

BAR MINUTES
CITY OF CHARLOTTESVILLE
BOARD OF ARCHITECTURAL REVIEW
Regular Meeting
October 15, 2024 – 5:00 PM
Hybrid Meeting (In person at City Space & virtual via Zoom)



Welcome to this Regular Monthly Meeting of the Charlottesville Board of Architectural Review. Staff will introduce each item, followed by the applicant's presentation, which should not exceed ten minutes. The Chair will then ask for questions from the public, followed by questions from the BAR. After questions are closed, the Chair will ask for comments from the public. For each application, members of the public are each allowed three minutes to ask questions and three minutes to offer comments. Speakers shall identify themselves and provide their address. Comments should be limited to the BAR's purview; that is, regarding only the exterior aspects of a project. Following the BAR's discussion and prior to taking action, the applicant will have up to three minutes to respond.

Members Present: James Zehmer, Carl Schwarz, Jerry Rosenthal, Roger Birle, Cheri Lewis, Breck Gastinger, Ron Bailey, David Timmerman

Staff Present: Patrick Cory, Remy Trail, Kate Richardson, Jeff Werner

Pre-Meeting:

Staff gave the chair a letter for applying for state funds commemorating the 250th anniversary of the Declaration of Independence. Charlottesville is going to be applying for funds for the Charlottesville Downtown Mall. The Department of Historic Resources will be evaluating the grant applications for the funds.

Staff went over the reasons for having the 1609 Gordon Avenue CoA application pulled from the meeting agenda. The main reasons were due to a conflict with the zoning. There will be a preliminary discussion regarding the project. Mr. Schwarz did express his dislike the exterior stairs in the middle of the building.

There was a discussion around the café spaces guidelines. The hope is to provide the café space owners the inventory of everything in the leased spaces in the next couple of weeks.

The chairman called the meeting to order at 5:34 PM.

Review of Council's charge to the BAR

Mr. Werner – There are grant funds allocated to historic sites, not necessarily associated with Colonial America and the Revolution. They want to provide funds for National Register districts and sites. The Mall falls into that category.

The Board of Architectural Review is not a committee. The city has many committees. You are one of the big four (City Council, Planning Commission, Board of Zoning Appeals, and Board of Architectural Review). The BAR has been created by ordinance. You are appointed by Council. What you do in reviewing and possibly approving a CoA is that it becomes an enforceable item. Zoning can enforce the conditions of an approved CoA. Sometimes, there is some confusion that the BAR is a group that is only interested in historic things and like to make suggestions to people. You are an appointed body. Your responsibility is to implement the Design Guidelines and to interpret them when reviewing projects. Per the

ordinance, the Guidelines are what you develop and recommend to Council. Only by Council adopting them, do they become official. We had some things that we can interpret and apply it to the policy. Tonight, when you make a recommendation to Council to update the café spaces, your recommendation does not make it so. It is only after I take it to City Council, and they agree to it. Every action by the BAR is appealable to City Council. Somebody can even appeal an approval. That has happened. Neighboring property owners did not like a project and they appealed to Council for various reasons. The BAR is not some autonomous group that is doing what it thinks is best. When things come to the BAR and you decide something, Council still can change that. You are not a zoning interpretive body. We have the project at 1609 Gordon Avenue, which I am going to withdraw from the agenda. I encourage you to have a conversation with the applicant. We need to resolve a couple zoning questions. It is best that we resolve those before you formally review this. While you have some authority under the code, the ordinance is always capping that. By an action, you do not inadvertently supersede it. You are not responsible to memorize the code. I wanted to be clear what the BAR's role is, and that you are subordinate to City Council.

Letter Re 250 Grant Request

Ms. Richardson – The Virginia 250 Grant is through the Virginia Department of Historic Resources. This is a preservation fund. The City of Charlottesville would like to apply through the Parks and Recreation Department to undertake the long-term plan and rehabilitation and management of our Downtown Mall. Since we are applying for the grant, we would like the BAR's support for this historic resource and to plan for its long-term maintenance.

Mr. Werner – This is a letter of the BAR primarily supporting a Parks & Recreation request for grant funding towards the initial phase of that Tree Management Plan.

Mr. Zehmer – Do we know how much they are requesting?

Ms. Richardson – The minimum is a one-third match. We are going for a 50 percent match of \$1.3 million.

Mr. Zehmer read the letter into the record.

Motion to send letter to the Department of Historic Resources in support of the City of Charlottesville's application to the Preservation Fund VA250 grant: Mr. Gastinger. Second: Mr. Schwarz. Motion passes 8-0.

A. Matters from the public not on the agenda.

No Public Comments

B. Consent Agenda (Note: Any consent agenda item may be pulled and moved to the regular agenda if a BAR member wishes to discuss it, or if any member of the public is present to comment on it. Pulled applications will be discussed at the beginning of the meeting.)

1. Meeting Minutes – September 17, 2024

Motion to approve the Consent Agenda – Ms. Lewis. Second by Mr. Timmerman. Motion passes 8-0.

C. Deferred Items

NA

D. New Items

2. Certificate of Appropriateness Application

BAR # 24-10-01

1301 Wertland Street

Revisions to approved design (CoA January 2023)

Jeff Werner, Staff Report – Request CoA for construction of a three-story apartment building with internal parking.

Mr. Zehmer – I have hired Design Develop to do a conceptual study for an addition to my house. I am going to have Mr. Timmerman be the chair and abstain.

