

**Planning Commission Work Session**

**September 24, 2019 5:00 PM to 7:00 PM**

**NDS Conference Room**

**Members Present:** Taneaia Dowell, Jody Lahendro, Lyle Solla-Yates, Rory Stolzenberg, Hosea Mitchell, Lisa Green

**Members Absent:** Gary Heaton

**Staff Present:** Patrick Cory, Missy Creasy, Lisa Robertson Alex Ikefuna, and Brian Haluska

The meeting was called to order at 5:05 PM

The following message was relayed to staff prior to the meeting from Jeff Levien regarding his absence from the work session. Ms. Creasy read the message to the Commission before the start of the work session discussion.

“Commissioners: Unfortunately I am unable to be present at this evening’s work session as I am Board Chair of AFYA, a charity focused on getting medical supplies to areas in need, and with the aftermath of Dorian we are quite busy. Tonight I am attending our quarterly Board Meeting. Accordingly, my absence is not at all a reflection of how serious I am about the collaboration process. But I am confident that the capable hands of Jeff Dreyfus, my architect, and LJ Lopez, my owner’s rep, will be able to work through any concerns you may have and I will see you all at the next hearing. With regards, Jeff Levien.”

**1. 218 West Market Street Special Use Permit Application**

**LJ Lopez, Owner’s Rep** – Two items/topics of discussion with regards to the SUP application. The two items are the parking modified zone guidelines for clarity and the street wall zoning guideline height of 40 to 45 feet. The street wall could provide some conflict with the building plan. There would be greater than five feet of fall across the site. We would like to get some guidance and clarification on this issue.

**Jeff Dreyfus, Bushmen and Dreyfus Architects** – I would like to go over the submission of the SUP application. What is required is massing and building elevations. We have taken a preliminary look at that. It includes Brown’s Lock and Key, the parking lot, and The Whiskey Jar. One of the initial considerations was parking and how we might park on this site. It is well suited for parking entry on the lower southwest corner of the site. It is the lowest point of the site. The parking count will be over and above the by right density. That number is yet to be determined. As we look at the building, we can see the setbacks.

**Commissioner Stolzenberg** – Does that take into account the building of the Vinegar Hill Theater?

**Jeff Dreyfus** – It does not take into account the building of the Vinegar Hill Theater. We do not have that shown at this point. There is potential development on the site of the Citizen’s Commonwealth Building. There is incredible potential for development down towards Ridge McIntire. We did a comparison to other buildings that have been approved. Those buildings include the Omni, West Second, and the Code Building. This building would not be one story taller than The Omni. These elevation studies are intended to show how the building might begin to work with how many floors could be in this building. One of the things that we found useful in working with the BAR were sun studies and how large of a shadow a building would cast on the street on the longest day of the year and the shortest day of the year. On the shortest day of the year, the shadow cast to the edge of Market Street.

**Commissioner Stolzenberg** – Do you have a sun study in anything other than an overhead view?

**Jeff Dreyfus** – I am sure that we could do that. We do not have it at this moment, but it is something that we could produce. There are opportunities in storm water management, underground piping, storm detention, and the option of green roof.

Our point in that presentation was maximum envelope. We do know that is not possible. We had previously met with the BAR. In meeting with the BAR, there was real interest that there would be elements of the building that

would be taller and narrower. These were studies that we have begun to suggest ways to break up the building mass. With the life on the street on the mall, there is possibility of carrying the cornice lines of the existing historic structures to bring entry, and more vitality to this end of the mall. This could really begin to suggest further development down Old Preston and towards the Commonwealth Building. It is an exciting opportunity to get more life further down and develop the street. It was a very productive discussion with the BAR. The BAR did vote to recommend to Council that it would not have an adverse impact on the historic district. The BAR considerations and concerns included the following: massing will be broken up to provide compatibility with the characteristics of the historic district, provide adequate protection of the adjacent historic structures, provide a plan to replace the street trees on site, improve the pedestrian character of Old Preston and Market Street, and provide a pedestrian through access from West Market Street to Old Preston. That was the BAR's recommendation.

