.

Brent Nelson: said he has owned the house at 214 1st South Street for 32 years and 20 of which he lived there. He is extremely familiar with the neighborhood and he is here with Mary Gilliam who is the resident and owner of 218 South Street and Roulhac Toledano who is the resident and owner of the pink warehouse building of 100 South Street. We object to increased height already on a building that is way out of scale for the neighborhood and a building that has an improved design that in no way sufficiently mitigates the visual impact of its mass with its design and colors. We are very much opposed to the closing of any portion of South Street for any day of the week. We signed the petition, it makes no sense and it would be reckless for the city to do this. Here we are increasing density downtown and a street system. If you use South Street and Water Street, you will know it is very difficult as it is. So, to do this it would be reckless and it would

be difficult for emergency vehicles; and absolutely makes no sense whatsoever. It is his understanding that Ms. Toledano who lives across from this will be the most impacted of anyone in this room and has not been contacted at all by the applicant and hasn't been part of discussions on this which he finds appalling. He recently discovered by talking to the City Attorney's office that the city has removed any noise protection for the South Street, Water Street corridor. We have absolutely no protection at all. You can do any decibel at any time of the day that you want. We can call the police and there is nothing that they can do and this was done without his knowledge and he has live there for 20 plus years. He has called the police many times when we had an ordinance that would allow the police to go and have a restaurant lower the volume but we have no protection now; and here we are proposing a development that is going to have an outdoor venue year-round.

Robert Maushammer: said he is not an accomplished speaker but he has some views on this. He said there is a 100 foot height maximum in this district, why anybody would say this is something new. According to the city code, that provision was put into code on May 19, 2008, everybody that should have known that it is 101 feet from the beginning of this project going back to the RFP the first bids etc. The 101ft. is also meant to include appurtenance levels if there is a residence at that level and that hasn't changed either. The city in approving 101 feet in the original SUP did not say anything about the appurtenance level, in fact it was only the applicant who tried to shoe horn it in as part of 101 feet plus appurtenance which does not work as far as he can tell. The city market provisions they are proposing are inadequate especially the proposal to have market stalls on South Street. Even if they only close that one block they would be interfering with the traffic, including bicycle traffic and that street is part of the east west bicycle route that was just established and painted a year or two ago. The City Park and Recreation is presumably negotiating this and he certainly hopes the city fathers will support Parks and Recreation and the vendors to get a good solution to those problems. The only one who mentioned appurtenance is being in addition to the 101 feet is the applicant. The city came back and said just 101 feet. The DUA is okay but not if that means increasing the height. He urges that you decide to approve the increase in DUA without the approval of height and defer approval regarding the market.

Gennie Maushammer: said there is a question of fairness involved in this decision whether the submission is adequate. It was an open competition to develop this site and now, years later the winning bidder has said he needs a do over. That is not fair to the other bidders or to the citizens as a whole. The only fair thing to do as it seems to her is to re-open the bids for all of the original parties and any new bidders. The request for added density is brought forth by the developer feeling that the building cannot be completed as planned and still be profitable so the request is to add height, additional stories, appurtenances, and reduce the parking. She has heard the discussion about size but overall if you take a floor and a half out of the parking lot she really doesn't see how you are going to have that many spaces. They also plan to reconfigure the city market based on what was originally proposed. I believe the SUP revision request should be denied and if the developer cannot deliver the current review plan then the property should be opened to new bids and plans. The 99 year lease to the market should also be denied until plans provide adequate parking and spaces for all the vendors and all of the public.

Rick Jones: said he has worked in the city 51 years, and has known Keith for 25 years, and this structure is what the city asked for. They asked for it because they needed it; and they wanted it, and it has already been approved. South Street was already planned to be closed. He thinks from the rendering that you have seen from the elevations, and whatever the height is, it is not significant. He has been to many of your hearings on the Comp Plan and he has heard you talk over and over again about the growth that coming to Charlottesville and how you need to meet that growth and how the only way to do that is by increased density. No locality in the country decides that a city is not the best place to have the highest density and the highest height. There is not a more perfect place than this location than what Keith has planned. This is not a freebee for Keith. This is a huge risk; nobody else here is going to sign on a note for probably 60

million dollars and be personally be responsible for it and hope that all of those people who are interested in closing on one of those units actually do it. The only reason he is here is to make that vision come true. There are a lot of people who have come to Charlottesville and have sold the city on a bill of goods. There is a big one sitting down on the mall right now and it is not happening. He has seen the work that Keith has done on Allied Street and it has been transformative. He has bought Dogwood Housing. He has preserved affordable housing and he has promised to meet the mandate that you all require for affordable housing for either money or off site.

