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June 17, 2015

BY MAIL AND EMAIL

Hon. Ralph L. Axselle, Jr.
Williams Mullen
200 South 10th Street, Suite 1600
Richmond, Virginia 23219

RE: Proposed Zoning for Tredegar Green

Dear Bill:

As you know, this firm and I represent Oregon Hill Neighborhood Association and Oregon Hill Home Improvement Council and by extension, their member homeowners.

We write to share our clients' comments on the contemplated zoning for the Tredegar Green amphitheater site (City GPIN numbers W0000051006, W0000051007, W0000051010 and W0000051012) (the "Property"). Given the opportunity for adverse impacts on my clients, they are understandably concerned. Since you represent Venture Richmond in the matter, we direct our comments to you.

My clients are homeowners and investors in the future of the City of Richmond and their respective associations. My clients are also supporters of the varied offerings at the riverfront by Venture Richmond, although understandably concerned about adverse impacts on their homes and families.

My clients are willing to support a proposed SUP or rezoning of the Property to allow expanded use of the Tredegar Green amphitheater if their reasonable concerns, discussed below, are addressed. We have drafted and hereby attach a set of such conditions. If these conditions are attached to a SUP or if they are proffered as part of a proposed rezoning application, we would agree to support your application.

My clients support the Folk Festival, Dominion Riverrock and the other events that have used all or a portion of the Property. Their concerns and our proposed conditions do not stop such events or unreasonably limit use of the amphitheater. Rather, our proposed conditions place reasonable restrictions on the users of the amphitheater consistent with restrictions placed on other users of public spaces in the City of Richmond which conditions protect other neighborhoods. Our conditions reasonably address sound, traffic, parking, trash and other impacts affecting the Oregon Hill and Overlook neighborhood, and, significantly, accept your proposal that most impacts would be addressed on an event-specific basis in an event management plan.

Our proposed conditions were developed in reliance on your draft conditions, our discussions over the past weeks, conditions the city imposes today on similar uses on special events in other public spaces, World Health Organization noise health standards for residential areas, and our experiences from events using the amphitheater to date. Our conditions reflect a compromise on our part to acknowledge the good that Venture Richmond does for the City in general, and to not unreasonably affect the events that so many enjoy. We encourage you to accept these conditions as a good neighbor and responsible civic participant.

A few specific comments on some of the parts of the conditions:

Number of Days

We have proposed a limitation on usage of the Tredegar Green amphitheater of no more than fifteen (15) days for organized events. We believe this is reasonable and is more than the amphitheater has been used for events in the past.

Noise

There has been a significant amount of discussions about noise. My clients have been and will be impacted from noise from concerts and other events at the amphitheater, and should be entitled to reasonable conditions which protect them from unhealthy, unpleasant, and unreasonable levels of noise.

You proposed to address noise with a reference to the existing noise ordinance. However, the current City noise ordinance is unenforceable for many reasons, and revised noise ordinances have not been forthcoming. A Richmond Police Department ("RPD") representative, Lt. Donald Davenport, attended one of our meetings and confirmed that the noise ordinance was very difficult to enforce, and that a different standard would be more preferred from a law enforcement perspective. You will recall at that meeting, I advised you that for that reason, a reference to the existing noise ordinance was not acceptable to the neighborhood and a new noise standard would have to be found.

The neighbors engaged a noise consultant, Will Graeter, who worked on the recent work group on the Richmond noise ordinance, the Richmond Noise Pollution Group, whose work product was praised by RPD's Lt. Davenport as being far more enforceable than the City noise ordinance. Mr. Graeter recommended that we follow the Guidelines for Community Noise of the World Health Organization ("WHO") for residential areas.

<http://whqlibdoc.who.int/hq/1999/a68672.pdf>

In following the WHO guidelines, we could be asking for lower decibel levels to be measured indoors, such as 35 dB. At this level, noise begins to cause issues with speech intelligibility and moderate annoyance indoor in daytime. However, in the spirit of compromise, we are proposing in our conditions (and will insist upon) a level of 52 dB at a point fifty feet or more west of Belvidere Street.

Our proposed 52 dB level is similar to a 42 dB indoors, much higher than the 35 dB indoors that could have been used. (Note that each decibel represents a 10% increase in the level of sound, so 52 dB is TWICE as loud as 42dB.) 52 dB is also about half-way between the WHO Guidelines for outdoor residential spaces of 50 dB, which causes "moderate annoyance," and 55 dB, which causes "severe annoyance." This standard is also similar to about a 72 dB level west of 2nd Street, in the area of the Virginia War Memorial. If you prefer to use that location and the 72 dB standard, we are willing to support it. However, in our draft

conditions, we chose to ask for a noise limit to be measured where it begins to impact our residential neighborhood.

