

Letters submitted to the Clerk of Council appealing the ERB's June 13, 2023 approval of a CoA for the proposed development at 2005 Jefferson Park Avenue (JPA).

Letters submitted following the ERB's action on June 13, 2023

1. Marilyn Poling. June 18, 2023
2. James Wright. June 20, 2023
3. Kenneth L. Hill. June 26, 2023
4. Lorna Martens. June 26, 2023
5. Ann Benham. June 27, 2023

**Letter 1**

Marilyn Poling. June 18, 2023

Owner of 123 Observatory Avenue

Resides at 123 Observatory Avenue, Charlottesville, VA 22903

From: noreply@civicplus.com <noreply@civicplus.com>

Sent: Sunday, June 18, 2023 5:07:38 PM

To: Thomas, Kyna N <thomaskn@charlottesville.gov>

Subject: Online Form Submittal: Email Contact Form for Kyna Thomas, Clerk of Council

Contact Information

Marilyn Poling

434-295-5715

mg2mp5@gmail.com

This is an appeal to City Council to deny the ERB's CoA for 2005 JPA. The design of the west elevation (Observatory Ave.) will encourage illegal parking by delivery vehicles and guests of the tenants, blocking 2-way traffic and space for emergency vehicles to move on Observatory without hindrance. A better design would be balconies instead of porches. Balconies would allow the residents access to the outdoors without encouraging illegal parking with all its dangers.

Please let me know if you have received and forwarded this email.

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**Letter 2**

James Wright. June 20, 2023

Owner of 119 Observatory Avenue

Resides at 3065 Beau Mont Farm Road, Charlottesville, VA 22901

Dear Ms. Thomas:

I own property at 119 Observatory Avenue and write as an aggrieved person to appeal the recent ERB approval of a Certificate of Appropriateness for the property at 2005/2007 JPA made on June 13, 2023. This project violates multiple Design Principles outlined in the Entrance Corridor

Design Guidelines. It is not compatible in massing and scale with the existing structures. It does not maintain human scale in buildings and spaces. It will not enhance the City's character.

The project relies on a special use permit that has granted the developer permission to build a monstrous edifice that will negatively impact the entire JPA neighborhood. It will have a particularly negative impact on the residents of Washington and Observatory Avenues. Of particular concern is the traffic congestion and the noise and light pollution this monstrosity will create.

Observatory Avenue is a very narrow street, so narrow in fact that to collect trash the truck has to back up the street from JPA. Presumably, due to the height of this project, cranes will be required for construction. Any crane set up on Observatory Avenue will make the street virtually impossible to navigate.

The neighbors have voiced their displeasure with the scope and scale of the project. They have expressed their concerns about massing and scale ever since they heard about the project to NDS, the ERB, the Planning Commission, and City Council in succession. They have opposed the issuance of the special use permit. The ERB has from the start interpreted massing and scale as if they were merely a matter of appearance, failing to address actual massing and scale and the problems these create. In the ERB Design Review, the ERB continued to address solely the appearance of massing and scale, not actual massing and scale. I respectfully request that the City Council overrule the ERB's issuance of a Certificate of Appropriateness.

James H. Wright

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### **Letter 3**

Kenneth Hill, June 26, 2023

Owner of 111 Washington Avenue

Resides at 3532 Barkley Dr., Fairfax, VA 22031

From: noreply@civicplus.com <noreply@civicplus.com>

Sent: Monday, June 26, 2023 11:12:36 AM

To: Thomas, Kyna N <thomaskn@charlottesville.gov>

Subject: Online Form Submittal: Email Contact Form for Kyna Thomas, Clerk of Council

#### Contact Information

Kenneth Hill

434-473-8395

micasabe@gmail.com

I wish as an aggrieved person to appeal the ERB's June 13, 2023 approval of a Certificate of Appropriateness for 2005 JPA.

During the review period of Aspen Topco II LLC's plan for JPA 2005, as put forward by its architect partner, citizens have heard of the overarching need for more student housing near

UVA. The 2005 project will not be affordable, does not fit with existing zoning, and even exceeds what would be allowed by-right in the rezoning proposed by the Future Land Use Map. As outlined by many residents in the neighborhood who have spoken up, there is strong opposition to this project for a variety of reasons, which, for the most part seems to have fallen on deaf ears. Therefore, I submit my appeal to the City Council to deny the Certificate of Appropriateness for JPA 2005.

