



CITY OF COLUMBIA  
CITY COUNCIL MEETING MINUTES  
TUESDAY, JULY 17, 2012  
6:00 P.M.  
EAU CLAIRE PRINT BUILDING  
3907 ENSOR AVENUE

The Columbia City Council conducted a Regular Meeting on Tuesday, July 17, 2012 at the Eau Claire Print Building, 3907 Ensor Avenue, Columbia, South Carolina. The Honorable Mayor Stephen K. Benjamin called the meeting to order at 6:07 p.m. The following members of Council were present: The Honorable Sam Davis, The Honorable Tameika Isaac Devine, The Honorable Leona K. Plough, The Honorable Cameron Runyan and The Honorable Moe Baddourah. The Honorable Brian DeQuincey Newman was absent. Also present were Mr. Steven A. Gantt, City Manager and Ms. Erika D. Moore, City Clerk. This meeting was advertised in accordance with the Freedom of Information Act.

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

Chaplain Billie Bright, Columbia Fire Department offered the Invocation.

**ADOPTION OF THE AGENDA**

Upon a motion made by Ms. Devine and seconded by Mr. Davis, Council voted unanimously to approve the agenda with the following amendment:

- Defer consideration of **Items 2, 21 and 27.**

**PUBLIC INPUT RELATED TO AGENDA ITEMS**

*No one appeared at this time.*

**APPROVAL OF MINUTES**

1. Work Session Minutes of May 8 and 15 and June 5 and 26, 2012 – *Approved as presented.*

Upon a motion made by Mr. Davis and seconded by Ms. Plough, Council voted unanimously to approve the Work Session Minutes for May 8 and 15 and June 5 and 26, 2012.

2. Minutes of July 10, 2012 – *Consideration of this item was deferred.*

## **PRESENTATIONS**

### 3. Animal Mission Update – Mr. Jim Sonefeld, President of the Animal Mission

Mr. Jim Sonefeld, President of the Animal Mission reported that over 17,000 cats and dogs have received free spay/neutering services. He said that they work closely with the Animal Shelter. We donated money to expand the facility; provided better food for the shelter; and offered free spaying/neutering vouchers. In 2006, we started the spaying/neutering program. Our first year, we handed out \$26,000 in vouchers and we quickly earmarked \$125,000. Six years later, we've spent \$600,000 on this program. There is only one gauge of our success as an entity and that is the numbers we see at the city shelter. They remained unchanged the first few years and that was a victory in itself. For the first time three years ago, the numbers went down. The following year they went down again. This year we are on track to remain unchanged. There is a direct effect from the spay/neuter vouchers out there. Unfortunately, animal welfare will always be needed in our community. The main problem is stray animals. Many groups have put a band aid on the problem using adoption as the answer to it. We cannot adopt our way out of this problem. We have to continue to spay/neuter and an aggressive campaign towards it, education and making it free is the only real answer to this problem. The Animal Mission has answers and is working towards a solution.

Councilor Davis said that one other important thing that is to pick up strays that otherwise would end up in the wrong hands and used for the wrong purpose or training to fight.

### 4. Annual National Night Out – Mr. Dean Slade, President-Elect for the Columbia Council of Neighborhoods

Mr. Dean Slade, President-Elect for the Columbia Council of Neighborhoods announced that the kick-off event for National Night Out is on Saturday, August 4, 2012 at Finlay Park with presentations at 6 p.m. It is a celebration of healthy communities and neighbors working together to protect our community. The Annual National Night Out is Tuesday, August 7, 2012 and neighborhoods across the city will be hosting events. The Columbia Council of Neighborhoods awarded scholarships to 40 neighborhoods for their festivities.

\*\*Mayor Benjamin introduced the Mayor's Fellows that represent cities and schools from far and wide. They are working on various projects and doing great things.

## **OTHER MATTERS**

### 5. Council is asked to approve the Destruction of 1,277 Narcotics to include Paraphernalia, as requested by the Police Department's Evidence and Property Unit. – *Approved*

Upon a motion made by Mr. Davis and seconded by Ms. Plough, Council voted unanimously to approve the Destruction of 1,277 Narcotics to include Paraphernalia, as requested by the Police Department's Evidence and Property Unit.