## **2. Public Comment and Commissioner Comments/Questions**

**Gennie Keller** – This is part of the last surviving fabric of Vinegar Hill. I ask that you pay some homage to the important legacy of that site. I also ask that you be proactive in that there should be some expectation that this design attitude might find its way East and West. I am addressing approach and attitude as these very sensitive areas should have another look.

**Commissioner Mitchell** – What did you mean by East and West?

**Gennie Keller** – I ask that you do some proactive planning. The position of the BAR, Planning Commission, and City Council is to react. I would ask that you consider this as you consider this project in the next weeks and months.

**Commissioner Lahendro** – I do think that the set back is quite important. I think that adding more affordable housing to the supply of housing would alleviate some of that market pressure. I think that this is a place that can handle more density and increase the supply of housing.

**Commissioner Lahendro** – Seeking the additional density and height is seen as a way by the designers to be able to provide the breaking up of the mass and getting it to be a more compatible scale and form with the historic buildings in this district. I am going to be very interested in how this building integrates the materials in the historic district. Pedestrian engagement is going to be very important all around this block. At the corner closest to the mall, there needs to be good landscaping and a welcoming approach to the mall.

**Commissioner Solla-Yates** – We are in a housing crisis, and we need housing. This has housing in it.

**Commissioner Green** – This is one of our last small parts of the Vinegar Hill community. I am not going to be happy to see it torn down. I would like to see it incorporated into the design. We do need more housing. New multi-million dollar housing is going to take pressure off of the housing market. I am not buying it. I worry about what we are doing with the Vinegar Hill part. I am conflicted with this because it is easy to knock things down and build a new stone building. Wouldn't it be better to use what we have and maintain the fabric?

**Commissioner Dowell** – It is a prime location in terms of height and density. I wanted to ask Ms. Keller, Did you have any ideas on how to preserve what history is unknown?

**Gennie Keller** – I was making an argument for undertaking this project with some appreciation and memory of it and its role. We are intentionally dismantling another part of Vinegar Hill. It is more of an attitude, and what it means for the future of this block. I would ask that you look more broadly than just this one site. There might be other ways to call attention to its past. You need to approach it sensitively and intentionally.

**Commissioner Dowell** – I am in favor in the flexibility in parking. This is the prime spot to make the city less mobile centric, especially with the other parking garages. I can foresee people not using their cars and putting any burden on the surrounding neighborhoods.

**Commissioner Stolzenberg** – I do agree with that. How many parking spaces?

**Brian Haluska, City Planner** – Outlined the different parking regulations with onsite and offsite. There will need to be further discussion and code clarification. It is not very clear.

**Jeff Dreyfus** – We are not looking to satisfy all of the parking requirements off site. The amount of onsite parking is yet to be determined. It depends on the unit count and the mix of units. Some will be satisfied onsite.

**Commissioner Stolzenberg** – If you are thinking of 40 to 60 parking spots onsite, all entering on Old Preston, that will be damaging to the pedestrian nature of the mall and Old Preston. Sixty cars on Old Preston is not ideal. I would like to see how much residential square footage is going to be lost with these reductions to the massing.

**Commissioner Green** – If this housing will go to people who already live here, I am all for it. I can promise that some of these apartments are going to be used for short term rentals. We can have an ordinance that these apartments are not to be used as short term rentals. We are not adding housing stock to the community. It is perfect for work force housing. We have gotten a list of the short term rentals. A lot of the apartments and condos are being used for short term rentals. They are coming here to vacation for the weekend. How do we address that?

**Commissioner Mitchell** – What do we think of the parking entrance on Old Preston?

**Brennen Duncan, Traffic Engineer** – There is so little traffic on Old Preston. It going to come down to the uses of the building. There is going to be more traffic at the intersection of Market Street and Old Preston than on Old Preston. This is not going to be a commuter parking lot. People are cycling through there. If the use is residential, you will see a difference, but the difference is manageable.