Through local partners, parent Aspen Heights Partners develops multi-family, luxury student housing near campuses across the nation. For JPA 2005, the architect promoted it as positive for the community and from a business standpoint, highlighting the number of units it will offer close to the university. This is a large project in a residential area sandwiched in between established homeowners, investment properties and numerous student renters. They stand to lose the very essence of their long-established neighborhood if this project remains as is, which is why, I, as a duplex owner at 111 Washington Avenue, file an appeal to deny its Certificate of Appropriateness. The city council should carefully consider the appeals of these citizens to find solutions, or redesign this project, largely due to building parking, lighting, overhead cabling, traffic issues, noise, and a host of environmental factors.

Parking: My property with 8 tenants on Washington Avenue is directly across the street from the JPA parking garage. Like most students at UVA, seven of my tenants have cars, three of whom park on the property and four on the street with city permits. With parking on both sides of Washington Avenue, there is barely enough room for 2 cars to pass at the same time now. When you add in the design of an enclosed parking garage entryway for 122 parking slots for tenants, along with staff and service vehicles to the mix, it will result in major traffic bottlenecks at that location and in the general area. Parking on Washington Avenue is at a premium now. When you add in the traffic coming and going from the building onto Washington Avenue from 122 enclosed parking spaces, it will get much worse.

The design of 122 parking slots for 390 students is woefully inadequate for the scope of this project. When spaces on site are not available, tenants and others will look to park on Washington Avenue or nearby areas, which is already a problem on these streets. Parents, visitors and service staff will often be forced to do so as well, which is a safety concern for anyone in the area. Vehicles entering and exiting the property will be noisy; their headlights will beam across the street into properties -- a distraction for students, who will likely be studying or trying to sleep. As such, the city needs to pause the project until adequate on-site parking has been added, redesigned, and approved by city authorities. An alternative is for the city to require a parking redesign so that the building has 2 entryways, or to relocate the entryway to JPA, which can better handle traffic flows in and out, which is closer to the front entrance.

Trash: My property has little setback from Washington Avenue and is right across from where trash will be hauled off. The presenters said trash will be pushed to the street on pick-up day, presumably in large steel containers. Dumpsters make very loud noise when lifted and dropped back on the street during pickup and will disturb nearby tenants. During this process there will be debris that falls out or blows to the street and odor from the garbage. Trash pickup will further add to traffic snarls on Washington Avenue and the nearby area. The city needs to reevaluate this

plan, calling for trash to be picked up inside the enclosed parking garage or an alternate arrangement other than on Washington Avenue.

Enclosed garage electrical and mechanical equipment. The building will have high voltage electrical and mechanical equipment near the garage entryway. At the ERB review meeting the architect said that HVAC equipment will be on the roof and not bother neighbors. Facilities like JPA 2005 have mechanical rooms on the ground floor with heavy motorized equipment that are very noisy when they turn on and off, with high pitch frequency hum. There will be a generator on site in this area as well. The architect said it would be tested once a month. Well, what happens if there is a power outage? Generators need fuel so there will be a day tank and underground fuel storage in the parking area that will need to be filled and be smelly. Will the garage area generator and building mechanical equipment be enclosed, away from public sight, and for security and safety reasons?

Building height: With little setback from the street on Observatory and Washington Avenue, this structure will tower over 1 and 2-story houses abutting the property. On Washington Avenue, the parcel already stands 10-15 feet above the opposite side of the street. Being 6 stories on top of that, it will result in shadows throughout the day and the loss of seasonal natural light that renters are accustomed to. The loss of sunlight from the structure will have a concomitant effect on trees, foliage, gardens and other environmental factors in the nearby area. Moreover, contrary to the presenter's claim that the structure fits in nicely with existing structures on the JPA corridor, this edifice does not; it is much taller than other buildings on that side of JPA and does not have enough setback from the side streets.

Walk way between Observatory and Washington Avenues. This corridor will be utilized frequently by people coming and going to UVA and to nearby homes. It needs to be of sufficient width, exclusive of planned foliage, to allow for pedestrians, bikes and baby carriages, etc. to traverse without the hassle of having to climb a number of stairs. This seemed to be given only a cursory look by the ERB. The city should require a walk way that meets the needs of all its citizens before the project can move forward.

Adding 390 people, service personnel, visitors and vehicles in such a small footprint will invariably result in challenges in this neighborhood. There will more noise, scooters, and human activity that will need to be properly managed. Lights properly situated will help but be an inconvenience to others as well.

The proponents of this project have laid out their vision with a plan that overlooks many concerns of those most affected. Granted the architect has made some exterior and other changes in order to gain approval; however, the fact remains these will be luxury units that cater to the wealthy with all the amenities that Aspen Heights Partners is known for. As a result, rents will be much higher than a comparable sized unit in nearby housing as well as the clientele. So much for affordable housing!