6. Hyatt Park/Keenan Terrace Property Maintenance Concerns – Ms. Krista Hampton, Director of Planning and Development Services

Mr. David Hatcher, Housing Official / Planning and Development Services Department reported that they enforce the Property Maintenance Code for over 29,000 one and two family residences and 3,000 vacant lots. He ensured Council that the concerns presented by Ms. Thomas are being addressed by the Housing Division. In the last year, we've opened 1,200 cases in the Hyatt Park/Keenan Terrace Neighborhood. Of those cases, over 100 of those are housing related; 700 are vacant lots; and 100 are abandoned/derelict vehicles. We have resolved 1,000 cases. Since March 2012 we have cut over 30 vacant lots in this area. There are 13 boarded structures in Hyatt Park and 70 citywide. The City completed 35 demolitions this year with 4 demolitions in Hyatt Park and 5 demolitions are pending. We have 28 demolitions pending with 14 of those in District 1. He presented the top 10 misconceptions about code enforcement.

Councilor Devine suggested that we offer an opportunity for Mr. Hatcher to attend the Columbia Council of Neighborhoods meetings. She asked if the maps identifying code cases were posted online. She requested a list of current code cases. She presented a list of concerns from the Golden Acres Community and asked staff to cross reference the list with the open code cases.

Mr. David Hatcher, Housing Official / Planning and Development Services Department replied that the maps are updated quarterly and posted online. When presenting to the neighborhoods the most current information is always provided.

Councilor Baddourah inquired about a property that is boarded up with a person living there. Is that something that you would look at?

Mr. David Hatcher, Housing Official / Planning and Development Services Department agreed to look at the property.

Councilor Davis said that we must fix up houses that have been boarded up for years. There are things that we've been doing for a long time that need to be looked at. I would like to see us determine what can be done to eliminate the things we are constantly called about. We pulled back from dealing with derelict vehicles, because of the Attorney General's opinion, but I would like to see us fight back. Identify the areas of concern and get the support of our legislature. I am looking at state of the art approaches being used in other states. We need to push the button and get folks to take care of their houses. Until we deal with absentee landlords, we won't have that seamless transition from one part of the city to another. If manpower is an issue, I would support that.

Mr. Steven A. Gantt, City Manager said that it would be helpful to bill owners when we cut lots; we could place a lien on the tax bill. We need a way to strengthen that out.

Councilor Davis said that he would like to see the repeat offenders in Livability Court.

Upon a motion made by Councilor Plaugh and seconded by Mr. Davis, Council voted unanimously to refer the assignment of a permanent judge for the Livability Court to the Public Safety Committee.

### **CONSENT AGENDA**

Upon a single motion made by Councilor Plaugh and seconded by Councilor Davis Council voted unanimously to approve the **Consent Agenda Items 7.** through **10.**

#### **CONSIDERATION OF BIDS, AGREEMENTS and CHANGE ORDERS**

7. Council is asked to approve a Construction Contract and Addendum to the Work Specifications for City property located at 5212 Randall Street, as requested by the Community Development Department. Award to P&L Construction in the amount of \$18,870.00. This firm is located in Chapin, SC. *Funding Source: Community Development Block Grant Housing Rehab Revolving Loan Fund - Approved*
8. Council is asked to approve a Professional Services Contract for Federal Lobbying Services, as requested by the Office of Governmental Affairs. Award to CapitalEdge Strategies, LLC in the monthly amount of \$5,175.00 plus reimbursable expenses not to exceed \$5,000.00 for a total annual amount of \$67,100.00. This firm is located in Washington, DC. *Funding Source: 1011103-638300- Approved*
9. Council is asked to approve the Purchase of Material, Labor and Supervision to install, replace and add Lighting Fixtures to the Sumter Street and Lady Street Garages, as requested by the Parking Services Division. Award to Burriss Electrical, the lowest responsible and responsive bidder in the amount of \$148,441.10. This vendor is located in Lexington, SC. *Funding Source: Parking Imp Project Control/Spec Contracts/Capital Project; 5329999-658650- Approved*
10. Council is asked to approve Capital Improvement Project SD8360; An Agreement for Engineering Services Final Design of Drainage Pilot Study Improvements for Shandon Neighborhood, as requested by Utilities and Engineering. Award to Fuss & O'Neill, Inc., in the amount of \$297,190.00. This vendor is located in Columbia, SC. *Funding Source: Storm Drain Maintenance Fund; 5534210-SD836002-636600 - Approved*

### **OTHER MATTERS**

21. Fiscal Year 2012/2013 Accommodations Tax Funding Recommendations – Ms. Wendi Nance, Chair of the Accommodations Tax Committee – *Consideration of this item was deferred.*

Fiscal Year 2012/2013 Hospitality Tax Funding Recommendations – Ms. Cynthia Hardy, Chair of the Hospitality Tax Advisory Committee – *Consideration of this item was deferred.*

