

Legal Supplement to Staff Memo to City Council, September 2, 2025

Re: 1301 Wertland Street: Appeal of BAR denial of requested CoA

On May 20, 2025, the City of Charlottesville, Virginia's ("City"), Board of Architectural Review ("BAR") denied a certificate of appropriateness ("CoA") to allow demolition of the structure at 1301 Wertland Street, known as the Wertenbaker House. Constructed circa 1842, the two (2)-story, three (3)-bay house is brick with a rear ell. (William Wertenbaker was the University of Virginia's second librarian, serving from 1826 until 1880.) Built in the Greek Revival style, renovations in the late-1800s included the Victorian porch and ornate cornice.

On June 2, 2025, within the ten (10)-day period proscribed by City Code Chapter 34, Section 5.2.7.E., the property owner appealed the BAR's decision to City Council.

Wertland Street Architectural Design Control District

On March 15, 1999, City Council established the Wertland Street Architectural Design Control District and designated 1301 Wertland Street as a *contributing structure* to the District. (Ref. City Code Chapter 34, Section 2.9.2.B.6.) Per City Code Chapter 34, Section 5.2.7.A.1.c., the demolition of a contributing structure requires BAR approval of a CoA.

Note: Within City-designated ADC Districts, contributing structures are identified in the District Maps found in Chapter 1 of the ADC District Design Guidelines, adopted by City Council on September 17, 2012. The map for the Wertland Street ADC District (excerpt below) identifies 1301 Wertland Street as a contributing structure. Link to Chapter 1 of the design guidelines: [Chapter 1 Introduction \(Part 1\)](#)



State Code

State enabling legislation authorizes the City to establish historic districts within its Zoning Ordinance, and to designate specific buildings or structures within the Zoning Ordinance as having important historic, architectural, archaeological, or cultural interest. Virginia Code

§15.2-2306(A)(1).

State enabling legislation authorizes the City to provide for a review board to administer the Ordinance. Virginia Code §15.2-2306(A)(1). In 1959, the City embarked on a Preservation Planning Program and enacted an Architectural Design Control Ordinance. This Ordinance established a “restricted design district” comprised of thirty-three (33) properties in the Court Square area and created a Board of Architectural Review (“BAR”) to review the appropriateness of exterior changes to buildings in the District. Per City Code Chapter 34, Section 5.1.5., the BAR is responsible for final action regarding Certificates of Appropriateness (“CoA”) under Major Historic Review, which includes requests to raze a contributing structure.

State enabling legislation authorizes the City to include within its Zoning Ordinance a requirement that no historic landmark, building, or structure within any District shall be razed, demolished, or moved until the razing, demolition, or moving thereof is approved by the review board [BAR], or, on appeal, by the governing body [City Council] after consultation with the review board. Virginia Code §15.2-2306(A)(2). Per City Code Chapter 34, Section 5.2.7.A.1.c., the demolition of a contributing structure requires BAR approval of a CoA.

State enabling legislation requires the City, by enacting the above, include within its Zoning Ordinance the right of the owner of a historic landmark, building, or structure to appeal to the Circuit Court for such locality from any final decision of the governing body. Virginia Code §15.2-2306(A)(3). This has been implemented in the City’s Zoning Ordinance by City Code Chapter 34, Section 5.2.7.E.1, Appeal of Decision.

City Code

According to City Code Chapter 34, Section 5.2.7.E.1.d.: “City Council will consult with the BAR and consider the written appeal, the criteria [standards for review] set forth within this Section, as applicable, and any other information, factors, or opinions it deems relevant to the application.”

Per City Code Chapter 34, Division 5.2.7.E.1.f., in addition to the right of further appeal, following a denial by City Council, the property owner *will, as a matter of right, be entitled to demolish such building or structure if all of the following conditions have been met:*

- i. The owner has appealed to City Council for permission to demolish the building or structure, and City Council has denied such permission;
- ii. The owner has, for the applicable sale period set forth herein below [per item g, *see* below, this period would be twelve (12)-months *], 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
- iii. No bona fide contract, binding upon all parties thereto, must 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.
- iv. If all of the foregoing conditions are not met within the applicable sale period, then the City Council’s decision denying a permit will 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 their request to the City Council to approve the

demolition of the historic landmark, building or structure.