PS: I submitted a list of 15 project related questions [inserted below] for the Feb 4 ERB meeting. None of them were addressed, however. I would appreciate replies as soon as possible.

Therefore, I submit my appeal to the City Council to deny the Certificate of Appropriateness for JPA 2005. I recommend design changes—underground electrical cabling, more parking space, rear passageway without stairs, low-strength outdoor lighting, and internal trash pickup--that citizens have painstakingly detailed, so that the structure is truly congruent with other student buildings along the JPA corridor.

Sincerely  
Kenneth L. Hill  
tel: 703-280-1742  
111 Washington Ave, Charlottesville, VA 22903 - Owner

Questions

**From:** Kenneth Hill <micasabe@gmail.com>  
**Sent:** Monday, June 26, 2023 2:52 PM  
**To:** Werner, Jeffrey B <wernerjb@charlottesville.gov>  
**Cc:** Alfele, Matthew <alfelem@charlottesville.gov>  
**Subject:** Re: 2005 JPA

Jeffrey: I sent my JPA 2005 questions direct to Kyna before my original appeal of the ERB COA in early Feb. I didn't include Matt. The questions sent to the City Clerk electronically are listed below.

My property is a duplex right across the street from JPA 2005/7 on Washington Avenue. I have a number of questions for the Feb 14th ERB meeting that I request be addressed:

- When is the project expected to break ground?
- How long will construction last from start to finish?
- If the contractor takes longer than allowed in the contract, what are the financial or other penalties for not staying on schedule? Please explain the details.
- From the date construction starts, at what time in the morning will these activities and associated noise start? What will be the schedule on Saturdays or holidays, if any?
- When construction starts, will trucks and equipment be parked on Observatory or Washington avenues overnight? And, on weekends? Or, only during work hours? If so, at what location(s)?
- What decibel level of noise from generators, trucks and construction equipment will nearby residents experience? What steps and mechanisms will be taken to keep neighbors apprised on a regular basis?
- When underground pipes (for sewer, water, and gas) are installed, what street or sidewalk locations will be dug up - starting when and for how long?
- What size pipes will be installed? Will they connect to the existing city infrastructure? If so, at what interchange(s)? Please be as specific as possible?
- As electrical wiring and cabling (signal, etc.) are planned overhead (vice underground) will new poles be installed, or will existing ones be used? If new locations are planned, where will they exactly be?

- As construction equipment is put on the work site or streets adjacent to the project, will parking be restricted? If so, in what locations and for what duration?
- What are the dimensions of the trash dumpsters that will be pushed to Washington Avenue for pick-up each week? How will this be done? And how long will they remain out on the street?
- What steps will management take to keep trash or debris from refuse containers (e.g. that comes out during pick-up or movement) won't spread to adjoining properties by wind or otherwise? Please explain.
- What type of motorized/electrical equipment will be located in the parking entryway on Washington or Observatory are planned? How many decibels of noise will this equipment make when it is running? What steps in construction will be taken for noise mitigation for this equipment? Please explain. Will said equipment be behind a wall or a fence (to prevent shock or tampering, etc)?
- When existing buildings, trees and foliage are removed and the area is excavated, will the removal occur via Observatory or Washington Avenue(s) or both? Please explain what the plan is and an estimate of when it will occur?
- If parking will be restricted on Observatory or Washington Avenue(s) during construction, where will that likely be and for what duration? Will it be during working hours or at night? How far in advance will affected neighbors receive such notification?
- What steps are being taken to ensure traffic bottlenecks are minimized during daylight hours during construction?
- Given the dearth of parking available in the immediate area, where will construction workers and others with business at the site park? Please provide specifics about this overflow.
- What will be the total height of the building from the street on Observatory, Washington and JPA avenues at each corner of the building?
- During construction what kind of illumination will there be at night? Explain the types of security lighting, wattage(s) and estimated locations?
- Once the project is complete, explain the type of lights, locations and wattages on the building facade that will be facing down to the street? What distance from the parking garage and building will they illuminate out/downward?"

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#### **Letter 4**

Lorna Martens. June 18, 2023

Owner of 128 Observatory Avenue

Resides at 128 Observatory Avenue, Charlottesville, VA 22903

From: Martens, Lorna (lm2e) <lm2e@virginia.edu>

Sent: Monday, June 26, 2023 1:16:20 AM

Subject: Appeal of ERB June 13, 2023 approval of a Certificate of Appropriateness for 2005 JPA

Dear City Councilors,

I am sending this appeal directly to City Councilors in addition to the Clerk of City Council because I am not confident that City Councilors read my previous appeals. To all appearances, my two appeals and those of my neighbors were transmitted to City Council by ERB staff. They appeared on pp. 254-269 of a 421-page "agenda packet," of which pp. 248-398 were devoted to the 2005 JPA appeal.