Kevin Schafer, Applicant – We are here to discuss some developments and refinements of the material palette, as this project has gone through the design development phase and moved through a value engineered process.

Next Slide

You can see the summary of the four revisions. The more pertinent one is the revised brick selection. I will get into some of the choices or decisions why we are presenting what we are presenting. The other areas of revision that you can see on this slide are the recessed areas. As staff mentioned, we are going to the hardy panel for a couple of reasons. The first reason is that it is a cost saving material. As we went through a structural engineering process, the stair landings and the balcony connections through that brick veneer became challenging and costly. It is a move to simplify our balcony framing conditions and still preserving the brick in the areas where it is visible. Where the building starts to recess and step back, we bring down that hardy panel in the rectangular volume that sits atop the brick elements. The other revisions staff mentioned are the changing of the sliding doors from 6 feet to 5 feet. That was primarily a building code consideration as we consider the percentages of glazing that are allowed when we are adjacent to a property line or an existing structure on a lot and making sure that we were within those allowable percentages from a building code perspective. I don't think it fundamentally changes the overall form or feeling of the building.

Next Slide

What we wanted to do was to keep the form, the mass, and the materiality the same. We wanted to keep the overall concept intact and keep the relationship to the existing house intact. Overall, the major driving points of the CoA that has already been approved keep all those together, cohesive, and legible.

Next Slide

The brick is the topic that we debated the most internally, we felt good about the Windsor, the handmade brick.

Mr. Werner – These are sample panels up against the Wertenbaker House.

Mr. Schafer – The previous selection was a handmade brick. Two years since the Windsor, the old Carolina Windsor selection made its way onto our BAR submission. Prices on construction materials have continued to increase, particularly around intensive materials like handmade brick. That became a cost burden. Every general contractor, who priced the project, identified it. We also noted the Board's previous comments on the brick. It was that replication that should not be desired. We should not be trying to match exactly, and there was some flexibility in finding a complimentary material palette and complimentary in its character. After reviewing several different brick options with Deb Brown from Allied, we have selected and would like to propose the Pine Hall Brick. It is called Old Yorktown. It is a tumbled brick. It is coming from their Roanoke

plant. It is much less freight and much lower cost. It still has great character. Being that it is tumbled, it has a nice color to it. You can see from the samples here the difference between what was previously approved and what we are suggesting. It is complimentary in color. It is not an exact match on the building. If you go through these images, you can see that we took these brick panels to the site in a variety of different sunlights and shades working to select the mortar and carefully working to select brick that would look appropriate in shadow, in direct sun, and of indirect light; sometimes when it was wet and sometimes it would when it had dried out. We felt the Pine Hall Brick was a good substitution and one that could make the project viable from a value engineering perspective. That is what in front of you tonight.

Next Slide

I included this slide to show that this is with the revisions that we are proposing. From the street, we would be hard pressed to tell a difference between what was previously approved and what we are showing here. It is one of the things that was important. I want to note because it is a little counterintuitive to the value engineering exercise that the brick volumes needed to read as volumes. We are returning the brick to a certain distance into those stairwells, which you can see in this image here. As that building starts to peel away from the rectangular form that is coming through it, we are utilizing a brick return there to complete that corner and visually make that legible brick cubed on this side.

Mr. Schwarz – How far does that turn back in?

Mr. Schafer – In this instance here, it is 3 feet, 8 inches. As the peel returns back to the rectangular form, it is 2 feet. It is a hardy panel.

Next Slide

On this slide, we talk about our choices for the balcony. We now have 2 installed examples of the custom steel railing. We are a fan of the custom steel railing, which was previously approved. We have found that field painting, because of the requirements to field, weld some of these elements. We then can't powder coat it. We can't pre-prime it. We end up field welding every weld joint and every side of every bar. Every base plate and every bolt connection has proved to be too challenging. From a maintenance perspective, we are proposing this kit of parts from tracks. It gives us the same look. It comes at a height of 42 inches. It is a pre-finished kit of parts, which allows for the maintenance considerations to be assured. We do not have the rust conditions. No matter what kind of paint we specify there, it seems to become an issue to get it properly field painted. We end up with rust where we don't want rust streaks. That was the choice here. There is a cost savings, a maintenance consideration, and a longevity consideration.

Mr. Werner – I want to be clear on something. Where the beam at that top image had a shatter line, it is now a flat fascia trim.

Next Slide

We wanted to keep the overall building concept, overall building form, and the materiality. The windows were important to continue to be a high quality. We opted not to VE those. Those are remaining as to what was previously approved. There is a great amount of site work going into this to make this a better place. The goal is to always be respectful and differential to the Wertenbaker House and provide this kind of density here that will help ensure that it has the maintenance behind it to last another 100 years.

QUESTIONS FROM THE PUBLIC

No Questions from the Public

QUESTIONS FROM THE BOARD

Mr. Timmerman – It is hard to tell in the renderings whether the railing is outboard of the brick or if the intention is for it to be flat. There is ambiguity on that other rendering. It looked like the railing was proud of the brick. I was wondering if you would elaborate on that.

Mr. Schafer – The custom steel railing had this C channel that was being welded. The bannisters were being welded to that C channel. The face was applied onto our deck framing to work with the Trek system. It relies on the posts. We won't be attaching through the brick. You will see that we will have posts that are in line with the brick and tie into the last rim board of the joist framing below. That will screw down through the deck boards. It will be in line with that brick face.

