

**Responses to Staff Report on Special Use Permit Request
for "The James at River's Bend" on Pear Street**

by 180RVA - River View Advocates

We believe that our April 1, 2014 letter and our July 29, 2013 provide a very detailed response both to the developer's application and to the April 21, 2014 staff report and we incorporate both of our prior letters by reference. We have provided specific responses to main points in the April 21, 2014 staff letter below but additional detail is contained in our earlier letters.

(Each staff comment extracted from the their April 21, 2014 report is accompanied by our response)

Staff: Abandonment of the East Cary Street right-of-way east of Pear Street and acquisition of the right-of-way by the applicant is necessary to develop the property as proposed.

Response: While this is true in the case of the proposed project, it is also true that alternative development approaches that comply with the Downtown Master Plan and surrounding zoning could allow for maintenance of the public right-of-way for a pedestrian street -- perhaps a cobblestoned or other paved ramp and steps rising from Pear Street to a courtyard between the new building and the Shiplock Watch apartments. Cross-easements between the city and the developer would allow for both the public right-of-way and air rights development above the right-of-way for a hyphen connection between two buildings at the second to fifth floors. This would reference courtyard entrances found off Cary into courtyard areas of the historic Tobacco Row buildings.

Staff: The subject property was inadvertently omitted from the October 2008 version of the Richmond Downtown Plan, but was subsequently included in the Urban Center Area of the Downtown Character Map as part of the July 2009 amendment to the Richmond Downtown Plan. As such, the foundational elements of the Downtown Plan apply to the subject property, as do the guiding principles of the Urban Center character area.

Response: No significance can or should be read into, or implied by, the omission from the October 2008 version of the Richmond Downtown plan. Former staff has indicated it was an administrative oversight. The bottom line is that the subject property is included in the Urban Center Area of the Downtown Character Map, and the heights defined in the Downtown Plan for the Urban Center Area are defined as four to five stories. The proposed project does not conform to this height nor to the foundational elements of the Downtown Plan nor the guiding principles of the Urban Center character area as described below.

Staff: Though the subject property was not included within the bounds of in the Shockoe focus area, the recommendations for the focus area can still inform decisions, since the property is adjacent to the Shockoe Bottom area and an influencing component of the area. With the exception of Libby Hill Park to the north, the subject property is surrounded on three sides by the Shockoe focus area and fronts on Main Street, a main thoroughfare for Shockoe Bottom.

Moreover, the subject property sits at the terminus of Cary Street and the buildings comprising Tobacco Row.

Response: As part of the Shockoe focus area and a site adjacent to Tobacco Row, scale and height should conform to that of historic Tobacco Row and the heights called for in the adjacent B-5 zoning which set at five stories.

Staff: In regards to the River foundation, the Downtown Plan asserts the creation of “green connections between city parks and the riverfront” and the preservation of “views to the river by limiting building heights and protecting important view sheds.” (p. 3.3). Pear Street could serve as a “clear, pedestrian-oriented connection” (pp. 3.14, 4.64) between Libby Hill Park and Great Shiplock Park/the riverfront. The proposed addition of sidewalk and landscaping along Pear Street will help establish it as such a connection. However, the number and width of the proposed curb cuts along Pear Street would hinder pedestrian use of the street. The height of the building would cause it to stand out in the landscape and alter views from surrounding areas. Though the building would not obscure the most notable view of the bend of the James River, it would change river views from Libby Hill Park.

Response: The proposed high-rise does not conform to the Downtown Plan's provision for preservation of “views to the river by limiting building heights and protecting important view sheds,” and would in fact mar the 180 degree views from Libby Hill Park currently enjoyed by residents and visitors to the city. Furthermore, it impacts views that served as the basis for the purchase of Libby Hill Park in 1851. The city explicitly established the park in 1851 to ensure residents could enjoy the panoramic view of the whole city. As reported at the time, “It affords a commanding and picturesque view of the lower portion of the City, the river, the falls, the railroad bridges.” Lastly, the curb cuts will certainly hinder safe pedestrian use of the street. A mid-rise building that conforms to the Downtown Plan and surrounding zoning would also provide good pedestrian connections as called for in the plan and would likely be more effective in activating the street.

Staff: In regards to the Urban Architecture foundation, the Downtown Plan states the need to “require all new construction within the Downtown to respect and reinforce its urban location, relating to the scale and character of the adjacent buildings and fronting the street with windows and primary entrances” (p. 3.3). “[Shockoe Bottom] has a distinct urban character, consistent with its history as the oldest part of Richmond. This character has been the driving force behind the growth and investment experienced in ‘the Bottom’ in recent years” (p. 1.17) and infill development should “enhance and reinforce [this] historic, urban character” (p. 4.58). The proposed site plan with surface parking areas between the main building and the streets does not reinforce its urban location.