### **ORDINANCES – FIRST READING**

22. Ordinance No.: 2012-052 - *(Revised)* – An Ordinance to Set an Advisory Referendum (Special Election) on the Question of Changing the Time of Municipal Elections and the Time Newly Elected Officers Qualify to Take Office

Mayor Benjamin stated that we were discussing the idea of potentially changing the election date. We've had some vigorous discussions and some of us had heartburn when we talked about extending the terms. There was a consensus among us to not do that. We could possibly shorten the terms. This was palpable to most if not all of us. Based on my conversations with the City Attorney, the referendum is advisory and it is not binding. This is something we could do by ordinance if we chose to. I want to suggest that we favor that approach. We could save money by not having a referendum. Let's ask the City Attorney to draft an ordinance that we can consider in our first meeting in August. I think it would be prudent; most citizens feel very supportive of this. I want to thank the League of Women Voters for their constant support and advice on this issue. I think most Americans as well as South Carolinians are wired to vote in November. If we do this right, we can continue to drive up participation and get a better and smart electorate.

Mr. Kenneth E. Gaines, Esq., City Attorney advised that once we submit it, the Department of Justice has 60 days to respond, but they can request additional information and expand that time. Upon second reading we will submit it for approval.

Mayor Benjamin clarified that this would shorten all terms by 6 months.

Councilor Plough concurred and suggested that this matter be discussed in a Work Session in order to allow the new councilmembers time to understand this matter.

Upon a motion made by Mayor Benjamin and seconded by Ms. Devine, Council voted unanimously to direct the City Attorney to come back with an ordinance that would move the city election to the first Tuesday following the first Monday in November in odd numbered years. This would move the April 2014 elections to November 2013.

23. Ordinance No.: 2012-061 – Authorizing the City Manager to execute an Agreement of Purchase and Sale between the City of Columbia and the University of South Carolina Alumni Association for the sale of a parcel of real property being approximately 0.06 acres (2,699.73 square feet) and located adjacent to Richland County TMS number R08916-1 0-01 at the Southeastern corner of the intersection of Senate Street and Lincoln Street – *Approved on first reading.*

Upon a motion made by Mr. Davis and seconded by Mayor Benjamin, Council voted unanimously to give first reading approval to Ordinance No.: 2012-061 – Authorizing the City Manager to execute an Agreement of Purchase and Sale between the City of

Columbia and the University of South Carolina Alumni Association for the sale of a parcel of real property being approximately 0.06 acres (2,699.73 square feet) and located adjacent to Richland County TMS number R08916-1 0-01 at the Southeastern corner of the intersection of Senate Street and Lincoln Street.

24. Ordinance No.: 2012-068 – Amending Ordinance No. 2012-018 granting South Carolina Telecommunications Group Holdings LLC, d/b/a Spirit Communications, its Successors and Assigns the Right, Power and Authority to Construct, Install, Maintain and Operate In, Over, Upon and Under the Streets and Public Places of the City of Columbia, its Lines, Poles, Wires, Cables and other Telecommunications Facilities to Render Telecommunications Service to Its Customers in the Limits of the City of Columbia for Such Period as Provided Herein; and to Provide for the Payment of Compensation for the Use of the Streets and Public Places – *Approved on first reading.*

Upon a motion made by Ms. Plough and seconded by Ms. Devine, Council voted unanimously to give first reading approval to Ordinance No.: 2012-068 – Amending Ordinance No. 2012-018 granting South Carolina Telecommunications Group Holdings LLC, d/b/a Spirit Communications, its Successors and Assigns the Right, Power and Authority to Construct, Install, Maintain and Operate In, Over, Upon and Under the Streets and Public Places of the City of Columbia, its Lines, Poles, Wires, Cables and other Telecommunications Facilities to Render Telecommunications Service to Its Customers in the Limits of the City of Columbia for Such Period as Provided Herein; and to Provide for the Payment of Compensation for the Use of the Streets and Public Places.

## **RESOLUTIONS**

25. Resolution No.: R-2012-072 – Authorizing Acceptance and Dedication of Streets Known as Fountain Lake Road, Fountain Lake Place, Fountain Lake Way, Lake Way Lane and Reeder Court to the City of Columbia; Richland County TMS# 16309-08-01 (Portion); CF #232-11 - *Approved*

Upon a motion made by Mr. Baddourah and seconded by Ms. Devine, Council voted unanimously to approve Resolution No.: R-2012-072 – Authorizing Acceptance and Dedication of Streets Known as Fountain Lake Road, Fountain Lake Place, Fountain Lake Way, Lake Way Lane and Reeder Court to the City of Columbia; Richland County TMS# 16309-08-01 (Portion); CF #232-11.