COMMENTS FROM THE PUBLIC

No Comments from the Public

COMMENTS FROM THE BOARD

Mr. Birle – The brick choice is a good one. You are not downgrading quite so much. That is still a handsome tunnel brick. It is hard to expect someone to use a hand-mold brick on a project or enforce that. It seems like this is a good substitute.

Mr. Timmerman – I agree with the brick. I don't have any problem with it. I prefer the previous railing. It is more sophisticated. It has more of a custom look. On this side that faces the historic building, it would be a positive in the owner's and city's advantage. If the alternative is chosen, I might suggest pushing it back a little to give some relief to it so there is not a flush transition between the two. With a kit of parts, you get these railings that look like a kit of parts. It has a different feel.

Mr. Schwarz – Everything you are proposing is within our guidelines and is acceptable. It is a great choice in the brick. My only concern is the back façade. It seems 'sad' to me to get rid of that brick right there. I am not sure I am going to make that hold up my vote. I am Ok with approving this.

Mr. Bailey – You have made a good effort to honor the original design. I would be Ok with approving your changes here.

Motion – Mr. Gastinger – **Having considered the standards set forth within the City Code, including the ADC District Design Guidelines, I move to find the proposed modifications to the approved design (ref CoA #22-09-03) for new construction at 1301 Wertland Street satisfy the BAR's criteria and are compatible with this property and other properties in the Wertland Street ADC District, and that the BAR approves the application as submitted. Mr. Bailey with the second. Motion passes 8-0.**

3. Certificate of Appropriateness

BAR # 24-10-02

1609 Gordon Avenue

New apartment building

Jeff Werner, Staff Report – Request CoA for construction of a three-story apartment building with internal parking.

There will be no action taken by the BAR for this Certificate of Appropriateness Application. This application has been pulled from the meeting agenda due to a zoning issue. The BAR held a preliminary discussion. This project was reviewed in a preliminary discussion earlier in the year.

Mr. Schafer – We have been through 2 site development review plans. The screening is easily solved and clear that there needs to be mechanical screening. We have a rendering in this package. I think the screening will be more visible than the mechanical units. I don't think it is a battle we are going to win. We have made the following revisions since our preliminary hearing, which have made for a better, more cohesive, and more legible project: the first being the removal of the commercial standing seam details that we were showing in our previous renderings and moving towards a more residential standing seam. The second being the elimination of the hardy panel, which allows for a lot more ability to place our control joints in the way that we want to. It is insulation on the outside of the wall. It is a robust building system. We felt that was a good move. Previously, we had 2 main building wall materials. We had a brick, and we had the hardy panel. In certain locations, the brick appeared to be floating, particularly above the parking entrance. We have a recessed balcony. We have introduced a third material, which is a hardy plank that helps eliminate that kind of odd floating brick condition. Beyond, it has been the development of the details, the location of gutters and rainwater leaders, the development of the landscaping, the pedestrian access, the amenity space that we have, and the required screening for the garage on the alley side. Those site development reviews plus the initial BAR hearing that we had earlier this spring had us feeling that we were in a good spot. We will continue to work with zoning and determine what the problem is. I am not clear on what the entry requirements are. I can read the entry requirements. I am still not clear on it.

I want to highlight the anticipated screening locations that we will come back with. I don't believe we have seen that. These renderings do not show the screens. As you can see the mechanical units are on the roof at elevation. We did a little eye height test. We can locate the eye height. You would have to be 30 feet tall to see the mechanical units from any location. The zoning code requires screening. It is not something we would fight.

Mr. Werner – I know that lights coming out of parking garages have been something that comes up with the BAR and the Entrance Corridor Review. Since they showed a metal screen on that, the response is that it is a screen with planting on it. That satisfied me. Something was physically going to be there. It just wasn't a screen over the opening.

Next Slide

Mr. Schafer – This was part of the site development review that I included. We were not trying to be disingenuous with what we were showing between our current site plan and in our BAR package.

Mr. Birle – Is zoning asking you to enclose the entry space?

Mr. Schafer – I have not been able to get in touch with zoning. Staff 'raised their hand' yesterday afternoon. I met with Kelsey Schlein at Shimp Engineering. We looked through it. The Standards, which is 21013 3c: To qualify as a street facing entry, building entrances must meet the following standards.

- They must be located on a street facing ground story façade.
- They must provide both ingress and egress pedestrian access to the ground story of the building.
- They must remain operable at all times. Access might be controlled.
- They must access an occupiable space.

I think that we are checking all 4 of those boxes. There is someone on this board who knows much more about the zoning code than I do because he was involved with the writing of it.

Mr. Schwarz – The entry feature section where they talk about being required to have an entry feature. It must meet certain standards. Those standards are particular. They have a certain amount of percentage of enclosure,

a certain amount of percentage of what is open and what is not open. They say ‘a covered porch with a front-facing entry.’ There is some language in there that is vague, but probably does need to be defined.

Mr. Schafer – We were considering this a covered enclosure, which did not have any minimum depth or any minimum width. It then had 50 percent enclosure maximum. I think we were meeting all those.

Mr. Werner – It comes down to the note here, my conversation with the zoning administrator. Does the entrance feature this entry feature require a closable door? Can it be defined as a for court? It would allow it to be as it is designed; that question about occupiable or habitable space and defining that and where you enter the individual apartments. That is what they will be discussing on Thursday internally. We will have a decision. It is possible that they say, ‘from a given perspective, as designed, it meets the code.’