Mayor Satyendra Huja: of Holly Road said that he requested that a project occur on this site. This application was selected as the best project. We need development downtown and this meets the Comprehensive Plan. This will be home to the City Market, will contribute to affordable housing and provide for significant taxes and jobs. Please approve this project.

Susan Kreschel: said she lives in the apartment building that is directly across the street from this proposed development on Water Street and 1st Street. When she first heard of this project she was against it because she didn't want to look outside her building and see a tall massive building outside. Over the years since 2014, she has learned a lot about what this city needs and her opinion has begun to change in response to that. She can't speak directly to the closing of South Street but wants to speak to height and density. We have in this city some very hard decisions that we have to make. Some of these decisions are not going to be pleasing to all individual residents here and there. We have a crisis on our hands regarding affordable housing. We have competing commercial corridors that are opening up throughout Charlottesville and we know that growth is coming. The decisions that we have to make, is how to bring economic vitality to what is our urban core and this neighborhood is the urban core of Charlottesville. I do not know very many developers in town who are as conscientious as Keith Woodard. He is interested in affordable housing, greenery, civic space, and interested in bringing that economic vitality to downtown. While some people may think it is all about profit often times it is also about the risk that these developers have to under-take in order to create that type of economic vitality and this is a very risky business. The City asked for this project and then the city put in a whole bunch of obstacles in this developers' way which cause him to go through about eight different site plans before we got to this stage. The City needs to make some very big decisions as to how committed are you in bringing this economic vitality downtown. I am going to ask if you will please consider approving this development.

Closed the Public Hearing

Chair Green: extended a thank you and appreciation to Councilors Szakos and Fenwick as this will be their last meeting with the Planning Commission.

Commissioner Dowell: said if this is the best proposal that they had but if the city thought that was the best proposal that they had; it couldn't have been the best proposal we ever had because they're changed it. Should we not go back to the drawing board?

Commissioner Keller: said conditions do change over time and one would expect there could be some changes. She said she is of the opinion that these are major changes and they are inextricably linked and she thinks this is a really important project for the urban core but she thinks it deserves another look.

Commissioner Lahendro: said the path that the developer has already gone down the developer has invested a great deal of money in this project all ready and they deserve a fair hearing.

Commissioner Green: said she agrees, however, this is city owned property that the city is selling and a RFP to provide a city market for the public. We did have people in a competition so don't you think it's just

a little bit disingenuous for this to be the winner and now we have something totally different and South Street wasn't closed. There were market spaces on there but it was on that sidewalk as you saw to remain so it could remain open because we are closing 1st street but it is a little disingenuous to the public since we had meeting after meeting after meeting and it was about meeting with the vendors. She said this was all about our city market and the people who come to our city market and the vendors to give them a permanent home. That's why this was called city market. Now it's called West 2nd. The market is decreasing in size and the parking was not economy parking or compact parking so our vendors had spaces to park.

Commissioner Lahendro: said what we saw were very conceptual designs and as a design goes forward and more detailed information is discover and more existing conditions are known it changes sometimes. That is just part of the architectural process, and he didn't say he wasn't agreeing with everything that is being proposed. He's not sure he is agreeing with much of it. They deserve a hearing.