26. Resolution No.: R-2012-073 – Authorizing the City Manager to execute an Agreement to Purchase and Sell Surplus Water between the City of Columbia and the City of Cayce - *Approved*

Upon a motion made by Mr. Davis and seconded by Ms. Plough, Council voted unanimously to approve Resolution No.: R-2012-073 – Authorizing the City Manager to execute an Agreement to Purchase and Sell Surplus Water between the City of Columbia and the City of Cayce.

27. Resolution No.: R-2012-074 – Authorizing the City Manager to execute a Parking Agreement between the City of Columbia and Noble / HY Columbia, LLC for the Lincoln Street Parking Garage – *Consideration of this item was deferred.*

### **APPOINTMENTS**

28. Midlands Housing Alliance

Upon a motion made by Ms. Devine and seconded by Mr. Baddourah, Council voted unanimously to approve the appointment of Councilor Tameika Isaac Devine to the Midlands Housing Alliance.

- **Council recessed at 6:57 p.m.**

### **ZONING PUBLIC HEARING**

- **Council opened the Zoning Public Hearing at 7:06 p.m.**

#### **ANNEXATION WITH MAP AMENDMENT- FIRST READING**

11. **5005 Woodbrier Street**, TMS# 09309-06-11 request to annex and zone the property RG-2. The property is zoned RM-MD in Richland County and 5001 Woodbrier Street, TMS# 09309-06-12; request to annex and rezone the property RS-3. The property is zoned RM-MD in Richland County. – *Approved on first reading.*

Council District:	1
Proposal:	Annex and zone property RG-2 and RS-3
Applicant:	Wallace C. Ford
PC Recommendation:	Approve, (7-0) 05/07/12
Staff Recommendation:	Approve

Ordinance No.: 2012-062 – Annexing 5005 Woodbrier Street and portion of 5001 Woodbrier Street Richland County TMS #09309-06-11 and 09309-06-12 (portion) – *Approved on first reading.*

*No one appeared in support of or in opposition to **Item 11.***

Upon a single motion made by Mr. Davis and seconded by Ms. Plough, Council voted unanimously to give first reading approval to the *Annexation with Map Amendment* for 5005 Woodbrier Street, TMS# 09309-06-11 request to annex and zone the property RG-2. The property is zoned RM-MD in Richland County and 5001 Woodbrier Street, TMS# 09309-06-12; request to annex and rezone the property RS-3. The property is zoned RM-MD in Richland County **and** Ordinance No.: 2012-062 – Annexing 5005 Woodbrier Street and portion of 5001 Woodbrier Street Richland County TMS #09309-06-11 and 09309-06-12 (portion).

12. **1.07 acres, NE/S Kinley Road**, TMS# 05000-04-10; request to annex and rezone the property C-3. The property is zoned RU in Richland County. – *Approved on first reading.*

Council District: 1  
Proposal: Annex and zone property C-3  
Applicant: Odis B. Richardson  
PC Recommendation: Approve, (5-0) 06/04/12  
Staff Recommendation: Approve

Ordinance No.: 2012-063 – Annexing 1.07 acres NE/S Kinley Road Richland County TMS #05000-04-10 – *Approved on first reading.*

*No one appeared in support of or in opposition to **Item 12.***

Upon a single motion made by Mr. Davis and seconded by Ms. Plaugh, Council voted unanimously to give first reading approval to the *Annexation with Map Amendment* for 1.07 acres, NE/S Kinley Road, TMS# 05000-04-10; request to annex and rezone the property C-3. The property is zoned RU in Richland County **and** Ordinance No.: 2012-063 – Annexing 1.07 acres NE/S Kinley Road Richland County TMS #05000-04-10.

13. **1628 Browning Road**, TMS# 06013-01-25; request to annex and rezone the property C-3. The property is zoned RU, OI and GC in Richland County. – *Approved on first reading.*

Council District: 2  
Proposal: Annex and zone property C-3  
Applicant: Browning Office Investment, LLC  
PC Recommendation: Approve, (5-0) 06/04/12  
Staff Recommendation: Approve

Ordinance No.: 2012-064 – Annexing 1628 Browning Road Richland County TMS #06013-01-25 – *Approved on first reading.*

*No one appeared in support of or in opposition to **Item 13.***

Upon a single motion made by Ms. Plaugh and seconded by Mr. Runyan, Council voted unanimously to give first reading approval to the *Annexation with Map Amendment* for 1628 Browning Road, TMS# 06013-01-25; request to annex and rezone the property C-3. The property is zoned RU, OI and GC in Richland County **and** Ordinance No.: 2012-064 – Annexing 1628 Browning Road Richland County TMS #06013-01-25.

