



Advocates for Charlottesville's next great places

February 4, 2024

Dear Mayor Wade and Members of City Council,

On behalf of the Charlottesville Area Development Roundtable ("CADRe") and the five applicants that have submitted site plan applications for housing projects after the August 31, 2023 deadline established in connection with the Disposition of Pending Projects issue, we write to request that you consider adjusting the date to December 18, 2023.

These applications each represent a significant investment in the city toward the extraordinarily expensive effort to create new housing for the community. Each applicant incurred substantial expenses in designing and preparing the site plan applications for submittal, including for surveying, engineering, architectural, and legal services, in addition to submittal fees paid to the city. As shown on the table below, these fees represent a total of approximately \$652,000.

More significantly, these applications represent 1,062 residential dwelling units. Given the city's extreme shortage of housing, and the detrimental impact that delays and additional expenses have on projects, we ask that you consider adjusting the cutoff date to December 18, 2023 to permit these applications to continue through the review process. If the August 31st date remains, the applicants would have to redesign the projects to conform to the new form-based design regulations in the new Development Code, effectively starting over. The additional delays and expenses associated with such redesign would likely cause these projects to no longer be economically viable.

Project Address	Date Submitted	Number of Residential Units Proposed	Approximate Application Expenses to Date
915 6 th St. SE	November 3, 2023	280	\$85,000
1185 Seminole Tr.	November 6, 2023	250	\$95,000
915 E. High St.	November 9, 2023	192	\$100,000
610 Harris Rd.	November 21, 2023	80	\$287,000
0 Monticello Ave.	December 18, 2023	260	\$85,000
Total		1,062	\$652,000

We respectfully request that you consider the following points in connection with this request:

- Until Council adopted the new Development Code, there was no certainty that it would actually be adopted at all, much less when. Applicants had no option but to continue their project designs under the current rules, with the hopes that the City would be a collaborative partner in the process regardless of when the new Code were adopted.

- Most applications are subject to contractual deadlines with the property owner that do not permit extended delays or speculation about when the already-delayed Development Code would eventually be adopted.
 - For reference, the original Cville Plans Together schedule posted on May 5, 2020 contemplated adoption in November, 2021 - - more than two years earlier than it actually occurred.
 - Adoption of the new Code could easily have extended well into 2024, given the number of significant revisions made to the Code and zoning maps during December alone.
- Although applicant representatives regularly inquired to city staff about how and when the cutoff date would be established, no potential dates were shared or made public until December 13th, just five days before the December 18th adoption.
 - When this issue was discussed at the December 14th work session, Council was not informed that over a thousand residential homes would be impacted by the August 31st cutoff date, or that the affected project applicants had not been notified of the proposed date, or notified of the potential for a retroactive cutoff date.
 - If the date of the first legal advertisement for the Planning Commission public hearing had been contemplated as the cutoff date, that information should have been included in the public notices and legal advertisement for the hearing to communicate that potential to the public.
 - If a retroactive cutoff date had been contemplated, it would have been fair and appropriate for the city to communicate that to the development community prior to that notice date, so applicants would have at least been on notice of the potential of a retroactive cutoff date, and could have made expensive business decisions based on such information. Applicants would have also had a meaningful opportunity to provide feedback on the proposed date, including about the number of housing units impacted and the associated financial implications.
 - These applications involved a pre-application meeting with NDS staff prior to submittal, and applicants were neither warned by staff not to submit, nor warned of the potential for a retroactive cutoff date. Applicants worked with staff in good faith reliance to follow the city's established process and comply with all rules and ordinance submittal requirements.
 - If the date of the first legal advertisement on August 31st was contemplated as a potential retroactive cutoff date, then why would staff have accepted applications and submittal fees and started reviewing the applications after that date, while the new Code was being debated? It was reasonable for applicants to rely on the fact that staff was processing the applications as assurance that the plans would be protected after the new Code was adopted.

One reason that has been cited in support of the August 31st date is the benefit to the City in having these five applications be subject to the new Development Code, such as new design requirements and affordable housing. However, we contend that the substantial detrimental impact that the retroactive cutoff date has on these applications, including the risk of being able to deliver these housing units to the community in a timely and economically viable fashion, far outweigh such benefits. The 1,062 housing units will add substantially to the city's meager supply.

We agree that it is important to consider the impact on the city staff and the public as a whole in establishing the cutoff date. However, it is equally as important to consider the impact on the property owners and applicants who have worked with staff and proceeded through the site plan process in good faith, relying on the fact that no potential cutoff dates had been communicated, all while incurring extensive expenses in their effort to design and submit projects to provide much-needed housing in the city.

Applicants deserve clear communication and notice of such significant impacts on pending applications, especially when they had been accepted for review by the city. NDS staff have already invested time and resources in pre-application meetings, reviewing the applications, and even delivering staff comment letters. It would be reasonable and appropriate to allow these projects to move forward to preliminary site plan approval in recognition of the significant investment by both the applicants and the city. And the change would further the city's goals of creating more housing sooner.

For all of these reasons, we respectfully request that Council adjust the cutoff date to December 18, 2023.

Sincerely,

Ashley Davies

CADRe Chair