Commissioner Keller: said we are here at a hearing and while this project was about the market and that was the genesis of its inception; she doesn't think it is up to us the Planning Commission to speak to the fairness of the RFP process because that is beyond our purview because that belongs to Council and not to us. She feels that the Planning Commission should not engage in an extensive debate on the project details tonight because there are such significant changes to the 2014 SUP and she said they appear to go beyond the scope of a simple amendment and they all are extricable linked with a market, a street, the changes of the number of parking spaces, the loss of the interior market and she could go on. Any one or two of these changes might be a simple amendment to an SUP but they all go together and they speak to the architecturally changes that happened as the project progresses. She thinks they warrant a new SUP application, not to stop this project, and not to delay it but to make sure that we ensure that this very very important project retains the integrity and creditability of the SUP process for our community. In these troubled times it is very important that we hold on to the process and that we follow the rules. She said this plans shows multiple and significant changes to the really important components in condition one of the original plan and substantial time and expertise when into the development of those original conditions both on the part of the applicant and city staff, the Planning Commission and the City Council. She has to say while there are things about the project that she has not always been pleased with, she is very pleased with the process we undertook and she thinks it was precedent setting for our community and this project deserves that we hold ourselves to that standard because we addressed the conditions that were unique to its site and to the neighborhood and actually to our entire city.

Lisa Robertson: said there is no separate process for a minor Special Use Permit amendment versus something else. There is a Special Use Permit amendment it's all the same process. When someone asks you to amend their Special Use Permit, it's always as you are looking at it as a new one. So whether or not you feel you can adequately evaluate all the aspects of it is still something that is in front of you with all of the changes presented including the changes proposed to the various conditions and it's as if it is a brand new SUP, so there is not separate procedures for SUP amendments versus a brand new SUP - it's one in the same procedure. Having heard tonight that South Street is not proposed to be permanently closed, but the idea is that either the street itself or the sidewalk would be closed on a regular basis every Saturday. That is not something that as a zoning matter you should be looking at whether or not the market as proposed on the site is appropriate and what it needs to be. There are different processes for closing a street or allowing somebody to set up stands on a sidewalk every Saturday morning. That is a separate procedure and that is not a zoning procedure. The zoning issue is whether there are adequate accommodations for the market on the site; and if as proposed and organized that presents a good use of the land that's the site for the market.

Commissioner Lahendro: said he evaluates the application based upon this proposal against what was approved before. We, as the Commission, went through a lot of work and discussion with the applicant to come up with the approved designed. He said he looks at this design and he thinks that it is a poor design

and it has less benefit. The massing is greater compared to the massing of the project before, the setbacks were better proportioned and placed before, the transparency of the walls was more effective the way it was before, related better to the blocks and the activity around this structure, and the market place experience is so much poorer in this current design. He said taking away that openness at the ground level looking toward 2nd street, and putting the market in smaller vendor footprints, squeezed in to this corner it almost makes it look like an afterthought. It looks like “we’re going to accommodate you for a while and we know you are going to grow so big that you will leave at some point.” He said it is a poor experience for the public and that is why I will vote against the design changes.

Commissioner Clayborne: said the motion that is on the table is only to increase the density but everything else of the previous SUP will stick is that correct? It was answered yes, so he spoke to Commissioner Lahendro points that I would be okay because we need more density downtown.

Chair Green: said her comments about the public good and the public benefit are about the decrease or the appearance of the decrease in size of this city market. Again, that is what the original RFP was about - creating the space. We had many discussions about the indoor market for weather like last Saturday when we had our holiday market, just for that, we still had the space.

Commissioner Lahendro: said that was going to be a public space for the rest of the week to allow other public assemblies and events to happen.

Commissioner Clayborne: said he had a comment that we cannot control what the developer does whether it is the affordable units versus the cash but for one we need to get that number clarified because there seems to be some confusion and if it really is 25 affordable units versus the 450K roughly in cash, he is hopeful that we get the actual units because that is what we need. He said in my opinion the 450k is a horrible trade because we really do need the units from personal experience, I am a CEO and I barely can afford to buy a new home in this city; that’s pretty dag-gone bad. We really need to work on the units and the cash, when you do the math, it’s a horrible deal. He said he wanted to voice that from the discussion we’ve had about affordable housing.

Commissioner Dowell: said in our Comp Plan discussions we seem to be okay with more density and she is okay with that. With the affordable housing crisis that we have, she needs to know are we getting units or are we getting cash and the developer has already said he is not giving us 25 units and if he does it is less than that. She said there are so many pieces to this puzzle that we just don’t know the answers for and for her she doesn’t feel comfortable moving forward until we have all of those answers. She asked is it possible to defer, while she doesn’t think it is a horrible project but it definitely can become more prepared than what we got tonight. She said the developer just said on record that he is not offering 25 affordable units.