- g. The time in which a property owner may take advantage of the right to appeal, the applicable “sale period” is as follows:

[...]

- vi. Twelve (12) months when the offering price is equal to or greater than \$90,000.00.*

* Per City GIS, July 18, 2025, the structure is assessed at \$ 758,900.00. The 0.40-acre parcel is valued at \$236,000.00.)

Appendix: Referenced City Code Sections

2.9.2. Architectural Design Control District (-ADC)

A. Intent

The City of Charlottesville seeks, through the establishment of historic districts and through the designation of individually significant properties, to protect community health and safety, to promote the education, prosperity and general welfare of the public through the identification, preservation and enhancement of buildings, structures, landscapes, settings, neighborhoods, places and features with special historical, cultural and architectural significance. To achieve these general purposes, the City seeks to pursue the following specific purposes:

1. To preserve and protect buildings, structures and properties which serve as important visible reminders of the historic, cultural, and architectural or archaeological heritage of the City, the Commonwealth of Virginia, or this nation;
2. To ensure that, within the City’s historic districts, new structures, additions, landscaping and related elements will be in harmony with their setting and environs;
3. To promote local historic preservation efforts through the identification and protection of historic resources throughout the City;
4. To document and promote an understanding of the social history of City neighborhoods, and to protect their cultural institutions;
5. To maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of older structures in a safe and healthful manner, and by encouraging desirable uses and forms of development that will lead to the continuance, conservation and improvement of the City’s historic, cultural and architectural resources and institutions within their settings; and
6. To promote tourism and enhance business and industry, and to promote an enhanced quality of life within the City, through protection of historic, cultural and archaeological resources.

B. Established Architectural Design Control Districts

The following areas have been determined by City Council to be of unique architectural or historic value, and are hereby designated as Architectural Design Control (ADC) Districts, the limits of which are shown on the City’s zoning map. City Council has designated only certain buildings within these districts as “contributing structures.” Those contributing structures are identified on a map included within the design guidelines for each district.

[...]

5. Wertland Street Architectural Design Control

C. Additions to and Deletions from Architectural Design Control Districts

1. City Council may, by ordinance, from time to time, designate additional properties and areas for inclusion within an ADC District or remove properties from a ADC District. Any such action will be undertaken following the rules and procedures applicable to the adoption of amendments to the City's Development Code and official zoning map.
2. Prior to the adoption of any such ordinance, the City Council will consider the recommendations of the Planning Commission and the Board of Architectural Review (BAR) as to the proposed addition, removal or designation. The Planning Commission and BAR will address the following criteria in making their recommendations:
 - a. The historic, architectural or cultural significance, if any, of a building, structure or site and whether it has been listed on the National Register of Historic Places or the Virginia Landmarks Register, or are eligible to be listed on such registers;
 - b. The association of the building, structure or site with an historic person or event or with a renowned architect or master craftsman;
 - c. The overall aesthetic quality of the building, structure or site and whether it is or would be an integral part of an existing ADC district;
 - d. The age and condition of a building or structure;
 - e. Whether a building or structure is of old or distinctive design, texture and material;
 - f. The degree to which the distinguishing character, qualities or materials of a building, structure or site have been retained;
 - g. Whether a building or structure, or any of its features, represents an infrequent or the first or last remaining example of a particular detail or type of architecture in the City;
 - h. Whether a building or structure is part of a geographically definable area within which there exists a significant concentration or continuity of buildings or structures that are linked by past events or, aesthetically, by plan or physical development, or within which there exist a number of buildings or structures separated geographically but linked by association or history.
3. Before an area is designated as an ADC District, each structure will be determined to be either "contributing" or "non-contributing." This determination will be reconfirmed at least once every 15 years.

D. Certificate of Appropriateness

A Certificate of Appropriateness is required for certain projects in ADC Districts in accordance with 5.2.6. Minor Historic Review and 5.2.7. Major Historic Review.