We referenced three decibel measurement standards, dBa, dBc, and dBz, and defined each in the proposed conditions. Each standard measures noise slightly differently depending on the range of the noise. The dBa standard measures mid-range frequencies better, while dBc and dBz measure low frequencies better. Low range (i.e. "bass") carries farther typically than the higher ranges, and is more likely to impact the neighborhood. RPD has noise meters that measure dBz.

We proposed a measurement location easy for the RPD, Code Enforcement, my clients and your clients to access and use – fifty feet west of Belvidere Street. The City noise ordinance requires readings on private property and, indeed, inside private residences, which the RPD advises is unworkable. Our proposed condition calls for noise measurement from fifty feet west of Belvidere Street and beyond.

Our proposed conditions also are fair in how they measure the noise. Instead of prohibiting any spike in noise, only sound in excess of 52 dB as measured in three separate readings over five seconds would be prohibited. The fifty foot separation from the street reduces the potential impact of traffic on the sound readings, places the measurement where noise would impact residences, and allows clarity and flexibility for those who will be required to enforce and comply with these conditions.

These noise standards are reasonable, enforceable and readily complied with by Venture Richmond and other users of the Tredegar Green amphitheater. We also suggest that they may be a model to begin addressing the issues with the City noise ordinance.

Event Management Planning

We have agreed with your proposal that most safety, waste, traffic, and parking issues be addressed by an event-specific event management plan. Given the potential variety of possible events, this makes sense. In return, the proposed conditions set forth parameters for the event management plans to ensure impacts are reasonably addressed.

As for timing, we have reasonably asked for proposed event management plans to be submitted to the neighborhood at publicly available addresses at the

same time that the proposed plans are submitted to the RPD for review, giving the neighborhood a chance to provide input in the review process. We look forward to a positive working relationship with the RPD, Venture Richmond, the Richmond Folk Festival, Dominion Riverrock and other users of the amphitheater reasonably address impacts in these future event management plans.

Note that we have agreed with your proposal that these event management plans be subject to the approval of the RPD. However, our conditions also recognize that, as a practical matter, other City Departments may have an interest in addressing and mitigating event impacts or have special expertise in such issues that the RPD may not. Therefore, the conditions allow the RPD to refer a proposed event management plan to the City Chief Administrative Officer, the Department of Parks and Recreation or other City Departments as appropriate for review and comment and (potentially) suggested conditions.

This proposed Event Management Plan approval is quite similar to the same process that other special events go through to receive approval for public spaces elsewhere in the City. See the City of Richmond Special Events home page, <http://eservices.ci.richmond.va.us/APPLICATIONS/SPECIALEVENTS/>, and the rules and regulations, <http://eservices.ci.richmond.va.us/APPLICATIONS/SPECIALEVENTS/Regulations.aspx>. We have adopted some of these rules and regulations into our conditions, but not most of them. We respectfully suggest that if other organizations in the City can comply with ALL of these regulations, Venture Richmond can comply with SOME of them.

Events Open to Public

In keeping with the public nature of the space and our understanding of the lease for the Property, the proposed conditions only allow free events open to the public on the Property. No paid event has yet to occur there, given the topography and difficulty in securing access. In our meetings, your client conceded that it was "unlikely" a paid event would want to locate there and so we see no reason that this is not a reasonable condition.

Structures

Today, there are no structures on the property. Temporary structures are erected as needed for an event. In order to preserve the historic setting of the James River and Kanawha Canal, and the important viewshed for the Virginia War Memorial and the Oregon Hill, we believe this is appropriate. The proposed conditions continue that practice, and prohibit permanent structures and all structures over 25' in height.

Parking

A major problem for the neighbors is event attendees parking in Oregon Hill. Illegal parking is rampant in the neighborhood during riverfront events. Attendees park in "no parking" zones, blocking driveways, garages, alleys, and even fire hydrants. When this happens, public safety is compromised and, of course, the neighbors are impacted.

Therefore, we support enforcement of existing laws and working with the City and Venture Richmond on additional enforceable restrictions. Our conditions reasonably call for roving police enforcement, for applicants for event management plans to pay and post temporary signs, for Venture Richmond to diligently support a special regulation or other ordinance to reasonably restrict parking in Oregon Hill during riverfront events, and for Venture Richmond to pay for and post permanent signs (as you have suggested) to reflect these enforceable parking standards.