Ms. Roberson: said that is not the developer’s choice, it gets calculated by the gross floor area of the actual construction plans. You can’t have a building permit to proceed until (developers do get the choice between cash and units) but they do not get to pick the number because there is a formula that Stacy Pethia has it is worked out on a spreadsheet and you plug in the gross floor area and the formula tells you what the number is. Based on the square footages that are represented in the plans you are looking at it was 455,000 and 25 units.

Commissioner Keller moved to recommend an approval of this amendment to special use permit SP-13-10-19, but specifically subject to the conditions that the only amendment to this SUP is for the increased density at an residential density of 83 units per acre as proposed because I find that approval of this part of the request is required for the public necessity, convenience, general welfare of good zoning practice. The motion includes references to staff recommendation that the application

be approved with no other alteration through this motion to the conditions currently operable to the existing Special Use Permit on the site that was issued in 2014. The motion includes a recommendation for the conditions referenced in the staff report SUP revision dated 10/17/2017, and is subject to the updated conditions, Seconded by Commissioner Clayborne, motion passes to increase density only 5-1, (Commissioner Dowell voting no)

IV. COMMISSION'S ACTION ITEMS

Beginning: upon conclusion of all joint public hearings

Continuing: until all action items are concluded

1. Site Plan & Subdivision - Water Street Promenade, Report by Missy Creasy, NDS Assistant Director Scott Collins of Collins Engineering, LLC, acting as agent for Riverbend Development, Inc. and Choco-Cruz, LLC, is requesting approval of a final site plan to amend the final site plan approved on December 22, 2015 for the Water Street Promenade development (Tax Map 57 Parcel 157.A). The Planning Commission approved the preliminary site plan on August 12, 2014.

Alan Taylor of Riverbend Development Inc. said the site plan amendment contains a substantial change from the preliminary site plan that was approved by the Planning Commission, and must be approved by the Planning Commission per Section 34-822(c)(1). The amended subdivision plat associated with the site plan amendment is also before the Planning Commission for approval. The square footage of the lot containing the coal tower has increased in size from 4000sf to 6638sf.

Mr. Taylor proposes modifications to several sheets in the approved site plan (Sheets 1, 3, 14, 16, 18, and 20). The locations of information relevant to the modifications are underlined below under Site Plan Compliance. Substantial changes include:

- Amending from 24 single family detached dwellings to 18 single family detached dwellings and six (6) single family attached dwellings. Mr. Ikefuna, Director of NDS, determined on May 25, 2017 that this modification does not violate the PUD Development Plan and is a minor change per Section 34-519(1). The PUD Development Plan approved by City Council on February 18, 2014 allows zero (0) foot side yard setbacks west of the Coal Tower, where the single family attached units are proposed.
- Amending the minimum lot frontage west of the Coal Tower from 30 feet to 24 feet.
- Mr. Ikefuna, Director of NDS, determined on May 25, 2017 that this modification does not violate the PUD Development Plan and is a minor change per Section 34-519(1).
- Amending the utility plan to reflect the modification to the single family dwelling units.
- Amending the stormwater management plan to include a dry detention pond.
- The phasing plan is amended to three (3) phases from the approved two (2) phases.
- The site plan was reviewed and met site plan requirement.

Ashley Davies: said this is a very unique and unusual site. It has taken a very unique and creative vision to figure out this piece of leftover property that really wasn't serving purpose and really transform it into a great urban streetscape that connects two parts of the city. She said half of those units are going up and four families have moved into the project. They have found after getting into the project that to be able to construct and maneuver in the site you actually needed a safe egress for folks that are going into the phase one section of the project. There is a section where the property narrows down so the phase one section has parking on the alley behind the units but as you get further west of the property it nets down so you really have the drive aisle behind the units. She said as we looked at the logistics of developing the site it became necessary that we needed another egress going forward but also architecturally the way the units are divided up, the west of the coal tower versus the east you get better groupings of units and you get better breaks

between where you have areas of landscape visual interest. She said the new layout works well and has been a good transition. We are basically just asking for this minor change in moving the one unit from one side to the other. She said they have been working with the Board of Architectural Review on the actual park design of the coal tower park to envision the preserving and protection of the coal tower. The project does have the affordable housing proffer that comes along with it. That is a total of a \$100,000 going to the city affordable housing fund.

