

**City of Charlottesville
Board of Architectural Review
Staff Report
February 22, 2023**



Certificate of Appropriateness Application - Demolition

BAR # 23-02-03

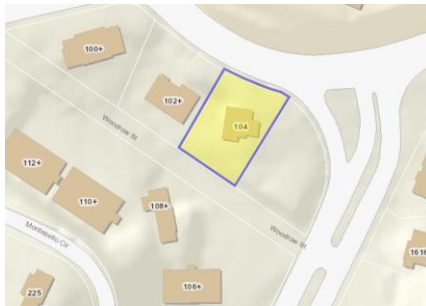
104 Stadium Road, TMP 160002000

Individually Protected Property

Owner: Woodrow Too, LLC

Applicant: Subtext Acquisitions, LLC

Project: Demolition of structure



Background

Year Built: 1927

District: Individually Protected Property (designated by City Council in 2011)

The MacLeod house (or *Stone House*, as it is referred to by prior owners) is an Individually Protected Property (IPP). The property is not listed on the VLR or NRHP.

From the City's 2011 survey: 104 Stadium Road is an exceptionally well-preserved example of an English Tudor Revival style residence. The growth of the University of Virginia in the early twentieth century spurred the growth of residential neighborhoods near its campus to house professors and students, such as Oakhurst-Gildersleeve neighborhood. [The property] could have been included in the Oakhurst-Gildersleeve Neighborhood ADC District, as the house is part of the same period of development in the city's history and is located just across Jefferson Park Avenue. The terraces with the rock steps and low garden walls are in good condition, though overgrown, offering a rare example of historic landscape. Additionally, the prominent location of the house on Emmet Street makes 104 Stadium Road a landmark of the street. (The historical survey and the June 2011 BAR staff report are attached.)

Prior BAR Actions

July 19, 2011: BAR recommended City Council designate 104 Stadium Road an Individually Protected Property. (TMP 160002000; 0.22-acres)

Application

- Submittal: Subtext Acquisitions, LLC, Demolition of existing structure, dated January 31, 2023: Narrative, photos, and product specs (21 pages).

Request CoA for demolition of existing structure constructed in 1927.

Discussion:

The request is to approve a CoA allowing demolition the existing structure and landscaping elements. The BAR review should apply City Code Section 34-278 (*Standards for considering demolitions*) and the *Review Criteria for Demolition* in the City's ADC District Design Guidelines (Chapter 7). Below, under the *Criteria, Standards, and Guidelines* section, are the applicant's comments and staff's comments.

Should the BAR approve the demolition request, staff recommends the conditions noted below under *Pertinent Standards for Review of Demolitions, City Code Section 34-278*, item d.

Charlottesville currently has 77 IPP's. The ADC Districts and IPPs are within the same section of the City Code and reviewed using the same design guidelines. (76 of the IPPs have structures. At 1328 Riverdale Drive the structures were razed, but the IPP designation remained.) The process for designating an IPP or removing the designation are proscribed under City Code Sec. 34-274. For both, the BAR will make a recommendation to City Council; however, only Council can approve or deny a request for designation or removal, which requires a zoning map amendment and a zoning text amendment.

The IPP designation is an overlay zoning and does not impact the underlying zoning. It must be emphasized that approval to raze structures on an IPP and/or any subsequent demolition—whether approval by the BAR or by way of appeal or completed without approvals, in violation of the City Code--does not remove the IPP designation. Removal requires City Council approval of a zoning map amendment and a zoning text amendment, see above.

Note: Staff refers to the following provisions of the City Code only as a matter of full disclosure and for information only, not to suggest a possible a path or outcome, nor to provide an enforceable interpretation of the Code.

Per Sec. 34-277 (*Certificates of appropriateness; demolitions and removals*), the BAR must approve the razing or moving of a contributing structure, except *upon the determination of the building code official that the building or structure is in such a dangerous, hazardous or unsafe condition that it could reasonably be expected to cause death or serious injury*. Having no such determination by the City, that exception does not apply. Additionally, per Sec. 34-86(b) failure to obtain the necessary approval for demolitions, the owner is subject to a civil penalty *not to exceed twice the fair market value of the building or structure, as determined by the city real estate tax assessment at the time of the demolition, razing or moving*.