COMMENTS FROM THE PUBLIC

Genevieve Keller – This did raise something to me. Through the extended rezoning process, this came up several times. Preservation Piedmont was trying to follow that process through all its aspects, meeting with NDS leadership, the consultants, and City Council. We were assured each time that the code would not prevail over the guidance of the BAR. When there was a conflict, the BAR would have priority. It seems that this might be changing. Personally, and professionally, I don’t have any thoughts about this. I can see down the road where we would. It is important how this is resolved, particularly with the big issues that could come up between the code and between your existing guidelines or new guidelines. I want to raise that as an issue now. We did have assurances at the highest levels through this process that preservation values would not be sacrificed to the code. I am not saying that is the case here. It starts to be a precedent. I know that previously there was an issue when something was appealed to Council before we had a form-based code. One of the councilors was trying to apply form-based code to the historic features of a building to change the fenestration patterns. In the future, this could have a lot of implications.

Jean Hiatt – My concern is that there needs to be a nice entrance that is welcoming and is significant to the building. I am not seeing that in this design. I am hoping that can change, so that it is more formal and interesting.

COMMENTS FROM THE BOARD

Mr. Schwarz – That was something I questioned. I questioned it because this open stair in the middle of the building puts us in a bind. Two blocks to the north, we forced a project to get rid of their open stair that divided their building in half because it did not fit the context. Two blocks to the south, we gave you the opportunity to do that for a different context. This context is right in the middle. I agree with Ms. Hiatt. The building is lacking any kind of entrance. We have this slot in the middle of it, which opens into a parking garage at some point. We will see what happens with the zoning code. I feel that is something that is lacking in the design that makes it less contextual for this residential neighborhood. We have apartment buildings nearby. It is a mixed neighborhood. There is the Montessori across the street. We gave them a hard time when they tried to do an addition. There are residences on this street. It is not completely a student neighborhood context.

I appreciate the screening on the garages. It says Virginia Creeper Ivy. I assume that means Virginia Creeper or Ivy. Virginia Creeper will lose its leaves in the winter. Ivy will stick to the brick and eat the EIFS. I don’t know if there is something else you can find for that. I don’t know if that was a placeholder. You probably should not put any plant material that is going to stick to the EIFS. Are the eave materials fiber cement trim? It does look like metal turning over the eaves. Is it supposed to be fiber turn detail? The front façade is still monolithic. You are going for a contemporary look. With that monolithic and plain look to it, it is lacking as far as context for the residential portion of the neighborhood.

Mr. Gastinger – I was not here when this project was first presented. I like the massing of the project. I don't know if I have a strong opinion about the entranceway. It is beneficial to the neighborhood to have such a significant break in the volume of the building, which is quite large in making it look like 2 separate structures. Turning the roofline is helpful. The EIFS does not fit the context. I know that we have approved it in limited applications in the past and especially in applications where it is further away from public view. This would be one of the most prominent ones that we would have approved. I know we approved it on Virginia Avenue. That is also on a quieter street. What concerns me is not only the EIFS as a material, which feels inexpensive. It is so bright. That bright, white, inexpensive material in this residential neighborhood feels wrong. I wish there was a better alternative. I would not have recommended that if I was here in February.

Mr. Rosenthal – What is the height of the HVAC units on the roof?

Mr. Schafer – We have 2 different ones depending on the size of the unit. If there is a 4-bedroom unit, it is probably about 36 inches tall max. It probably includes some sound dampening feet that go with that. The other ones, for the 2-bedroom units, are smaller. Those are mini-split systems. They are probably 24 to 30 inches.

Mr. Rosenthal – What is the proposed material for the screening?

Mr. Schafer – We employed a pre-finished aluminum screening. They have screening products that are designed to go on roofs. It would be the same color as the metal roof. I don't think it would be visible, particularly given the adjacent landscaping. That is what we are thinking.

Mr. Timmerman – I would like it if you came back with the brick you are proposing. If it is an EIFS, the color sample would be the best. It is hard to tell on renderings sometimes what the color is meant to be. There is sunlight and reflection that sometimes distorts that. Having physical samples of the 2 main bricks, if not the tertiary materials and product information on the screens, would be great. Not all those decorative screens are the same. It is hard for me to tell where the windows are in line with the EIFS, how far back they are. That might be a simple window detail to understand the thickness, the materials return would help.

Ms. Lewis – I have some comments on the guidelines. With the EIFS, we were supportive of it because of the joints. For this largest space, EIFS would succeed. With materials and textures, this applies to new construction. The use of EIFS is discouraged but might be approved on items such as gables where it cannot be seen or damaged. It requires careful design of the location of control joints. With regards to the entrance, under Windows & Doors, the size and proportion or ratio of height and width to window and door openings, a new building's primary façade should be similar and compatible with those in the surrounding historic facades. Many of the entrances of Charlottesville's historic buildings have special features such as transoms, side lights, or decorative elements framing the openings. Consideration should be given to incorporating such elements in new construction. Porches and other semi-public spaces are important in establishing layers or zones of intermediate spaces within the streetscape. They are encouraged. I don't know what to suggest about this entrance. It suffers that there is no habitable living space behind it. It is leading to a utilitarian space with on grade parking. People are still going to be using that as they come up and down those upper floor stairs. It is the main entrance to the building.