**Commissioner Green** – What about the service vehicles?

**Brennen Duncan, Traffic Engineer** – We do have loading zones on Old Preston that should be able to manage that. It is difficult to speak on the traffic without knowing the exact use of the building.

**Commissioner Stolzenberg** – What about the safety of a garage exit onto the concave part of the road? Do you see that as a potential problem with pedestrians walking along with visibility?

**Brennen Duncan, Traffic Engineer** – I do not see any issue with being able to see a vehicle coming out of there. Pedestrians are going to be able see cars coming out of there.

**Commissioner Mitchell** – Are there any other engineering issues on this project?

**Brennen Duncan, Traffic Engineer** – Yes, you are redeveloping this site, and this site is all impervious. Anything that they can do is going to be an improvement on that site.

**Commissioner Stolzenberg** – Is it possible to make the green roof accessible to the public?

**Jeff Dreyfus** – I think that it is something that I cannot answer. That would be up to the owner of the building.

**LJ Lopez** - The City has a green roof on this building, and that is not open to the public. I think that it depends on the character and quality.. They are generally not occupiable spaces. There is no foot traffic for them to function. There are offsite credits available as the design develops. I would be remiss to make that commitment public.

**Commissioner Mitchell** – As you think about it, I would like to encourage you to go over and see the Gleason Building and see what they did. I think what they did was awesome. I would like to see some sort of homage to Vinegar Hill on the property would be very important.

**Commissioner Green** – Isn't there a Vinegar Hill Park being built?

**Gennie Keller** - As a member of the Historic Resource Committee, it is more of a designation than anything else. Council designated that area at the west end of the mall to be Vinegar Hill Park and some directional and informational signage have been developed and designed. Language is currently being developed for the signs. The CODE building has an obligation to put it back as it was. There were some issues whether it was going to be ADA compliant. There is no funding for the park at this point.

**Commissioner Green** – Wasn't there a design competition?

**Jeff Dreyfus** – That was a firm sponsored ideas competition. There was no funding for it from the city or any private entities. It was not intended to be constructed.

**Commissioner Lahendro** – There is some historical resource in the bottom level of the building on the site, according to the editorial this morning.

**Jeff Dreyfus** – They are referring to the Livery Stable, which is part of the contributing structure. The original structure stopped short of the street. The Livery Stable is occupying space that was pull in or service pull in space off of Old Preston. A lot of the history is conjectural about the structure. This part of the building used to be where service trucks pulled in. The building has been modified with the different store fronts.

We went to the BAR initially and asked to demolish the building. It was conditioned on having an approved building permit before the demolition permit would be issued. The BAR would have to approve any plans on the site before anything comes down.

**Commissioner Stolzenberg** – It would seem reasonable to me that we would require a completion bond for the SUP. Is that something you would consider purchasing?

**LJ Lopez** – I do not know if this is a conversation for this forum. I would be happy to dialog on that outside of this.

**Commissioner Mitchell** – What are your thoughts and questions?

**Jeff Dreyfus** – We do ultimately need to be very clear about the parking requirements. We are just completing the Blue Moon Diner on 600 West Main Street. The parking requirements can be modified and required to include bike parking. You can modify parking based on the amount of additional bike parking. That is not allowed with a reduction in parking in this district. If the Commission is interested in reducing the required parking for the project, that could go a very long way in allowing more reductions with more bike parking. I do not know the correct forum for that.

**Commissioner Stolzenberg** – Would you prefer this as an ordinance change rather than asking for a waiver as part of your SUP? You can get all of your parking requirements waived.

**LJ Lopez** – We are seeking flexibility and direction. We know that there are requests for parking waivers available. In the absence of that, we have three sections of zoning code that dictate and govern parking that are in conflict with each other. Seeking bike parking is afforded and allowed in other areas of the code as a mechanism to reduce that. It is adding that item for your input and staff to consider as we navigate through those three conflicting sections. Should that be an allowable reduction in parking? Should bike parking be provided?