#### Procedural objection

I object to this form of transmission of our appeals. The appeal process outlined in the ordinance (City Code 34-314) states that an aggrieved person may appeal an ERB decision to City Council. "In any review of an ERB decision the city council shall review the application as if the application had come before it in the first instance." It doesn't say that appeals are routed to ERB staff, who takes charge of the appeal procedure and serves the appeals up to City Council together with the ERB response and over a hundred pages of documentation about the history of the project, ERB review criteria, etc. Staff stated orally that this is the first time in history that anyone has ever appealed a Certificate of Appropriateness. Therefore, this procedure for handling the appeal is not based on precedent but was devised for this occasion. Because it is a flawed procedure, it should be changed.

ERB staff clearly went to a lot of effort to prepare this packet, but the mediation was prejudicial to appellants. ERB staff cannot play the role of an impartial civil servant in this affair, because the ERB is the appellee and ERB staff represents the ERB. As in any appeal, there are three distinct parties: the appellant (the aggrieved neighbors), the appellee (the ERB), and the body empowered to make decisions (City Council). ERB staff simultaneously assumed the role of a neutral party in deciding the procedure for the hearing and preparing the packet while also playing the role of respondent (i.e., appellee). In the hearing, likewise, ERB staff simultaneously played the role of master of ceremonies and the role of appellee/respondent. ERB staff has a conflict of interest.

If the appeals require a manager, that person should not be ERB staff. In the 2005 JPA case, ERB staff has long been a supporter of the project, assuring City Council that design review could "mitigate" the adverse impact of the project on the neighborhood. Appellants find precisely that Design Review has not adequately mitigated these adverse impacts. ERB staff is an interested party whose objective is to defend the ERB's award of the Certificate of appropriateness to the current architectural design. This is apparent in the fact that staff not only attempted to refute each of the appellants' complaints, but also solicited City Council's assessment of ERB's review before City Council had performed its assigned function, i.e., reviewing the application as if it had come before Council in the first instance. City Council focused on a missed postmark deadline rather than reviewing substantive issues, yet the staff report destined for the ERB's reconsideration of the Certificate of Appropriateness overstates City Council's response as follows: "Council determined the claims regarding the ERB's design review were without merit." ERB staff is not neutral but rather seems to want to shut down the appeal with dispatch. Due to this conflict of interest, ERB staff should not take on a managerial role in the appeal.

#### Appeal

Pursuant to Charlottesville City Code Sec. 34-314, I wish, as an aggrieved person, to appeal the 6/13/2023 ERB vote to award a Certificate of Appropriateness to 2005 JPA, for the following reasons:

1. The Entrance Corridor Design Guidelines state: “Maintain Human Scale in Buildings and Spaces.” The architect’s response in their application to this imperative is: “The building height is similar to multiple nearby structures along the corridor. Buildings at 1725 JPA, 1815 JPA and 1800 JPA are five to nine stories tall.” What the architect writes is misleading. Aside from the fact that the other buildings cited do not define “human scale,” neither of the two on the same side of JPA exceed 6 stories. 1800 JPA, on the other side of JPA, is in an area that is zoned University High Density, whereas the section of JPA where 2005 would be located is zoned R-3. Also 1800 JPA is set far back from the street. Moreover, none of the other buildings, unlike 2005 JPA, are on a hill. Finally, 2005 JP has a depth that vastly exceeds that of any of the other cited buildings. It stretches deep back into the side streets, Observatory and Washington Avenues. Its front occupies the entire city block between Washington and Observatory. Its sides are more than twice as long than that, stretching halfway up the side streets. Its footprint is enormous. Something this large is not “human scale.”

In the packet prepared for the 5/15/2023 appeal hearing, staff did not deny that "massing and scale" were within the purview of Design Review, but responded: "The ERB reviewed the project and approved the CoA on February 14, 2023 by a vote of 7-0 and again on March 14, 2023 by a vote of 5-0. ... The motion for approval stated the ERB had 'considered the standards set forth within the City's Entrance Corridor Design Guidelines' and 'found the project consistent with the Guidelines and compatible with the goals of this Entrance Corridor[.]'" This is not the wording that the ERB actually voted, according to the video of the 2/14/2023 Planning Commission meeting. But more important, the ERB did not discuss "human scale" at all--having been told by staff that they had to work within the "box" prescribed by City Council's SUP Resolution. Therefore, it is fitting that this design issue should come back to City Council for review. I assume that City Council can revise its own Resolution, if the Resolution is what stands in the way of achieving "human scale" in the 2005 JPA project.