14. **1742 Busby Street**, TMS# 11607-07-05; request to annex and zone the property RG-2. The property is zoned RM-HD in Richland County. – *Approved on first reading.*

Council District: 2  
Proposal: Annex and zone property RG-2  
Applicant: City of Columbia

PC Recommendation: Approve, (5-0) 06/04/12  
Staff Recommendation: Approve

Ordinance No.: 2012-065 – Annexing 1742 Busby Street Richland County TMS #11607-07-05 – *Approved on first reading.*

*No one appeared in support of or in opposition to **Item 14.***

Upon a single motion made by Ms. Plough and seconded by Mr. Davis, Council voted unanimously to give first reading approval to the *Annexation with Map Amendment* for 1742 Busby Street, TMS# 11607-07-05; request to annex and zone the property RG-2. The property is zoned RM-HD in Richland County **and** Ordinance No.: 2012-065 – Annexing 1742 Busby Street Richland County TMS #11607-07-05.

15. **109 Arborgate Circle**, TMS# 05013-03-18; request to annex and zone the property PUD-LS. The property is zoned PDD in Richland County. – *Approved on first reading.*

Council District: 1  
Proposal: Annex and zone property PUD-LS  
Applicant: Clifton S. Prince and Lisa H. Westbury  
PC Recommendation: Approve, (5-0) 06/04/12  
Staff Recommendation: Approve

Ordinance No.: 2012-066 – Annexing 109 Arborgate Circle Richland County TMS #05013-03-18 – *Approved on first reading.*

*No one appeared in support of or in opposition to **Item 15.***

Upon a single motion made by Mr. Davis and seconded by Ms. Plough, Council voted unanimously to give first reading approval to the *Annexation with Map Amendment* for 109 Arborgate Circle, TMS# 05013-03-18; request to annex and zone the property PUD-LS. The property is zoned PDD in Richland County **and** Ordinance No.: 2012-066 – Annexing 109 Arborgate Circle Richland County TMS #05013-03-18.

CONFIRMATION OF ZONING OF PREVIOUSLY ANNEXED PROPERTY –  
FIRST READING

16. **941 Spears Creek Court**, TMS# 25714-01-07; request to confirm the M-1 zoning classification. – *Approved on first reading.*

Council District: 4  
Proposal: Confirm M-1 zoning  
Applicant: Johnathan Chambers, Zoning Administrator  
PC Recommendation: Approve M-1 zoning, (5-0) 06/04/2012  
Staff Recommendation: Approve

*No one appeared in support of or in opposition to **Item 16.***

Upon a single motion made by Ms. Plaugh and seconded by Ms. Devine, Council voted unanimously to give first reading approval to the *Confirmation of Zoning of Previously Annexed Property* at 941 Spears Creek Court, TMS# 25714-01-07.

MAP AMENDMENT – FIRST READING

17. **W/S Broadway Street at Flora Street**, TMS# 11301-04-03, -04; request to rezone property from M-2 to M-1 and TMS# 11301-04-20, -21; request to rezone property from C-3 to M-1. – *Approved on first reading.*

Council District: 3  
Proposal: Rezone property from M-2 and C-3 to M-1  
Applicant: Richard Morton, SCE&G  
PC Recommendation: Approve, (7-0) 05/07/12  
Staff Recommendation: Approve

*No one appeared in support of or in opposition to **Item 17.***

Upon a single motion made by Mr. Baddourah and seconded by Ms. Devine, Council voted unanimously to give first reading approval to a *Map Amendment* for W/S Broadway Street at Flora Street, TMS# 11301-04-03, -04; request to rezone property from M-2 to M-1 and TMS# 11301-04-20, -21; request to rezone property from C-3 to M-1.

18. **2100 Two Notch Road**, TMS# 11509-09-01A (portion); request to rezone from PUD-C and M-1 to C-3. – *Approved on first reading.*

Council District: 2  
Proposal: Rezone property from PUD-C and M-1 to C-3  
Applicant: Charles Gary for Benedict College  
PC Recommendation: Approve, (6-0) 05/07/12  
Staff Recommendation: Approve

*No one appeared in support of or in opposition to **Item 18.***

Upon a single motion made by Ms. Devine and seconded by Ms. Plaugh, Council voted unanimously to give first reading approval to a *Map Amendment* for 2100 Two Notch Road, TMS# 11509-09-01A (portion); request to rezone from PUD-C and M-1 to C-3.