Ms. Creasy said the drawings are labeled existing lots, and easement plats, and all of the square footages are different. She said when you start on page 7 of 13, you get to the actual changes. The first 7 pages are what is currently approved and the others are what are being proposed; 4,900 square feet.

Commission Lahendro: asked why is the open space now subdivided in 3 categories - a b and c.

Ashley Davies: she said she asked the engineer today because it did not seem to make sense to her either. He took her back to the original PUD document had open spaces a b and c on them. The reasoning behind that is so it would match the original PUD documents. It doesn't serve any additional purpose. There were three areas of open space in the approved PUD document plan that went with the PUD so the actual play is just matching.

Commission Lahendro: said we have 6 attached dwelling lots, how will the large unit be architecturally treated as a one unit with 6 doors.

Ashley Davies: said the units are quite close to one another so you experience them as attached row houses even though they have a slight detachment between them. The idea of the attached units is they will still carry on the same row house unique individual style as if you were in the capitol hill area of D.C. They will still read as individual highly crafted units, the same as the architectural nature that was approved in the original PUD.

Alan Taylor: said the interior floor plan is identically the same, they are being smashed together. They are six feet apart right now and we are removing the six feet, but we will still articulate them and will carry the exact same theme down. The idea was to come from somewhere further away from the mall and create a little more urban product as you get closer to the mall.

Commissioner Lahendro: said the frontage of the coal tower has been decreased to 94 feet from 78 feet on the street, and he doesn't see a plan to show how much that squeezes the appearance of the coal tower.

Ms. Davies: showed them the concept plans designed by the Board of Architectural Review with a 78 foot frontage as it will exist.

Commissioners were a little troubled because this concept plan was not in their packet for them to review prior to the meeting.

Commissioner Santoski moved to approve the final site plan as submitted, seconded Commissioner Clayborne, 6-0.

2. **Appeal – Erosion & Sediment Determination** – Marty Silman, David Frazier
 - a. Woodland Drive, Dickerson Homes and Development, LLC (Beau Dickerson, Member)

Appeal Procedures

Appeals from decisions made by staff pursuant to the Water Protection Ordinance are governed by City Code §10-8. Initially, each appeal must be referred to the Planning Commission for review and findings of fact. The Planning Commission is required to review the appeal at its next regular meeting following the date of the notice of appeal, and report its findings of fact to City Council in timely fashion (City Council is required to review the appeal itself, within 30 days after the PC Meeting). Attached as Exhibit F are the Findings of Fact that the City's VESCP/ VSMP Administrator request the Planning Commission to make.

Stop Work Order—On October 27, 2017, City staff issued a Stop Work Order (SWO) to the Landowner (attached as Exhibit D) to provide notice of the E&S and Stormwater violations, and to put the owner on notice of requirements in accordance with Chapter 10 of the City Code (Water Protection Ordinance), which contains both the City's Virginia Erosion and Sediment Control Program (VESCP) regulations and the City's Virginia Stormwater Management Program (VSMP) regulations. The SWO was issued by the City's VESCP/VSMP Administrator, after reviewing the condition of the site, based on observations of staff at that time.

Notice of Appeal: On November 9, 2017, the owner gave notice of this appeal. A copy of the Appeal Notice is attached as Exhibit E. The Appeal Notice lists four statements in support of the appeal. The City's response to each statement is provided below:

1. Statement: "Approximately 1pm on Friday, the 27th of October, Mr. David Frazier inspected the subdivision commonly known as Oak Lawn. Attached are photos showing the site at 1pm on the 27th of October taken by Mr. Frazier. Mr. Frazier did not contact me to discuss the goings on at the site he simply sent a Stop work order, which is within his right, I received the order through email at 3:15pm on the 27th of

Staff's Recommendation

Staff recommends that, by motion, the Planning Commission should make the findings of fact referenced in Exhibit F.

Commissioner Santoski moved that this Planning Commission should make the following findings of fact set forth in Exhibit F to the Staff Report for this appeal, and that we refer those finding to City Council, Seconded by Commissioner Dowell, motion passes 6-0.

Adjournment: 8:20 pm