Per Sec. 34-281 (*Maintenance and repair required*), the owner of a contributing structure shall not shall allow it to *fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce a detrimental effect upon the character of a major architectural design district or the life and character of a contributing structure or protected property*. Per Sec. 34-86(a)(10) a violation of this requirement, the owner is subject to a civil penalty of \$200 for the first violation, and a civil penalty of \$500 for each subsequent violation.

Per Sec. 34-285 (*Approval or denial of applications by BAR*) and should the BAR deny the CoA, the applicant may appeal to Council and seek further remedy per **Sec. 34-286** (*City council appeals*). (See Appendix of this staff report.)

Suggested Motions

Approval: Having considered the standards set forth within the City Code, including the BAR's design guidelines and the standards for considering demolitions, I move to find that the proposed demolition of the house and gardens at 104 Stadium Road satisfies the BAR's criteria and guidelines and is compatible with this property and other properties, and that the BAR [approves the application as submitted].

Or [...approves the application as submitted with the following conditions:] ...

Denial: Having considered the standards set forth within the City Code, including the BAR's design guidelines and the standards for considering demolitions, I move to find that the proposed demolition of the house and gardens at 104 Stadium Road does not satisfy or the BAR's criteria and guidelines and is not compatible with this property and other properties, and for the following reasons the BAR denies the application as submitted:...

Criteria, Standards, and Guidelines

Review Criteria Generally

Sec. 34-284(b) of the City Code states that,

In considering a particular application the BAR shall approve the application unless it finds:

- (1) That the proposal does not meet specific standards set forth within this division or applicable provisions of the Design Guidelines established by the board pursuant to Sec.34-288(6); and
- (2) The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the protected property that is the subject of the application.

Pertinent Standards for Review of Demolitions:

City Code Section 34-278. - Standards for considering demolitions. The following factors shall be considered in determining whether or not to permit the moving, removing, encapsulation or demolition, in whole or in part, of a contributing structure or protected property:

(a) The historic, architectural, or cultural significance, if any, of the specific structure or property, including, without limitation:

- (1) The age of the structure or property.

Applicant comment: The structure was built in 1927.

Staff comment: 1927 is correct.

- (2) Whether it has been designated a National Historic Landmark, listed on the National Register of Historic Places or listed on the Virginia Landmarks Register;

Applicant comment: No, the structure has not been designated a National Historic Landmark nor listed on the National Register of Historic Places or Virginia Landmarks Register. Additionally, the structure was excluded from the nomination and establishment of the adjacent Oakhurst-Gildersleeve National Register Historic District, and it was later volunteered as a protected property by the owner.

Staff comment: Neither the structure or property are listed on the VLR or NRHP.

no information regarding when he was here, how long he stayed, or what historic events or activities, if any, might have occurred here during those visits.

(4) Whether the building or structure or any of its features, represent an infrequent or the first or last remaining example within the city of a particular architectural style or feature;

Applicant comment: No, the architectural style of the structure is not infrequent and none of its features are known to represent an infrequent or the first or last remaining example within the city.

Staff comment: Stone buildings are not unusual in Charlottesville, but they are not frequent; stone site walls are more commonly found. Examples of similar period, stone homes within the Oakhurst-Gildersleeve ADC District include:

- 1 Gildersleeve Wood (1925, Dutch Colonia Revival)
- 3 Gildersleeve Wood (1928, Tudor Revival)
- 12 Gildersleeve Wood (1935, Colonial Revival)
- 700 JPA (1935, Colonial Revival)]
- 117 Maywood (1938, Vernacular Craftsman)
- 130 Maywood Lane (1940, Vernacular)
- 550 Valley Road (1935, Tudor Revival)
- 552 Valley Road (1937, Tudor Revival)

(5) Whether the building or structure is of such old or distinctive design, texture or material that it could not be reproduced, or could be reproduced only with great difficulty; and

Applicant comment: No, the structure is not of such old or distinctive design, texture, or material that it could not be reproduced.

Staff comment: From the 2011 City survey: *The property at 104 Stadium Road is an example of a 1927 English Tudor Revival style. The terraces with rock steps and low walls are a rare example of historic landscape.*

(6) The degree to which distinguishing characteristics, qualities, features, or materials remain.

Applicant comment: The extent of changes since the structure was built is not known, but appear to include the addition of a metal fire escape and replacement of a number of windows.