19. **135 John Harmon Road**, TMS# 05000-04-13; request to rezone from PUD-LS to C-3. – *Approved on first reading.*

Council District: 1  
Proposal: Rezone property from PUD-LS to C-3  
Applicant: Cameron Zurbreugg  
PC Recommendation: Approve, (5-0) 06/04/12  
Staff Recommendation: Approve

No one appeared in support of or in opposition to **Item 19**.

Upon a single motion made by Mr. Runyan and seconded by Mr. Davis, Council voted unanimously to give first reading approval to a *Map Amendment* for 135 John Harmon Road, TMS# 05000-04-13; request to rezone from PUD-LS to C-3.

MAJOR AMENDMENT TO A PLANNED UNIT DEVELOPMENT – FIRST READING

20. **823 Gervais Street**, TMS# 08916-01-04; request a Major Amendment to the PUD to develop Parcel 2 as 6-story, 130 room hotel. – *Approved on first reading. Mayor Benjamin abstained from voting due to a conflict of interest.*
- Council District: 2
- Proposal: Major Amendment to a PUD to develop parcel 2 as 6-story, 130-room hotel
- Applicant: Winford Lindsay, Architect
- PC Recommendation: Approve subject to staff comments except for those relating to landscaping beyond what is proposed by applicant; however, if additional landscaping can be achieved, Planning Commission is supportive, (5-2) 05/02/2011
- Staff Recommendation: Approve subject to staff comments (see case summary)

Councilor Devine announced that Mr. Newman is out of the country, but as the District 2 representative he has questions that will be asked at the next meeting and reserves the right to his vote at that time.

Ms. Krista Hampton, Director of Planning and Development Services stated this project is in conjunction with Center Vista and the Columbia Supply Building. A PUD was originally established in 2007 for the entire parcel and that project contemplated no parking on the site and reserved parcel three. In 2009, due to economic conditions the developer applied for a major amendment that allowed for phasing of the project to develop the Columbia Supply Building into offices for the Miller-Valentine Group and Jason’s Deli and reserved the remainder known as parcel two to be developed at a later time. Parcel two had a provision in the PUD that when it was developed it would come to you as a major amendment. This is within the west Gervais Street Historic District. The Design Development Review Commission has approved it. The design was approved after adjustments were made and is compatible with the West Gervais Historic District. The PUD contemplated a hotel and retail in the front and development for parking in the rear. It is my understanding that there is a possible agreement for leased parking in our garage that will be considered at a later date. The project abuts Gervais Street, extends up 50’ and backs up 8’.

Councilor Devine asked if the height of the project is consistent with the project that was approved in 2007.

Ms. Krista Hampton, Director of Planning and Development Services said that it is lower.

Councilor Devine inquired about the reason for the major amendment.

Ms. Krista Hampton, Director of Planning and Development Services replied that it was contemplated that any development on this site would be reviewed as a major amendment.

Councilor Baddourah inquired about the average height of buildings within the historic district.

Ms. Krista Hampton, Director of Planning and Development Services said that it would be the tallest building next to the Adluh Building.

Councilor Baddourah asked why no other buildings were tall.

Ms. Krista Hampton, Director of Planning and Development Services replied that the historic overlay requires review of the architecture for compatibility with adjacent structures.

Councilor Baddourah inquired about the landscaping concerns brought forth. Is that something being handled by staff or the Planning Commission?

Ms. Krista Hampton, Director of Planning and Development Services stated that the Planning Commission disagreed with staff's recommendation. They approved the project as proposed. They encouraged staff and the applicant to work together and come to some solution, but if not, they recommended approval as is. However, staff has been working the applicant to address some landscaping issues to get more vegetation on the site.

Councilor Baddourah asked why there was a vote of five to two. Do you have any idea why the two did not approve it?

Ms. Krista Hampton, Director of Planning and Development Services assumed that it was because the two voting against it wanted more teeth in the landscaping issues. They did not necessarily articulate that, but she is making that assumption based on their remarks.

Mr. Steve Hinson, 530 Lady Street appeared in opposition to the matter. We moved to the Vista last year at Pulaski and Lady Streets. We have a problem with the height of the building. Most of the buildings are much shorter than that. The exception made in 2007 was for an office building. If you look at the Hampton Inn it is 50' tall and it fits in with the landscaping. It will mess up the sight lines and block a view of the city. It is out of character with everything else.