**Jeff Dreyfus** – It would be better to clarify it in the ordinance rather than for one project request.

**Commissioner Solla-Yates** – There was some concern regarding short term rentals at this property. Is there anything that we can do about that?

**Lisa Robertson, Deputy City Attorney** – It has been a few years, and you did make some changes to the zoning ordinance a number of years ago. It's a complicated issue. At the time, you chose to focus on protecting low density single family neighborhoods. There are some communities that develop restrictions on the extent to which that type of use can happen within a multi-family dwelling. You have not done that at this time. It is something if you wanted to, you can develop it as part of the upcoming zoning overhaul or as a stand-alone update to the ordinances that you have.

**Commissioner Green** – Our ordinance does still require it to be the primary residence, right?

**Lisa Robertson.** – For a single family dwelling in a residential zone, but not in your mixed use districts. In just about every mixed use district, you have transient residential use, otherwise known as a hotel. It is allowed by right. It is from one to one hundred rooms. If you want to develop regulations that deal with this kind of use in apartment

buildings, you are going to have to figure that out. You are going to have to develop a multi-family dwelling specific regulation for that use.

**Commissioner Mitchell** – This could not be a condition to the approval of this SUP?

**Lisa Robertson.** – I will contemplate that. The SUP should be focused on the specific impact of this proposed development as opposed to being an initial step towards solving a larger community problem.

**Commissioner Green.** – I would like for you to confer with Mr. Blair on that.

**Commissioner Mitchell** – This does impact this particular development. Why couldn't we stipulate that this has to be a primary living place for the owner?

**Lisa Robertson.** – Has the county done that?

**Commissioner Green** – Absolutely due to the shortage of housing stock.

**Lisa Robertson.** – Have you done it through a special use permit or as opposed, through Albemarle's ordinance?

**Commissioner Green.** – We changed the whole ordinance.

**Commissioner Mitchell** – How difficult would that be?

**Lisa Robertson.** – The last time we undertook it was close to a year. There were a lot of business interests involved.

**Commissioner Green.** – The county is not the only county that has changed the ordinances. If short term rental ordinances are not in place correctly, you just have this. Are we building a hotel or are we building an apartment building or are we wanting to build density? Other localities around the country have changed their short term rental ordinances. The county has just changed theirs. You can't rent out an apartment for just that reason. It needs to be in our housing stock for people to be able to live. The housing pressure starts to come off the market.

**Commissioner Mitchell** – Your answer is a no to the SUP?

**Lisa Robertson.** – I will take a further look at it. What I have heard in the discussion is not a site specific or developer specific concern but a global concern. I have not heard particulars. I am not going to give you a final answer tonight. When we looked at short term rentals previously, there were a lot of people from low income housing advocacy groups that actually opposed that type of restriction. If you had a 2 or 3 bedroom apartment, being able to rent out a bedroom in your apartment made the apartment more affordable to people living there. It is a complicated issue.

**Commissioner Green.** – I am not talking about people not living there renting out the bedroom, just those purchasing it for the sole purpose of being a short term rental. We do have a lot of that and that is where we are losing housing stock.

**LJ Lopez** – It is an interesting point you raise, Lisa, on the restriction on the current ordinance condition. The nuance here is that a lot of hospitality being constructed and hospitality being a by right use. The intent of this is apartments. I would be curious to understand what the site specific adverse impact of additional density is here in restricting that for short term rental. I am not opposed to that. However, what is being discussed is a universal city wide issue. There are other projects that are not subject to that, which disadvantages and becomes site specific against all others. I am supportive of pursuing that in the context of a universal ordinance change that addresses the short term apartment rental as opposed to site specific non-adverse consideration.

**Lisa Robertson.** – One issue that could possibly impact it comes back to parking. If people are coming in to use it, and that it changes several times a week, that level of traffic is very different than somebody, who might make a certain number of trips as the occupant. The issue of how many parking spaces on site versus some that will be located off site. That could have a larger impact on the downtown area, as well. Site specific impacts may relate to the arrangement of parking as much as anything else. We do have to look at what the specific plan, including

parking arrangements, are for this development whether any special use permit conditions relating to combinations of these types of uses are appropriate.