Mr. Birle – I am wondering if we would not help to deemphasize the balconies on the 2nd and 3rd floors and put more importance to the pedestrian level entrance and create more of a traditional porch. I like the idea of having a space between the 2 forms. It scales that back down to the neighborhood. Those overhanging balconies give it an apartment feeling in a not positive way. The door could be incorporated. If there is more emphasis on the ground plane rather than the 2nd and 3rd floor, the doors might be part of that.

Ms. Lewis – The 2nd story balcony provides an overhang. You get some protection from the elements. That is one reason it might have been programmed that way. It does not even come to the sidewalk out front. For a large building, it is a small protrusion and small covering. I wonder what you could do there.

Mr. Schafer – Nobody is touching eaves in this location. It is on the 2nd story. It is not at the pedestrian level. It is on a gable end. It happens to be prominent in terms of building form. I understand the color comment in our renderings. We can address that color comment. I would encourage you to drive down Virginia Avenue and look at that project. With the guidance from the BAR, there are big, large areas of eaves that have tight control joints that align with windows. There is rationality and order behind those things. It works. Isn't the Church across the street stucco? There is quite a bit of stucco on this street contextually. I don't think it is out of place from a material perspective. It is maybe a color issue. From my perspective, it is a lot more thoughtful and controllable than working within hardy panel. We are going to take a 4-by-8 hard panel sheet as hard as we can try to align things, you will see more trimlines, joint lines, and aluminum trim that does not line up. I am not opposed to looking at other materials. I felt the direction we were given last time was good. We utilize that staircase to break down the building form into residential massing. That is differential to our context. How can we take this building footprint that is adjacent to us and not overpower it with a building form that could be 2 more stories taller and even wider than we are showing to some degree. There is a shadow line and big void. That creates a breakdown in the building mass, which I think is a positive. I do like the comment. We will continue to study it.

Mr. Schwarz – How many people would not vote for this because of the EIFS? (2 members would vote 'no').

Mr. Gastinger – I support the fiber cement panels.

Mr. Schwarz – You have the joints all over the place. I have yet to see fiber cement done well in this town. It is a little 'wonky' with the joints and the metal flashings. Everything is always coming out in a weird way even if it is an expensive system.

Mr. Birle – For me, it is more of a color issue.

Mr. Timmerman – Materially, I am in support of it. Some of these other materials you get into, they are more 'fussy.' They tend to warp. There is a more margin of error that happens. At least the EIFS is monolithic. If you choose a good quality one and if you are using the precedent of the Church across the street, it seems appropriate.

Mr. Bailey – With the building next door, what is that material?

Mr. Schafer – CMU. We were in favor of staff's comments regarding the EIFS in terms of its durability and its quality of construction. It would certainly be something we specify.

E. Other Business

4. Staff questions/discussion

- 5. Work Session:** Work Session on café space design guidelines. Action: Recommendation to City Council
RE: Adoption of proposed revisions.

Jeff Werner, Staff Report – On the Downtown Mall and The Corner, the City leases segments of the public right of way to businesses to use as café spaces. Both areas are within ADC Districts and therefore subject to

BAR design review. The current ADC District Design Guidelines for Outdoor Cafés were adopted by City Council in 2012. Per City Code Chapter 34, Sec. 5.1.5.C.1.v., the BAR is required to periodically review the design guidelines and recommend to City Council any updates or revisions. (Guidelines developed by the BAR will become effective upon approval by City Council and thereafter will have the status of interpretive regulations.)

The goals for the BAR’s review and subsequent Council review of these guidelines are:

- To better align the guidelines with how the café spaces have evolved over time; and
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Allow time for City Council’s review and approval of the revised guidelines by mid-January, well ahead of March 1, 2025, when café leases are renewed.

Per City Code Chapter 28, Sec. 213, leased café spaces require an annual permit issued by the Zoning Administrator. For spaces within an ADC District, that permit requires a design review CoA for the elements within the leased space—furniture, planters, railings, etc. As currently applied, for elements that meet the guidelines the CoA can be issued administratively, with the option for a formal BAR review, if warranted. Additionally, while café permits [zoning] are reviewed and renewed annually, the CoA has been a one-time approval, with updates required only if elements change, a space has a new lease, or there is a change in ownership of the business operating the café. That practice will continue with the revised guidelines.

On September 17 and October 1, 2024, the BAR held advertised work sessions re: the guidelines for Outdoor Cafes. (The results of those discussions are summarized in the attached, which represents the proposed revisions to the guidelines.) Prior to reviewing the specific guidelines, the BAR developed a list of guiding principles (below) to help evaluate proposed revisions. The overarching principle is that elements within leased cafe spaces should be subordinate to the experience and treatment of the surrounding public space. This is of particular importance relative to the Downtown Mall, which is individually listed on the Virginia Landmarks Register and the National Register of Historic Places. [The Corner is also within a VLR/NRHP-listed historic district; however, the public sidewalk is not individually recognized as a historic, designed landscape.]

BAR’s Guiding Principles for Outdoor Cafes: [NRHP documents linked.]

- The Downtown for Mall is individually listed on the Virginia Landmarks Register (VLR) and the National Register of Historic Places (NRHP).
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The Corner is within the VLR/NRHP-listed Rugby Road-University Corner Historic District.