Mr. Toby Ward, Esq. appeared in opposition to the matter. I am here to object to you even hearing this matter. The reason for my objection is for my two clients that own two hotels in the area. This is your consideration of a major amendment to a PUD of a piece

of property less than two acres. Under your rule which states a major amendment should follow the same procedural requirements for the amendment originally establishing the planned unit district, including Planning Commission review. In this case, because this small piece of property is less than two acres, your rules say that you must have a two-thirds favorable vote by the Planning Commission of the total members before a matter is referred to Council, not two thirds of who was there. The vote was five to two and that's not six. You should not be hearing this. Under the state enabling legislation, amendments constitute zoning ordinance amendments and must follow prescribed procedures. If you persist in considering this matter and voting on it, you are not only breaking the city law, but the state law.

Councilor Devine said that the Planning Commission vote is advisory to City Council. How do you square that with City Council hearing this matter?

Mr. Toby Ward, Esq. stated that this law is an ordinance that Council passed. I think you passed this because you did not want to be burdened with a lot of little PUDs. It says in the case of less than two-acres must be endorsed by two-thirds of the total members of the Planning Commission. You have nine members. I would agree with you that this is just a recommendation, but you passed a law in §17-3-05 and it says if it's less than two acres you must have a super majority. I can't make you adhere to the law, but if you look at §17-3-05, it says clearly and succinctly site size less than 2 acres must be endorsed by two-thirds of the total members of the Planning Commission not those that are there. He presented a letter for Council dated July 16, 2012 and an email exchange with Ms. Hampton.

Ms. Krista Hampton, Director of Planning and Development Services agreed with Mr. Ward's reference to the Code. She referred to §17-3-04, noting that this is not a creation of a PUD.

Mr. Tony Tam, Owner/Manager of the Hampton Inn in the Vista said that they don't begrudge the developers at all, obviously we want them to build, but our Hampton Inn was restricted to height and if we had the same opportunities we would have had a stronger return on our investment. I am speaking on behalf of Mr. Patel who owns the Springhill Suites on Huger and Lady Streets; Mr. Rick Patel who owns the Holiday Inn Express; and Mr. Bill Ellen who owns the Clarion Hotel. They all asked me to speak on their behalf in asking you to consider not allowing the height variance on this project.

Councilor Devine asked Mr. Tam to elaborate on the height restrictions on the Hampton Inn. Was there any request of this Council to approve a PUD or something to allow the height variance that was approved in 2007 and allowed on this site?

Mr. Toby Ward, Esq. said that it is his understanding that the developer followed the rules that were in place for M-1 zoning, which is a height limitation of 50'. It was informally requested; staff indicated that it was not a possibility; and it was not pursued.

Councilor Baddourah asked when was the Hampton Inn opened.

Mr. Tony Tam, Owner/Manager of the Hampton Inn in the Vista replied it was opened in March 2001.

Councilor Baddourah asked Mr. Tam if he is scared of competition or trying to preserve the historic overlay.

Mr. Tony Tam, Owner/Manager of the Hampton Inn in the Vista replied no as long as they meet the height restriction requirement that we met as well. We are not opposed to any development. We are pro-development.

Mr. Mike Arket, Tranquil Moments Day Spa / an Aveda Concepts Spa stated that Aveda asked him to look into the Vista area as possible growth for them. Are we becoming anti-business? I have followed this project since day one. They've been put through the wringer with the DDRC. They have done everything that they been asked to do. We are looking to move the Aveda brand into the Vista. Do you know how many spas are in the Vista? A ton, but we are going to add there, because there is a rule they talk about in economics. Build where there is more. By putting companies through this process it just wears us down. We don't want to deal with it. Because of the lack of support for business, Aveda asked me to look elsewhere.

Councilor Baddourah stated that City Council is very pro-business, but there is a fine line between development and bringing businesses into the historic area.

Mr. Mike Arket, Tranquil Moments Day Spa said that 75' was the height limit and they come in under that limit. They are still fighting over landscaping. I understand there is a need for balance.

Councilor Davis stated that he is serving on the Chamber/City/County Business Friendly Taskforce and we are constantly looking at those kinds of issues or perceived issues regarding the city's ability to work with prospective business. That is not the case and intent of the hearing. I think you'll find that everyone here is pro-business.

Councilor Plough added we are business people. It's hard to be anti-business when that's who we are.

Mr. Mike Arket, Tranquil Moments Day Spa replied that the DDRC has requested lots of changes and it doesn't seem like they are willing to work with them. Where is the fast track for developers? Let's get this building up. It's going to change the face of the Vista.

Councilor Plough said that she would like to speak with Mr. Arket regarding the other things that outside businesses are seeing. If we did something different on the height we would be taking away something a previous council granted.

Ms. Krista Hampton, Director of Planning and Development Services clarified that the M-1 zoning allows for 50' in height. You can go up to 75' if you step back; for every 1' you step back you can go up 3'. The original request allowed for 75' with no step back.