**Commissioner Mitchell** – SUPs should only be granted if the proposed new condition is going to make the world better than the existing zoning. The thing that would make this better than the existing zoning is that we are going to get more housing for the people who live here. That is the part of this SUP makes me feel that this is better than what exists today.

**Commissioner Lahendro.** – The SUP would also give us a better opportunity to get something designed that is compatible to this historic district. By getting the additional density, they are able to break it up. By right, they can put in something that is just a block and be done with it.

**Missy Creasy, Asst. Director** – Having an SUP as an option means that that type of use can be appropriate in that zoning area with conditions that may need to address impacts. It would be a bit broader.

**Lisa Robertson.** - There are certain uses, which you don't want to allow there at all unless you have a certain level of additional scrutiny. I am just asking for some additional time to consider this short term rental issue. It is a much bigger issue than one place. That is why other communities are dealing with it globally.

**Commissioner Stolzenberg** – Why does the requirement for owner renting not apply here? It is by right home stay. Even though it is by right isn't that still a requirement?

**Lisa Robertson** – Our ordinances are complicated. It was worked out after a year of negotiations with a lot of people. In places where hotels are allowed by right, there was a choice that had to be made. The choice that was made at the time was to focus on the more stringent regulations within the low density single family neighborhoods. There were a bunch of definitions that worked together to accomplish these things. It has not been written in such a way that restricts this type of use in your mixed use zoning districts in buildings that have multiple dwelling units. It was not set up this way. If you would like to do that, we can start working on that.

**Commissioner Green.** – If the general public hears that we are not approving a special use permit for density, we are affecting the housing stock. That simply is not true. If we are not building for people to reside in, we are not helping the housing stock.

**Commissioner Dowell** – Where are we with meeting the target of affordable housing, according to the housing study? Nobody is going to live this close to downtown with all of this accessibility, none of those units are going to be affordable. If we are going to have these special use projects, accomplishing what we should be accomplishing.

**Commissioner Green.** – The idea is that if we build more housing, people move out of the affordable unit and that frees up the unit. If people are moving in for a weekend home, there is nobody moving out of the affordable unit.

**Commissioner Solla-Yates** – For your information, it hasn't been updated. It will be a part of the housing strategy. It is going to be awhile.

**Commissioner Dowell** – If we keep approving these million dollar units and homes at the pricier end, which is fine. When are we putting in something that the average person, who works, can afford?

**Lisa Robertson** – Does the application specify if these units are rental or condominium?

**LJ Lopez** – The application does not specify, but the intent is rental.

**Commissioner Stolzenberg** – In the form based code for the SIA, there is this idea of earmarking some percentage of the extra tax money, and putting that toward affordable housing. Can we do that sort of thing here?

**LJ Lopez** – Absolutely. It is extremely relevant to this context. Increase tax value for this project can be used to finance a bond and a future city project. There is some net increase of tax revenue value with any re-development project. That is a mechanism. I think that it is entirely relevant. The SIA formalizes that more succinctly.

**Alex Ikefuna, Director** – Are you looking at tax increment financing for the site?

**LJ Lopez** – We are not look at tax increment financing.

**Alex Ikefuna** – The only way that we get the difference between the current tax and future tax is if Council decides to declare the mixed areas as tax increment. That is something that Neighborhood Development can look into it. There are several ways that you can do it. You need to get a developer to dedicate outside SUP requirements. Then the government will have to provide subsidy layering for an extended period of time. City Council has to be willing to provide that kind of subsidy layering for an extended period of time to bridge that gap.

### **3. Comp Plan RFP**

**Alex Ikefuna** – There was a positive development today on the RFP and Comp Plan. The review committee met today, and the Procurement Department followed up with proposals to discuss and a few more questions. We are going to move into the contract phase. We still have a couple more questions with one of the proposals to address. We are looking to have the contract executed and everything done by Thanksgiving.

Adjournment at 6:40 PM