Staff comment: Staff has not examined the site or structure. However, the 2011 BAR staff report noted the following: *The character-defining features of the main structure and site are intact. In addition to the main dwelling, the stone foundation of a one-story garage in place by 1929 remains today. The garage was removed by 1950. Surrounding the property are numerous trees. Two sloping terraces on the back of the property are marked with low stone walls. A stone planter sits at the head of a series of stone steps leading from the Woodrow Street entrance down the terraces. This terraced garden and stone steps are likely original as the stone matches the house.*

(b) Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within an existing major design control district, or is one of a group of

properties within such a district whose concentration or continuity possesses greater significance than many of its component buildings.

Applicant comment: The structure is not located in an ADC [District], and generally is no longer located in a neighborhood setting. There is no known historic or aesthetic link to other buildings in structures within an ADC [District]elsewhere.

Staff comment: 104 Stadium Road is linked historically to a period of growth at the University of Virginia in the early twentieth century, which spurred the growth of residential neighborhoods near its campus to house professors and students, such as Oakhurst-Gildersleeve neighborhood.

(c) The overall condition and structural integrity of the building or structure, as indicated by studies prepared by a qualified professional engineer and provided by the applicant or other information provided to the board.

Applicant comment: The structure is in good structural condition to the best of our knowledge, but there is deferred maintenance that would need to be addressed in the future.

Staff comment: Staff has not examined the site or structure.

(d) Whether, and to what extent, the applicant proposes means, methods or plans for moving, removing, or demolishing the structure or property that preserves portions, features or materials that are significant to the property's historic, architectural, or cultural value.

Applicant comment: The applicant will seek out opportunities to re-purpose and re-use select existing materials in the future project in a meaningful way.

Staff comment: The scale, scope and design of a future development project here has not been presented. It should be noted that, to the extent staff is aware of the planned development, it is speculative in nature, will likely require actions and approvals by City Council, and is in no way certain. Therefore, neither the necessity to raze this structure or how it or elements of it might be incorporated into the new project have been determined. If demolition is approved, the BAR should consider conditions that preclude demolition until the planned development is approved and underway.

For example, from the conditions applied to the demo CoA for 218 West Market Street: BAR staff sign off on the demolition permit is contingent upon:

- Applicant will submit for the record documentation and photographs of the existing building, including dimensioned floor plans and exterior elevations.
- BAR approval of a COA for this building's replacement (if it remains an IPP).
- An approved building permit for construction of any new building on this parcel

Chapter VII – Demolitions and Moving

Link: [Chapter 7 Demolition and Moving](#)

A. Introduction

Historic buildings are irreplaceable community assets; and once they are gone, they are gone forever. With each successive demolition or removal, the integrity of a historic district is further

eroded. Therefore, the demolition or moving of any contributing building in a historic district should be considered carefully.

Charlottesville's Zoning Ordinance contains provisions that require the property owner to obtain approval prior to demolishing a contributing property in a historic district or an Individually Protected Property (IPP).

The following review criteria should be used for IPP's and (contributing) buildings that are proposed for demolition or relocation.

Plans to demolish or remove a protected property must be approved by the BAR or, on appeal, by the City Council after consultation with the BAR. Upon receipt of an application for demolition or removal of a structure, the BAR has 45 days to either approve or deny the request. If the request is denied and the owner appeals to the City Council, the Council can either approve or deny the request. If Council denies the request, the owner may appeal to the City Circuit Court.

In addition to the right to appeal to City Council or the Circuit Court, there is a process that enables the owner to demolish the building or structure if certain conditions have been met. After the owner has appealed to City Council and has been denied, the owner may choose to make a bona fide offer to sell the building or structure and land.

The property must be offered at a price reasonably related to the fair market value of the structure and land and must be made to the city or to any person or firm or agency that gives reasonable assurance that it is willing to preserve and restore the property. City Council must first confirm that the offering price is reasonably related to the fair market value.

The time during which the offer to sell must remain open varies according to the price, as set out in the State Code and the Zoning Ordinance.

If such a bona fide offer to sell is not accepted within the designated time period, the owner may renew the demolition request to City Council and will be entitled [to a CoA that permits demolition].

B. Demolition of Historic Structures

Review Criteria for Demolition

- 1) The standards established by the City Code, Section 34-278.

Staff comment: See comments above: *Standards for considering demolitions*.