Councilor Devine asked if there would have been an option for the developers of the Hampton Inn to apply for a PUD.

Ms. Krista Hampton, Director of Planning and Development Services said that there would have been other options for them to pursue. There are always remedies to any administrative decisions.

Councilor Runyan thanked Mr. Arket for stepping up and saying what he said. He is not the only person who has indicated that sentiment to me. I personally have some heartburn, because I'm looking at a developer/investor that has spent a lot of money and time in our city.

Mr. Dale Stigmeyer, Miller-Valentine Group appeared on behalf of the property owner. He recalled that they began an intense contamination remediation project back in 2005. We spent a million dollars cleaning up on-site soil and ground water contamination. That project took until 2010 when we received a DHEC certificate of completion. Five years is a long time to bring a site back into development. In 2009, we came back to ask for an amendment to the PUD for the Columbia Supply Building which now houses Columbia's only Jason's Deli and the regional southeastern headquarters of the Miller-Valentine Group. We are the recipient of the 2012 Historic Columbia Re-Adaptive Use Award and we are very proud of that.

Ms. Sarah Luadzers, Executive Director of the Congaree Vista Guild stated that they are in favor of this project. We are pleased to announce that The Peanut Man is locating next to the Blue Marlin.

Mr. Toby Ward, Esq. stated that the Hampton Inn could not have been developed as a PUD-C. It was not an option.

Mr. Adi Bhoopathy, Noble Investment Group said that they are very excited to be working on this project. I'm going to address some of the concerns expressed tonight. We have been involved in talking to city staff and groups for the last eight months. We have followed all the process every step of the way. One of the things brought up in the Planning Commission was landscaping. We worked with staff in good faith to address those concerns. One of the comments made was about the height limit. The height is the same regardless of whether it is a hotel or an office. The other concern raised was about the line of site. The photos here do not show an actual representation of the site. There are buildings alongside the proposed project that are not shown. The Convention Center would welcome another hotel in the area. It's a net benefit with all the hotels together. It will help attract more conventions to the area. To sum it up we have been good folk; we followed procedure; we followed everything that we were supposed to do; and we worked with any department we needed to.

Councilor Baddourah inquired about the original plan being a five-story story. When did it move from five-stories to six-stories? That's where the height restrictions come into play.

Mr. John Cooper, Miller-Valentine Group explained that it was originally going to be an office building and an office building would be substantially higher than a hotel. A five-story office building would have pushed it up to 75'. With a hotel at six-stories it would have been less. You are actually getting a lower building with a six-story hotel than a five-story office building.

Councilor Baddourah stated that none of the City Council is anti-development; we welcome this project to the Vista. My concern is to find balance. If the opposition finds evidence that other builders were denied the right to build over 50' that should be presented at the next meeting.

Upon a single motion made by Ms. Plough and seconded by Mr. Runyan, Council voted unanimously to give first reading approval to a *Major Amendment to a Planned Unit Development* at 823 Gervais Street, TMS# 08916-01-04; request a Major Amendment to the PUD to develop Parcel 2 as 6-story, 130 room hotel. Mayor Benjamin abstained from voting due to a conflict of interest.

- **Council closed the Zoning Public Hearing at 8:07 p.m.**

### **APPEARANCE OF THE PUBLIC**

Mr. Ernest Lee better known as the "Chicken Man" presented a painting to Mayor Benjamin. The portrait depicted the Mayor and his family shopping on Main Street.

Mr. Robert Johnson, Jr., Northwood Hills Neighborhood expressed concerns about the closing of Houston's Restaurant. He regrets not going there more. He encouraged others to shop more in this area. If we don't patronize these businesses; they will close.

Mr. Keith Seymour said that he was distressed to hear that Houston's closed. He would like to see City Council do more to bring the area back and bring businesses back. I think that City Council put so much into the Vista and Five Points, but City Council needs to give North Columbia equal time. He inquired about the hospitality and accommodations tax funding. I am confused that the Fire Department isn't funded, but you have \$49,000 in a contingency fund for future applications.

Mr. Steve Hinson, 530 Lady Street referred back to the Gervais Street project and showed a picture of the view of the city line from his house.

Ms. Mina Hinson, 530 Lady Street expressed that they are very much pro-business and didn't want to come across as anti-business. We just wanted to raise concerns about the site line.

Upon a motion made by Mr. Davis and seconded by Ms. Plough, Council voted unanimously to adjourn the meeting at 8:08 p.m.

Respectfully submitted by:

Erika D. Moore  
City Clerk