Mr. Zehmer – At last month’s meeting, we started a discussion on revising the Design Guidelines pertaining to the exterior café spaces primarily on the Downtown Mall. We also realized that it does include a few spaces on The Corner in The Corner District. It was a good conversation last month. We realized that we needed more time. We scheduled and held a work session on October 1st in the NDS Conference Room where we continued the conversation. We came up with this chart that summarizes the different elements of The Mall, café spaces, the current 2012 Guidelines, and goes into our draft revisions. We tried our best to try to keep in mind that we do not intend this to be overly onerous to the café owners. There are a lot of people that have invested money into what they have out there. This is not intended to be a huge financial burden. We want to make sure that The Mall is a nice space, has quality things. The leases are renewed on March 1st of every year. This would come into effect on March 1st. Especially pertinent to new lease holders, there are a lot of things that we are grandfathering in. The idea would be that over time, these design guidelines would be implemented across all café spaces as businesses come and go. All these recommended draft provisions were circulated and handed out to all the current café lease holders. They were made aware of these proposed provisions and presumably invited to come tonight. Before we invite the public to comment, I wanted to ask if anybody has any revisions or last-minute changes they would like to discuss.

Mr. Gastinger – I would like to add context to what you have already provided. This has been a conversation that has been ongoing for several years and was a major component of the conversation of the Downtown Mall Committee, which brought together stakeholders from different parts of the city. It included business owners, people who work on The Mall, citizens, and people who live here. It was an important and compelling conversation that got to this essential truth. We are stewards of a remarkable place; both as citizens of Charlottesville and here as a board. We have an incredible benefit of living near one of America's truly remarkable urban landscapes. It was the outcome of some foresight and commitments from the city to pay for the design and construction of this space. We have enjoyed this place through its nearly 50 years. It is remarkable in the way that it is a coming together of both public amenity and flourishing businesses. There are over 200 businesses on The Mall and side streets. We have probably been at our best when we know that the business and business activity bring that vitality to The Mall. We have been at our best when we are able to balance that business activity with the public nature of this space. It was a part of that conversation in the Downtown Mall Committee that through the years the spaces had begun to become overly privatized. They seemed to belong more to the restaurants themselves than participating in the overall intended design and public realm of the Downtown Mall. There was a lot of support for finding ways to peel that back and find a better balance between the individual business spaces and the public nature of The Mall. We have had an excellent conversation on that in this committee. We could not have had it without incredible contributions from staff doing the homework, specific research, and knowing every stanchion and planter on The Mall. I don't know that we had been able to thank you publicly for that work. I know that it has been an immense effort.

Mr. Zehmer – When I looked this spreadsheet, one thing that had fallen off from the previous versions was what Mr. Gastinger said is a statement of significance. As we were going through these, we came back to a few critical qualities. I quickly drafted something.

Mr. Werner – In the staff report, I tried to simplify what people would look at and what it is going to do. I tried to make this worksheet the 'nuts & bolts' where the guiding principles that you developed. How do we crystalize this a little sharper? They are in the staff report. With the motion, I would welcome any help rearranging it. I tried to capture it.

Mr. Zehmer – For the benefit of us and the public, could you read what you put in the staff report?

Mr. Werner – You had discussed some guiding principles, establishing them, and using that as the filter. You established that this is the lens through which we will look at things. What was realized when we talked on October 1st, was that we are talking about café spaces mostly on The Mall but also at The Corner. I broke out the guidelines to make it clear what was café spaces in general. The first principle is that The Downtown Mall is individually listed on the Virginia Landmarks Register and The National Register of Historic Places. The Corner is within the National Register listed Rugby Road University Corner Historic District. That is establishing that both are within districts. The Mall is individually listed. The brick-paved Mall and the sidewalks at The Corner are city-owned and important public spaces. Leased café spaces are not permanent. All elements should be portable and easily moved manually. Within a café space, the furniture, elements, and materials should be compatible. Materials must be durable high quality with preference for metal, no plastic. Prioritize pedestrian experience such that the size and placement of railing, furniture, planters, plantings, and other elements should not create visual barriers. For unleased café spaces or leased but not used for prolonged periods, all elements should be removed from the public right-of-way. Specific to The Mall, elements of the café spaces must respect the design intent of The Mall. I added that 'The Mall is Charlottesville's Living Room.' To maintain the sight lines on The Mall by minimizing visual obstructions within café spaces. The fountains should be accessible with clear space on all sides. Placement of café elements on The Mall should avoid and not cause damage to The Mall trees. Those were the principles as you had them. They would be incorporated into the text of the guideline edits. Internally, we had the discussion about grandfathered and non-

conforming. I said that I know there are legal terms for it. We know what it means. In that context, we will use it. When this goes to Council, I can sit down with the attorneys and ask how they would like me to refer to these.

COMMENTS FROM THE PUBLIC

Genevieve Keller – I was a member of the Downtown Mall Committee. We were overwhelmingly in favor of retaining the cafes even though they technically might be an intrusion into the Halperin Design Concept. We felt that they not only add to the economic vitality of the space and our city, but to the experience. They have, over time, achieved significance. None of us could imagine the Downtown Mall without the cafes. I would like to invoke an earlier era. I was a member of the original Downtown Board of Architectural Review. We were led for the 2 terms it stayed in existence. When the first cafes came to us, and we had to figure out what we were going to do with this. It needed to be a simple, elegant, and modern space that was consistent with the Halperin Design. We were always trying to take things away rather than adding things. I would ask that you strip these back to their essence so that they are economically viable. The food is what is showcased. If the owners want to decorate their tables, they should not be doing things to call it individual attention and competing with the overall unity of The Mall as it was designed and expanded over the years.