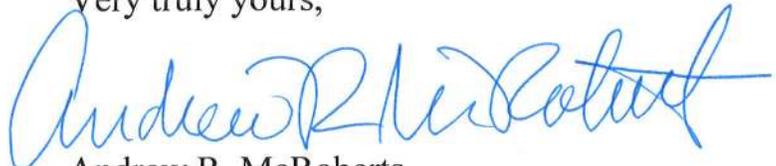
We will look forward to working with you and the City to craft enforceable "rules of the road" to manage the impacts on the neighbors and public safety from riverfront events.

Conclusion

Thanks again for meeting with the neighbors on Oregon Hill and at the Overlook, and in taking their reasonable concerns into account. We look forward to your response to this letter and Venture Richmond's acceptance of these reasonable conditions as a good neighbor in the City of Richmond.

Thank you, and please let us know if you have any questions.

Very truly yours,



Andrew R. McRoberts

ARM/cnt

Enclosure: Proposed Conditions

cc: Richmond City Council
Richmond City Planning Commission
The Honorable Dwight C. Jones, Mayor
Selena Cuffee-Glenn, City Chief Administrative Officer
Mark Olinger, Director of Planning and Development
Police Chief Alfred Durham, RPD
Lt. Donald Davenport, RPD
Lt. Victor Greene, RPD
Jennifer Hancock, President, OHNA
Lynn Ivey, President, OHA

PROPOSED ZONING CONDITIONS – TREDEGAR GREEN AMPHITHEATER

Proposed by Oregon Hill Neighborhood Association (OHNA)
and the Overlook Homeowner's Association (OHA)
June 17, 2015

1. Definitions

- a. Amplified Sound: electronic amplification of sound by alternating current or direct current power sources for a period in excess of thirty (30) minutes, whether continuous or with intervening breaks.
- b. Day: a single calendar day, local time.
- c. Event: any organized gathering of any number of people that is located on all or any portion of the Property, as defined.
- d. Event Management Plan: A plan to manage the impacts of certain events, required as a prerequisite to conduct an event that meets any one of the following criteria:
 - (1) 300 or more people will participate, or
 - (2) It will be publicly advertised, or
 - (3) It will involve sales of food, beverages or merchandise, or
 - (4) It will make use of amplified sound, airborne objects, fireworks, or carnival-type attractions, or
 - (5) It will have an impact on streets, roads, right-of-ways or adjacent private property.
- e. Property: those four (4) parcels located in the City of Richmond, Virginia, being bounded by Belvidere Street, 2nd Street, Brown's Island Way and Tredegar Street, and designated by the City as GPIN numbers W0000051006, W0000051007, W0000051010 and W0000051012.

f. Sound: an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The definition of sound may include any characteristic of such sound, including duration, intensity and frequency.

(1) Decibel is a unit of sound. One decibel increase is perceived as roughly a ten percent louder sound than the decibel before it, so 60 dB is roughly double the volume of 50 dB. These are measured by a decibel meter which assigns the sound captured by the meter a decibel score. The score, the number, is how we evaluate a noise as being too loud or in violation of an ordinance that protects residents from loud noise. This score is graded on a curve known as a "weighting scale", and different weightings were created for different purposes.

(2) dBA is the symbol for decibels that are using the "A" weighting scale to measure sound. A-weighting was designed simply to protect human hearing, so it underscores low-frequency noises that are less destructive to the structure of the ear, and frequencies on the upper end that can't be heard. A-weighting scores bass noise disproportionately low, while noises like human speech that have frequencies from 1000 to 3000 Hz are scored fully. This scale is more accurate at lower volumes of sound pressure than higher volumes.

(3) dBc is the symbol for decibels that are using the "C" weighting scale to measure sound. This scale establishes peak levels and is used to measure lower pitches and ranges of noise used in entertainment venues, since it evaluates bass less disproportionately than the A-weighting scale. Loud car stereo systems and nightclubs that make noise that you can hear and feel blocks away don't score very high on the A-weighting scale, so cities like New York started to use the C-weighting scale to measure bass noise.

(4) dBz is the symbol for decibels that are using the "Z" weighting scale to measure sound. This scale was introduced in the International Standard IEC 61672 in 2003 and replaces the older "Linear" or "Unweighted" responses, as these did not define the frequency range over which the meter would be linear. The meters used by the Richmond Police Department use the Z-weighting scale to evaluate bass noise, though this is unavailable on most meters available to residents.

- g. **Sound Limits:** The maximum Sound permitted during any Event, measured at or in excess of 52 dBa or 52 dBc or 52 dBz three separate times over a five second period from any point fifty feet or more to the west of Belvidere Street.
- h. **Structure:** Anything constructed or erected which has a fixed location on the ground or which is attached to something having a fixed location on the ground, or an assembly of materials forming a construction for occupancy or use.