2. The Entrance Corridor Design Guidelines state: “Reduce height near lower density areas.” The architects’ latest design made efforts in this direction, but the fact remains that reducing height to 5-6 stories abutting on and adjacent to 1 and 2-story houses does not do justice to the intention of the Design Guidelines. On account of its height, this building will significantly reduce morning sunlight on my property.

In the packet prepared for the 5/15/2023 appeal hearing, staff did not deny that height was in the purview of the Design Review, but responded: "The ERB reviewed the project and approved the CoA on February 14, 2023 by a vote of 7-0 and again on March 14, 2023 by a vote of 5-0." However, the ERB is supposed to follow, not ignore or overrule, Entrance Corridor Design Guidelines. Therefore, I appeal this design issue to City Council.



3. Entrances/exits to 2005 JPA units via porches onto Observatory Avenue. Because they provide ways into the building, these porches will lead to more traffic (deliveries, guests) on Observatory, a narrow and congested dead end. These porches were not part of the architect's original plan. They were added during Design Review. Therefore they certainly fall within the purview of Design Review. Since they have a serious disadvantageous consequence (which probably didn't occur to the architect), please get rid of them. They could perhaps be replaced by balconies.
4. The multipurpose path between Observatory and Washington at the rear of the property, a condition in the SUP resolution, is itself an excellent idea. But this path need not and should not have steps. The large parking lot currently located at the rear of the property slopes gently downward from Observatory to Washington. Steps on this slope are unnecessary. I walk there daily and know this. Steps on the proposed path would make this path inaccessible for pedestrians in wheelchairs or with baby carriages or strollers. The ERB imposed the condition of bike runnels, so the multipurpose path is apparently within the purview of Design Review. I request that City Council add to the CoA the condition that the multipurpose path be made fully ADA compliant.
5. Notice of the 6/13/2023 ERB meeting was not posted on the property per City Code Sec. 34-283. Please (see photo.)



Please deny the award of the Certificate of Appropriateness to the current design of 2005 JPA as the ERB approved it on 6/13/2023.

Lorna Martens

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**Letter 5**

Ann Benham. June 27, 2023

Owner of 116 Observatory Avenue  
Resides at 116 Observatory Avenue Charlottesville, VA 22903

From: noreply@civicplus.com <noreply@civicplus.com>  
Sent: Monday, June 26, 2023 3:28 PM  
To: Council <Council@charlottesville.gov>  
Subject: Online Form Submittal: Email Contact Form for City Council

Contact Information  
Anne Benham  
4342932757  
apbe4n@gmail.com

Anne Benham  
Attachments  
Tue, Feb 21, 12:14 PM  
to Jack

As a resident of 116 Observatory Ave --which is located almost directly across the street from the 2005 JPA project -- I write as an aggrieved person to appeal the recent ERB vote on the 2005 JPA Certificate of Appropriateness.

This enormous scale of this project was not reduced by the modifications that were approved by the ERB. The massing and scale of 2005 JPA are just as overwhelming and inappropriate to the JPA neighborhood (especially to Washington and Observatory) now that the modified design has been approved, as they were before the approval.

Please see the attached pdf, which shows that 2005 JPA has a footprint that dwarfs the footprint of any other building in sight of it on JPA. It is not in the least harmonious with neighboring structures. [JW note: No attachments to email.]

Construction of this enormous project -- and the associated noise, traffic and parking issues - will destroy the peaceful quality of life on Observatory and Washington. The aesthetic and environmental benefits of existing mature tree canopy will also be destroyed to build 2005 JPA. The new plantings will not provide the same carbon take-up or shade and cooling for decades -- the time it takes trees to grow into maturity.

The brick porches/entrances that were added to supposedly break up the "illusion" of the building's massiveness do not succeed in this goal. 2005 JPA will take up an entire half block between two streets and, despite the brick porches, will look just like the monolith it is. The porches will encourage more illegal parking on our narrow dead-end street by delivery vehicles and guests of the 2005 JPA residents.

The public notice about the Feb.14 ERB meeting was not posted on time. According to signs are supposed to go up at least 10 days prior to the meeting, which would have been Feb.4. On

February 6, I walked around the 2005 JPA property and took photos -- there were no signs. Only two signs were finally posted -- and this was after the deadline had passed.