

Additional Responses to Assertions by the Applicant

1) That the site is unique and wasn't part of Tobacco Row.

Response: Whether or not there was ever a building on this site is irrelevant. The line of Tobacco Row is very clear and strong, and the buildings form a historic whole. This high-rise would dominate the end of the row and forever detract from the historic form of this warehouse street.

2) That this is not a part of the historic view.

Response: 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." Today the panoramic view allows for the contemplation of the sweep of history as described earlier.

3) That it will block the view of the sewage treatment plant.

Response: During the summer, only three brick structures can be seen at the sewage treatment plant, and during the winter those structures plus the close-to-ground-level settling ponds can be seen. Yet, this view, while unexciting in that one direction, doesn't compare with the intrusive interruption of the proposed high-rise.

4) That the river can't be seen anyway except during the winter.

Response: Admittedly, a three to five story building would similarly block the winter view of that portion of the river, but a building at that height would not interrupt the panoramic sweep from Libby Hill Park. Because of the dimensions of the parcel and the way the proposed high-rise occupies the full east to west width of the narrow parcel between Main and Dock, a lower building that occupies more of the parcel would be unlikely to occupy any more of the east-west width of the parcel than the proposed high-rise. This means that the high-rise does not offer any benefit in terms of a wider river view corridor down Pear Street or between the high-rise and the Shiplock Watch building compared to a three to five story building under the more appropriate B-5 zoning.

5) That any building would block the view of the river.

Response: Yes, a three to five story building would similarly block the view, but a building at that height would not interrupt the panoramic sweep from Libby Hill Park. Again, as described above, the proposed high-rise isn't offering any benefit in terms of improved view corridors compared to a building under the B-5 zoning because of the narrowness of the parcel in question. In some cases, and in the right urban locations, a taller building is appropriate in order to offer more public open spaces

or other benefits, but here the proposed taller building isn't offering any such additional public benefit compared to a three to five story building.

6) That any building built like Tobacco Row would be faux historic.

Response: A three to five story building built in accordance with the surrounding B-5 zoning need not be faux historic. It could make significant use of steel and glass such that it would clearly be a modern addition to the historic tableaux.

7) That if only five stories it would have to be rental.

Response: With modern design and attention to the community spaces and public realm, a three to five story condo building would be a strong draw. See our discussion of the five story alternative below.

8) That "for Richmond to attract downtown home-buyers...this building will have to provide views."

That would be quite a surprise to all of the residents of Church Hill and numerous other downtown neighborhoods where Richmond residents have committed their life savings to homes without sweeping views, and have jointly worked toward the continued improvement of the city's neighborhoods. It is the historic fabric of the city, public parks like Libby Hill Park, and the dynamic, convenient lifestyle that is attracting both young people and empty nesters back to Richmond -- part of a national movement. This new demand to buy and live in Richmond is not dependent on selling views at the expense of so many existing residents and users of one of Richmond's premier public parks.

9) That it would not be a precedent and that because it's an SUP it would not be like a rezoning in creating a precedent.

Response: As we note earlier, the approval of a 13-story building on this site, when surrounding sites are zoned to B-5 for three to five stories, would set a precedent for other nearby sites including the one across Pear Street between Cary and Dock Streets, or the applicant's remaining Shiplock Watch parcel, or the Echo Harbor/USP/Tarmac site, or sites to the east, or even on sites in the foreground of Tobacco Row between Cary and Dock Streets. The city and developers have frequently used the SUP process in lieu of the rezoning process to change both the use and the effective zoning, meaning that just like a rezoning the approval of an SUP could be considered a precedent for approval of SUP's for nearby and similarly situated parcels.

City Councils, County Boards of Supervisors and Planning Commissions are scrutinized by the courts for the basis for their decisions and the consistency with which they apply their planning, zoning and

related regulatory ordinances. Were the city to approve this proposed project despite the heights specified in the Downtown Plan and the heights specified in the surrounding B-5 zoning, it would invite similarly situated landowners to apply for their own SUPs and make it difficult for the city to deny those SUPs, lest the city be sued. In contrast, the city has great authority to deny an SUP or a rezoning under the public welfare provisions incorporated in the city charter and where the proposed project requested under the SUP is not in compliance with adopted planning documents like the Downtown Plan or similarly situated parcels such as the surrounding B-5 zoned parcels.

10) That if the Church Hill Association (CHA) is allowed to veto this because of the view, then CHA could veto anything.

Response: A review of the proposal indicates that it fails to comply with the Downtown Plan, city Master Plan, and zoning requested by the applicant. So for that reason alone, any claim of potential veto by a community association is irrelevant. This is about the provisions of the city's adopted plans and zoning.

In any case, community associations representing residents and property owners within their boundaries, have a democratic right to offer input and opinion on, and to support or oppose, specific projects as part of the public review of development proposals that impact the community and affect the general welfare. This is particularly true when the applicant seeks uses and intensities of use beyond the by-right zoning pertaining to the parcel of land in question.

The parcels of land in front of Libby Hill Park are different from many other parcels in the views from various vantage points on Church Hill. The view of the river is one with a historic basis outlined earlier, and protection of significant views is a prominent part of the Downtown Plan and RF-1 and RF-2 zoning.

The applicant's allegation that CHA is in effect seeking to veto any development visible from Church Hill is without basis. The CHA has played a key role in improving and supporting development nearby including the CVS and The Market, where the association also helped to win the preservation of the Pohlig Box Factory building. The CHA also formally endorsed the Rocketts Landing development, downstream from this proposal but to the outside of the viewshed. The CHA resolution regarding the applicant's parcel also indicated the willingness of the CHA to work with the applicant on appropriate development for the site.

11) That opposing the development would be counter to the Downtown Plan, Riverfront Plan and zoning categories RF-1 and RF-2.

Response: The Downtown Plan Character Map (page 3.19) identifies this parcel as Urban Center Area, which on page 3.25 is identified as three to five stories. The Riverfront Plan doesn't include this

parcel. The RF-1 zoning is for parcels "adjacent" to the river and is limited to six stories. The RF-2 zoning has yet to be applied in the city and is not mapped, and since its adoption the city has approved the Downtown Plan which identified this site for three to five stories. Surrounding parcels are zoned for B-5, three to five stories. In addition the city Master Plan includes these statements of principle:

- "Most of what currently exists is correct and appropriate;" and,
- " Infill development of like density and use is appropriate."

This indicates that what is built on this site should be in keeping with the adjacent structures on Tobacco Row.

12) That the site calls for an iconic building and this is an iconic building.

Response: Given the heights of the historic Tobacco Row, and the unified fabric that they offer, this site doesn't call for an "iconic building" but rather one that is in keeping in scale and mass to the nearby historic structures. Iconic features are already available in the Soldiers and Sailors Monument, the Lucky Strike smokestack, and historic Libby Hill Park itself. This high-rise would completely overwhelm and diminish the iconic nature of the above mentioned features. Moreover, with its architecture more reminiscent of a cross between Soviet apartment bloc and chain hotel, and failure to meet the applicant's expressed goal of appropriate termination to the end of Cary Street, this building fails to achieve iconic stature.