2. Maximum Annual Events. All Events shall utilize all or a portion of the Property no longer than fifteen (15) days cumulatively during any calendar year. Events may be less than one day, or last several days, but each day of each Event shall count toward the fifteen (15) day maximum.

3. Amplified Sound Limits.

- a. Amplified sounds may not exceed the Sound Limits as defined.
- b. Amplified sound shall be permitted on the Property only during the following hours:
 - (1) On Fridays and Saturdays beginning at 8:30 a.m. and ending at 11:00 p.m., local time.
 - (2) On all other days: beginning at 8:30 a.m. and ending at 10:00 p.m., local time.

4. Event Management Plan.

- a. Any Event meeting any of the following conditions shall require an approved Event Management Plan as a prerequisite to the use of all or any portion of the Property:
 - (1) 300 or more people will participate,
 - (2) It will be publicly advertised,
 - (3) It will involve sales of food, beverages or merchandise,
 - (4) It will make use of amplified sound, airborne objects, fireworks, or carnival-type attractions, or

- (5) It will have an impact on streets, roads, right-of-ways or adjacent private property.
- b. As a prerequisite to any Event requiring an approved Event Management Plan, the proposed Event Management Plan shall be submitted to the Chief of Police or his designee a minimum of 60 days before the proposed Event, and approved by the Chief of Police or his designee a minimum of 30 days before the proposed Event.
 - c. As a prerequisite to any Event requiring an approved Event Management Plan, the proposed Event Management Plan shall be submitted to the Oregon Hill Neighborhood Association (OHNA) and the Overlook Homeowner's Association (OHA), at the addresses on file with the Department of Planning and Development Review, at the same time the proposed Event Management Plan is submitted to the Chief of Police or his designee, or at least 60 days before the event, whichever is earlier.
 - d. As a prerequisite to holding an Event requiring an Event Management Plan or all or any portion of the Property, an Event Management Plan approved by the Chief of Police or his designee shall be submitted to the City, OHNA and OHA a minimum of thirty (30) days prior to the date of the event described therein.
 - e. The Police Chief or his designee may impose special conditions upon any approved Event Management Plan, including without limitation additional measures concerning sound, parking, traffic, and waste disposal, which shall be complied with at all times to hold the Event. The applicant shall comply with all conditions and requirements of City ordinances and the Event Management Plan at all times at its sole cost and expense. The Police Chief or his designee shall refer portions of the proposed Event Management Plan not falling under the police jurisdiction to the CAO Office, the Director of Parks, Recreation and Community Facilities or other applicable department for additional review and comment and proposed additional conditions prior to approval of the plan.
 - f. The applicant shall grant the Chief of Police or his designee authority to terminate the Event for non-compliance with the Event Management Plan.
 - g. An approved Event Management Plan may not be assigned or contracted to another person or entity than the applicant.

h. Each Event Management Plan shall include a minimum of the following:

- (1) the name of the applicant;
- (2) a description of the purpose of the event;
- (3) the hours and days of the event;
- (4) the hours and days of amplified sound, if any;
- (5) the anticipated attendance (i.e. the greatest number of attendees to be on the property at any given time during the event);
- (6) name(s) and contact information, including mobile phone number(s) for the responsible person(s) for the applicant who will be on site and available to respond to concerns during the Event;
- (7) a Parking and Traffic Management Plan, which shall not be approved unless it includes the following:
 - (a) Evidence of communications from the applicant to operators of off-site parking facilities in the vicinity of the property notifying such operators of the days and time of the proposed event.
 - (b) Adequate measures for mitigation of traffic and illegal parking within the Oregon Hill neighborhood. Such measures shall, at a minimum, include a roving police officer to ticket vehicles in violation of the City's parking regulations, including without limitation restrictions on blocking alleys and driveways and garage entrances, parking too close to fire hydrants, and parking in no parking zones. Such measures shall be scaled appropriately as warranted by size and duration of event, and may include, for example, barricades at street entrances to the Oregon Hill neighborhood and/or appropriate enforcement personnel to restrict vehicular access by members of the public, and/or Oregon Hill Parkway be closed by the City to prevent through-traffic in the Oregon Hill neighborhood. Such measures may call for the applicant to provide temporary signage for the entrances to the

Oregon Hill neighborhood, and along the streets advising the public of the restrictions.