COMMENTS FROM THE BOARD

Mr. Schwarz – With the temporary decorations, are lights included as not permanent, temporary for holidays and special events?

Mr. Werner – Lights are lights. We would say what is under lights.

Mr. Schwarz – No holiday lights?

Mr. Werner – What is allowed by lights? If they are overhead lights, they would meet the catenary light policy.

Mr. Schwarz – Basically, no little string lights like Christmas Tree lights. Some of them do that.

Mr. Werner – The staff report and all this is primarily prepping for how to present this to Council. There is a lot in the staff report. We looked at different scenarios. The intent of these guidelines was to allow staff to work with the café operators. If somebody wants to do something else, they can request a BAR review. It goes to the discussion you had. We are addressing some things that have been done neatly. If somebody wants to do something that is not clear, they can ask the BAR. There is no way to write design guidelines that are specific. If somebody wants to debate the meaning, we bring it to the BAR. I want to be clear about that. There are going to be some whatabouts. If I am not comfortable, based on what I have in front of me, you can apply to the BAR for that.

Mr. Schwarz – They will have to come to the BAR if they want to put up holiday lights for a week or so.

Mr. Werner – According to this, yes.

Mr. Zehmer – If I remember from the discussion a couple of weeks ago, we talked about that. I think the sentiment was that if they wanted to do holiday decorations, it was more on the front of their business building rather than the café space. I just want to clarify for the public that we are not saying ‘no Christmas lights ever.’

Mr. Schwarz – It seems to me that cabinet means closed side. If it is under 3 feet, it seems like it could have doors.

Mr. Werner – The intent there was that The Mall not become a place where people are storing things. The tall closet at Hamilton's is staying. Somebody could ask where they put glasses and silverware. I said that I hope it is going inside and being washed. The intent was to allow some places where you have these cabinets but to not be producing, creating things.

Mr. Schwarz – The way I am reading this is that you will have a 3-foot-tall cabinet that has 3 sides that are closed, and the front is open. If that is what we are saying, I am good. I want to make sure that is what we are saying. It seems that you could put doors on that. It would not make any functional difference.

Mr. Werner – Not having doors means things are not stored there.

Mr. Schwarz – You have some specific dimensions for chairs and bar counters. Let's just set some maximums for the tables and be done with it.

Mr. Werner – What I was trying to get at there is that there are some general standards to chair heights. We are not going to get lifeguard chairs. There must be some reasonableness to this. I am not going to say that those chairs are 15.5 inches and not allow them. If somebody comes in and wants to use these 5-foot chairs and must climb, that is not a standard chair. If you wish, we can eliminate dimensions.

Mr. Schwarz – These are things that I am throwing out there.

Mr. Werner – I agree with you about cabinets. If you don't want cabinets, don't allow cabinets. I always thought of something that is low.

Mr. Birle – We say no closed storage.

Ms. Lewis – I think that is what we discussed.

Mr. Gastinger – They can bring something out for use while they are open.

Mr. Schwarz – That is what I am confused about. When I see this and it says, your cabinets cannot have doors. Could you bring something out during the day and take back in that does have doors?

Mr. Werner – A lot of people are doing that.

Mr. Schwarz – I was confused as whether that is allowed.

Ms. Lewis – If you do it, it cannot be over 36 inches.

Mr. Werner – I was not thinking of those being an issue. This is where some pictures are going to have to assist some of this.

Mr. Bailey – Isn't the point that they simply not be permanent? Why would we care about the doors if they are going indoors every night?

Mr. Werner – If they want to bring it in, I would rather it be black, and they roll it in and out.

Mr. Schwarz – To me, it is unclear if that is Ok or not.

Mr. Bailey – I would get rid of no doors or closed storage and say, ‘no permanent enclosed storage cabinets.’ That takes care of the issue.

Mr. Werner – What I have heard is to eliminate the dimensions. Anything referring to standard heights is fine.

Mr. Birle – I am fine with dimensions because you get what is standard.

Mr. Schwarz – What if somebody does a bar at 36 inches. I think that is what at SAL’s.

Mr. Werner – We cannot eliminate things. I don’t want panels under there. I did have a question about the planter heights.

Ms. Lewis – I thought we had agreed to completely get rid of tablecloths. I thought that we felt the same thing about seat cushions. I feel less strident about that. I don’t think there is any restaurant on The Downtown Mall that has tablecloths. I don’t know why we are legislating something. It was never enforced because there are no tablecloths. I don’t even know if there are many plastic tablecloths. I don’t know why this is still in here. We would rather legislate the perimeters and maintain the view and the landscape down The Mall. What happens on tables, if it is taken up at night, is less of our concern. Each of them is going to have different standards, aesthetics, and matching their food and prices. Most seat cushions outside are not going to be cloth. They are going to be a plastic material. I want to know how that has stayed in there.

Mr. Werner – That was the final comment you said. You said that cloth is preferred. In some ways, it is an irrelevant line in this whole thing. If you do it, make it cloth.

Ms. Lewis – Can we get rid of that entire row?

Mr. Zehmer – The current guidelines allow them and that they are cloth. Do we allow tablecloths? Are you suggesting that we should not allow tablecloths?

Mr. Gastinger – The most important part is that they are removed at night.

Ms. Lewis – I don’t think anybody would leave them there.