5.1.5. Board of Architectural Review

C. Authority

1. General

- a. In order to administer the provisions of the Architectural Design Control Districts and

Individually Protected Properties the Board of Architecture Review (BAR) must:
[...]

- v. Develop and recommend to the City Council for its approval design guidelines for the City's ADC Districts, consistent with the purposes and standards set forth in Div. 2.9. Overlay Districts. The BAR must develop the design guidelines after seeking input from business and property owners in the various districts. Guidelines developed by the BAR will become effective upon approval by City Council and thereafter will have the status of interpretive regulations. The BAR must undertake a comprehensive review and update the design guidelines at least once every 5 years.

2. Approval Authority

The Board of Architectural Review is responsible for final action regarding:

- a. Certificates of Appropriateness under Major Historic Review; [...]

5.2.7. Major Historic Review

A. Applicability

Major Historic Review is required to receive a Certificate of Appropriateness for the following project activities on any property located in an Architectural Design Control (ADC) District [...]:

1. Architectural Design Control District and Individually Protected Property In an ADC District and for an IPP, Major Historic Review for a Certificate of Appropriateness is required for the following exterior activities:
[...]
 - c) Relocation, removal, encapsulation, or demolition in whole or in part of a contributing structure in an ADC District or an IPP.

C. Review and Decision Process

[...]

2. Board of Architectural Review Decision

- a. In considering a particular application the BAR will approve the application unless it finds:
 - i. That the proposal does not meet specific standards set forth within this Section or applicable provisions of the City's design guidelines; and
 - ii. The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the IPP that is the subject of the application.
- b. The BAR will approve, approve with conditions, or deny applications for Certificates of Appropriateness in accordance with the provisions of this Section.
- c. The BAR, or City Council on appeal, may require conditions of approval as are necessary or desirable to ensure that any new construction or addition is compatible with the scale and character of the Architecture Design Control District, Individually Protected Property, or Historic Conservation District. Prior to attaching conditions to an approval, due consideration will be given to the cost of compliance with the proposed conditions as well as the goals of the Comprehensive Plan. Conditions may require a reduction in height or

massing, consistent with the City's design guidelines and subject to the following limitations: [not germane]

- d. Demolition: The BAR, or City Council on appeal, may make such requirements for, and conditions of approval as are necessary or desirable to protect the safety of adjacent buildings, structures, or properties, and of any persons thereon; and, in case of a partial removal, encapsulation or demolition:
 - i. To protect the structural integrity of the portions of a building or structure which are to remain following the activity that is the subject of a building permit; or
 - ii. To protect historic or architecturally significant features on the portions of a building or structure which are to remain following the activity that is the subject of a building permit.

D. Criteria for Review and Decision

1. Architectural Design Control District and Individually Protected Property

[...]

b. Review is limited to following factors in determining whether or not to permit the moving, removing, encapsulation or demolition, in whole or in part, of a contributing structure or IPP:

- i. The historic, architectural, or cultural significance, if any, of the specific structure or property, including, without limitation:
 - a) The age of the structure or property;
 - b) Whether it has been designated a National Historic Landmark, listed on the National Register of Historic Places, or listed on the Virginia Landmarks Register;
 - c) Whether, and to what extent, the building or structure is associated with an historic person, architect or master craftsman, or with an historic event;
 - d) 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;
 - e) 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
 - f) The degree to which distinguishing characteristics, qualities, features, or materials remain;
- ii. Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within an existing applicable 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 and structures.
- iii. 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 BAR;
- iv. 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; and

- v. Any applicable provisions of the City's design guidelines.

Review Criteria for Demolition

- 1) The standards established by the City Code, Section 34-278 [updated in 2023: Chapter 34, Div. 5.2.7. D.1.b.]
- 2) The public necessity of the proposed demolition.
- 3) The public purpose or interest in land or buildings to be protected.
- 4) The existing character of the setting of the structure or area and its surroundings.
- 5) Whether or not a relocation of the structure would be a practical and preferable alternative to demolition.
- 6) Whether or not the proposed demolition would affect adversely or positively other historic buildings or the character of the historic district.
- 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.