(c) The plan shall outline access routes for attendees to and from the Event, including any street closures or required detours. The applicant will provide a parking plan designating all parking areas including those within the City Property and be responsible for providing attendants for the orderly parking of vehicles. The Police Department will supervise the orderly movement of traffic outside any parking areas used. The applicant will be responsible for supervision of traffic as provided in the Event Management Plan, and will bear all expenses incurred as a result thereof. The Traffic Division of the Police Department must give written approval prior to the issuance of the permit. The plan for shuttling, routing and parking must be published in advance of the event, with the cost borne by the applicant.

(d) All costs to the City proposed to be incurred in connection with the Parking and Traffic Management Plan and measures described therein shall be reimbursed by the applicant.

(8)a Security Control Plan, which shall not be approved unless it includes the following:

(a) The applicant shall assume responsibility for all activities conducted, including supervision and control to prevent injury or damage, maintenance of the premises, pick-up of debris and refuse after the special event and providing paid off-duty officers and security personnel adequate to maintain order during the event.

(b) The assigned officers will have a pre-established policing plan developed based on the applicant site plan for the event, the nature of the event, and the anticipated attendance when deemed appropriate by police officials approving such special events.

(c) Applicants must accept that all applicable City Ordinances and the laws of the Commonwealth will be enforced before, during and after the Event.

- (d) Off-duty security services **must extend beyond the formal termination** of permitted events to sufficiently facilitate an orderly disbursal of attendees from the area.
 - (e) Applicant must receive approval of the Security Control Plan from the Police Chief or his designee, who may impose additional or special requirements as deemed necessary to protect the health, safety and welfare of the public.
- (9) for any event with amplified sound, in order to ensure compliance with the Sound Limits, a Sound Management Plan, which shall not be approved unless it includes the following:
- (a) Adequate measures for (1) monitoring by the applicant of sound levels, which shall at all times comply with the Sound Limits, and (B) fail-safe controls of sound levels by the applicant, which shall be required for the duration any event employing amplified sound.
 - (b) In the case of events with amplified sound, all persons involved in the Event, including any lessee, contract user, artist or promoter, their employees and agents are required to reduce or terminate all amplified sound should the levels of amplified sound exceed the Sound Limits.
 - (c) Contact information, including mobile telephone number, for the employee(s) or agent(s) of the applicant that will be on site and responsible for monitoring and control of the amplified sound throughout the course of the event.
 - (d) **ALL** sound systems must be set up with the speakers facing **AWAY** from any private residence.
- (10) a Waste Disposal Plan, which shall not be approved unless it includes the following:
- (a) The applicant will be required to provide on-site cleanup during events and provide dumpsters (number to be specified at discretion of responsible City department) for appropriate disposal of refuse. City crews may provide clean-ups at cost, depending upon staffing availability. The City will provide a representative to work with

the sponsor in insuring the cleanup is done. The applicant must provide adequate toilet facilities, at least one of which must be accessible by the disabled and comply with the Port-a-let Policy of the City as published by the Health Department. Vendors will be required to provide refuse bags and containers at their concession stands. Vendors are also required to remove all cooking grease from site immediately after the event. Illegal dumping of cooking grease will be prosecuted.

(b) The applicant shall assist the CAO Office and/or the Department of City Parks, Recreation and Community Facilities in enforcing the prohibition against the dumping of cooking oils and grease generated by food vendors. **ALL** cooking oils and grease are to be removed by the food vendors at the end of the event. Failure to comply with this rule will result in a special clean up charge being assessed by the City against the applicant for clean up of cooking oil and grease.

5. **Compliance with the Law.** Uses on the Property will fully comply with all federal, state and local laws, regulations and policies.
6. **Revocation of Event Management Plan.** The Chief of Police or his designee may revoke an approved Event Management Plan or stop any Event in progress which violates these conditions, the Event Management Plan or any Federal, State or City law, ordinance or regulation. Disregarding a lawful order of law enforcement or an authorized representative of the CAO Office, the Department of City Parks, Recreation and Community Facilities or a Public Safety official may also result in the Event Management Plan being revoked or the Event stopped by the Chief of Police or his designee.
7. **Parking Ordinance and Permanent Signs.** Venture Richmond agrees to support and diligently pursue permanent City ordinances or special regulations for the Oregon Hill neighborhood to restrict parking during riverfront events, and to pay for permanent signs to advise the public of such ordinances or special regulations or to reimburse the City for such signs.
8. **Events Free and Open to Public.** Only Events open free of charge to the general public are allowed on all or any portion of the Property.

9. **Limits on Structures.** No Structures exceeding 25' in height are permitted on the Property. No Structures are allowed to be permanently affixed to or remain on the Property any period of time longer than reasonably necessary for the Event for which it is intended to be used, and in no event shall structures remain erected longer than one week following the end of such Event.