- 2) The public necessity of the proposed demolition.

Staff comment: Demolition is not a public necessity; the building has not been condemned or deemed unsafe.

- 3) The public purpose or interest in land or buildings to be protected.

Staff comment: See comments above: *Standards for considering demolitions*, item a.

- 4) Whether or not a relocation of the structure would be a practical and preferable alternative to demolition.

Staff comment: See comments above: *Standards for considering demolitions*, item d.

- 5) Whether or not the proposed demolition would adversely or positively affect other historic buildings or the character of the historic district.

Staff comment: See comments above: *Standards for considering demolitions*, item d.

- 6) The reason for demolishing the structure and whether or not alternatives exist.

Staff comment: See comments above: *Standards for considering demolitions*, item d.

- 7) Whether or not there has been a professional economic and structural feasibility study for rehabilitating or reusing the structure and whether or not its findings support the proposed demolition.

Staff comment: See comments above: *Standards for considering demolitions*, item c

Guidelines for Demolition

- 1) Demolish a historic structure only after all preferable alternatives have been exhausted.
- 2) Document the building thoroughly through photographs and, for especially significant buildings, measured drawings according to Historic American Buildings Survey (HABS) Standards. This information should be retained by the City of Charlottesville Department of Neighborhood Development Services and the Virginia Department of Historic Resources.
- 3) If the site is to remain vacant for any length of time, maintain the empty lot in a manner consistent with other open spaces in the districts.

Appendix: Related City Code Sections

Sec. 34-285. - Approval or denial of applications by BAR.

- c) Upon denial of an application (approval of an application with conditions over the objections of the applicant shall be deemed a denial), the applicant shall be provided written notice of the decision, including a statement of the reasons for the denial or for the conditions to which the applicant objects. Following a denial the applicant, the director of neighborhood development services, or any aggrieved person may appeal the decision to the city council, by filing a written notice of appeal within ten (10) working days of the date of the decision.

Sec. 34-286. - City council appeals.

- a) An applicant shall set forth, in writing, the grounds for an appeal, including the procedure(s) or standard(s) alleged to have been violated or misapplied by the BAR, and/or any additional information, factors or opinions he or she deems relevant to the application. The applicant, or his agent, and any aggrieved person, shall be given an opportunity to be heard on the appeal.
- b) In any appeal the city council shall consult with the BAR and consider the written appeal, the criteria set forth within section 34-276 or 34-278, as applicable, and any other information, factors, or opinions it deems relevant to the application.
- c) A final decision of the city council may be appealed by the owner of the subject property to the Circuit Court for the City of Charlottesville, by filing with the court a petition at law, setting forth the alleged illegality of the action taken. such petition must be filed with the circuit court within thirty (30) days after council's final decision. The filing of the petition shall stay the council's decision pending the outcome of the appeal; except that the filing of the petition shall not stay a decision of city council denying permission to demolish a building or structure. Any appeal which may be taken to the circuit court from a decision of the city council to deny a permit for the demolition of a building or structure shall not affect the right of the property owner to make the bona fide offer to sell referred to in subparagraphs (d) and (e), below.
- d) In addition to the right of appeal set forth above, the owner of a building or structure, the demolition of which has been the subject of an application appealed to the city council, shall, as a matter of right, be entitled to demolish such building or structure if all of the following conditions have been met:
 - (1) The owner has appealed to city council for permission to demolish the building or structure, and city council has denied such permission;
 - (2) The owner has, for the applicable sale period set forth herein below, and at a price reasonably related to the fair market value of the subject property, made a bona fide offer to sell the building or structure, and the land pertaining thereto, to a person or legal entity that gives reasonable assurance that the building or structure will be preserved and restored; and
 - (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable sale period.
 - (4) If all of the foregoing conditions are not met within the applicable sale period, then the city council's decision denying a permit shall stand, unless and until that decision is overturned by the circuit court. However, following expiration of the applicable sale period, a property owner may renew his request to the city council to approve the demolition of the historic landmark, building or structure.
- e) The time in which a property owner may take advantage of the rights afforded by subparagraph (d), above (the applicable "sale period") shall be as follows:
 - (6) Twelve (12) months when the offering price is equal to or greater than ninety thousand dollars (\$90,000.00). [...]

[Note: The 2023 assessment for 104 Stadium Road was \$541,900.]