Response: The staff report fails to document or establish how a high-rise like this conforms to the Downtown Plan including how it “[relates] to the scale and character of the adjacent buildings,” how it conforms to the “distinct urban character” of Shockoe Bottom or is “consistent with its history as the oldest part of Richmond.” The Downtown Plan also notes that infill development “should enhance and reinforce [this] historic, urban character.” To find this proposal as in conformance with the Downtown Plan would be “arbitrary and capricious,” and create a precedent that opens the door to similarly situated landowners to request similar heights all along the east end.

Staff: In regards to the Variety and Choice foundation, the housing units in the Shockoe Bottom neighborhood are predominantly renter-occupied. The addition of the proposed owner-occupied housing units will offer more variety of housing tenure choices for prospective residents of the neighborhood. Additionally, the Master Plan states, "it is important to increase the proportion of homeowners in areas with a high concentration of rental property" (p. 103).

Response: While this provision of the Master Plan is one consideration, a well-designed mid-rise that complies with the Downtown Plan and the surrounding B-5 zoning could also be marketed for owner-occupied units and satisfy this provision of the Master Plan. Examples of such buildings exist in Washington DC , Arlington and Alexandria. Here, views of the river, of Tobacco Row and of Libby Hill Park, combined with good architecture and a walkable, livable streetscape will attract condominium buyers. It should also be noted that there is a very heavy concentration of owner-occupied housing in the surrounding Church Hill neighborhood.

Staff: Staff finds that the City Charter conditions relative to the granting of special use permits are nearly met. Staff finds that the City Charter condition related to the protection of the general welfare of the community, which is established by the City's Downtown Plan, would be met if the applicant adjusted the site plan to better reinforce the site's urban location as recommended in the Downtown Plan. This could be accomplished by removing the parking areas between the main building and the streets and reducing the prominence of the curb cuts along Pear Street. Therefore, staff recommends approval of the proposal subject to amendments to address these concerns relative to the site layout.

Response: The staff report does not provide formal findings or other documentation for how the conditions for the granting of a special use permit are "nearly met." In fact, the failure to comply with the very clear provisions of the Downtown Plan and the very negative impacts on the historic and scenic panoramic view from Libby Hill Park and on the historic fabric and scale of Tobacco Row indicates a significant negative impact to the general welfare. In our July 2013 rebuttal letter River View Advocates have set forth in greater detail why the proposed project harms the general welfare and why the applicant should not be granted an SUP. It is surprising that the staff's sole concerns are the excessive curb cuts along Pear Street and the surface parking facing Main Street, rather than the height and the architecture, and that the staff have not addressed in any detail the impact of the height and architecture on historic Tobacco Row and the views from Libby Hill Part.

Staff: Abandonment of the East Cary Street right-of-way east of Pear Street and acquisition of the right-of-way by the applicant is necessary to develop the property as proposed.

Response: While this is true in the case of this proposed project, it is also true that alternative development approaches that comply with the Downtown Master Plan and surrounding zoning could allow for maintenance of the public right-of-way for a pedestrian street, using cross-easements between the city and the developer to allow for both the public right-of-way and air rights development above the right-of-way (see response earlier which address this issue in greater detail).

Staff: The property is currently located in the City's M-1 Light Industrial Zoning District, which does not permit residential use as proposed by the applicant.

Response: The staff report fails to address whether the requested height can be achieved under the requirements of the M-1 industrial district and whether the requested height would also require a Special Use Permit or rezoning. This should be addressed.

Staff: Prior to the issuance of a building permit for the main building, final detailed signage, lighting, façade, and landscaping plans shall be submitted to and approved by the Director of Planning & Development Review. Moreover, any substantive changes to the site layout and main building, including but not limited to changes to the unit count, building façade design and fenestration, shall be shown in final plans that shall be submitted to and approved by the Director of Planning and Development Review prior to issuance of a building permit.

Response: Setting aside for the moment that the project does not meet the standards for the granting of a special use permit, the Planning Commission should require that alternative and detailed facade illustrations be provided to the Planning Commission prior to final review and approval of any SUP. Furthermore, architectural and materials commitments should be made prior and as binding condition of the approval of the SUP. Barring this, the Planning Commission, not the staff, should approve final site plans and architecture following consultation and input by staff, community members, civic associations, and the Commission on Architectural Review.

Staff: Neighborhood Participation -- Staff sent notice of the application to the Shockoe Partnership, the Shockoe Bottom Neighborhood Association, the Church Hill Association, and Councilwoman Newbille. Staff has received letters of opposition and support, including a letter of opposition from the Church Hill Association, a letter of opposition and signed petition from the River View Advocates, and letters of support from the Shockoe Partnership, Shockoe Bottom Neighborhood Association, the Historic Richmond Foundation and 32 individuals.

Response: To clarify, the River View Advocates provided an April 1 letter of opposition AND a July 2013 seventeen-page rebuttal letter that was signed by 26 individuals. This should be noted. It should also be noted that the Shockoe Partnership and Shockoe Bottom Neighborhood Association are both primarily business associations and that 15 of the 32 individuals in support are businesses, not just individual residents of the city.