Mr. Werner – I am not going to strike it. I want Council to see that there was a provision. There is nothing there now. Yes, they are allowed. There are no requirements associated with them. Having cloth is preferred in there is not me telling someone to take it down. If somebody asked, I would say that our preference is for cloth. If somebody asked me what to do with seat cushions or tablecloths, I would have to respond with ‘whatever you want to do.’

Ms. Lewis – That is fine. I don’t know why it cannot be deleted.

Mr. Zehmer – We are trying to show Council the current guidelines.

Ms. Lewis – We are not giving Council a redline version. What I am saying is that everything should be blank.

Mr. Werner – I am uncertain on how to package it for them. I will make it clear to Council that the current guidelines address tablecloths and seat cushions.

Mr. Birle – If it is in the current guidelines, we must show what we are doing.

Mr. Bailey – How about ne preference on materials?

Mr. Werner – I crossed out ‘cloth is preferred’ and ‘compatible with other elements.’

Mr. Rosenthal – Has Council or any councilor had any input about any of this?

Mr. Werner – I have not talked to any of them. I don’t think that this is on their radar.

Ms. Lewis – We only started last month at our last meeting. We had a work session.

Mr. Gastinger – We did have extensive conversations as part of The Downtown Mall Committee. There were councilors on that committee.

Mr. Rosenthal – Did they have a perspective?

Mr. Gastinger – There was great enthusiasm for peeling back the privatization of the public space on The Mall.

Mr. Werner – They are aware that the current spaces, as laid out, interfere with at least 2 of the fountains. They are aware that the reason some of the trees are injured on The Mall is because of propane heaters that people put against the trees. They are aware of some circumstances. With the bigger picture of The Mall, they will have to evaluate some things. It is not on their radar with regards to the kinds of lights or the kinds of tables and chairs. We are required to review this. We have a lot more that we are going to be reviewing over the next year. That is part of your charge from Council in the ordinance to periodically review the Design Guidelines and recommend updates. Working with my coworkers in zoning, it seemed that we needed to tackle some things on The Mall. I elevated it in importance. That is why it is here now.

Mr. Schwarz – We need to answer your question on the planters.

Mr. Werner – I am thinking in context of the size of them. One of the key issues/principles are that they can be moved. If the city needs to fix a water pipe, we don’t need to bring in a forklift to move things. These are easily moved. Thirty inches is wide planter. It becomes a heavy pot. I did not know if you maybe thought 24 inches was more appropriate.

Mr. Zehmer – You using the word ‘manually’ is important because it suggests that it needs to be moved by one or two people but not with a forklift or pallet jack.

Mr. Rosenthal – You said that you gave this out to the current café owners.

Mr. Werner – All café operators were notified that this was going on. We gave the webpage where all this would be linked. I invited them to attend. I invited them to contact me if they had any questions.

Mr. Rosenthal – Nobody contacted you.

Mr. Bailey – That suggests these are reasonable requirements.

Mr. Werner – We are not changing the rails, the furniture, and not letting someone put artificial plants on the railing. Tell me how that is critical to the operation of a business. These are extremely reasonable. There are a couple questions I want to ask you if you continue your discussion.

Mr. Bailey – With the planters, are there planters that are 30 inches in width and diameter currently there?

Mr. Zehmer – There are some locations where they are using ‘horse watering troughs’ as planters.

Mr. Bailey – I am wondering if there are any other besides the troughs.

Mr. Gastinger – There definitely are. Some of them would not be allowable for other provisions in here. They are either outside of the current space or are too tall. I have my own opinion about planters on The Mall. If we are going to allow them and they can be of that size, I think 30 inches is fine.

Mr. Rosenthal – Will no planters be allowed outside of the café spaces?

Mr. Werner – They are not currently allowed outside of the enclosure.

Mr. Rosenthal – They are currently outside.

Mr. Werner – That does conflict with the current zoning ordinance. Your guidelines aren’t relevant there. Looking at the list of things that would not be continued, I did note the half-barrel planters. I also would like to add to this, not grandfathered, any large planters that do not meet the guidelines.

Mr. Zehmer – What I am hearing is that planters should be a maximum of 30 inches in width or diameter. We are not going to grandfather anything in that is larger than that.

Mr. Rosenthal – What about height?

Mr. Werner – The height is 36 inches. I have the plant height in the next line. There are some planters on podiums and bases. It is the top of that planter. You can’t put in a 36-inch planter on top of a table. I had proposed that plant heights are not 4-feet, 6-inches above The Mall floor so as not to create a hedge. Where you came down on that is preferably not taller than 5 feet. They cannot create the image of a hedge. You referred to some of the taller plants that are not solid. I think that is still going to be a problem. At the minimum, they are doing it inside their space and not creeping out 4 feet into The Mall with planters.

Mr. Zehmer – We can always fall back on our guiding principle of not creating visual barriers.

Mr. Werner – If someone says that they don’t think it is a visual barrier, you are the referee.

Mr. Zehmer – We need to keep in mind that these are guidelines. They are not regulations or law.

Mr. Gastinger – I want to add something because it comes up relative to the lighting. Part of this is retaining the design integrity of The Mall design. Part of it is allowing the city to still have a voice in setting some of the aesthetic consistency along The Mall. With planting, the city has planters that are much bigger than that. They are part of a consistent design. The trees are incorporated in that. The same goes for lighting. You could argue that the city could do a better more interesting holiday lighting approach. That could be something that the city could design rather than having it be coopted by multiple individual design efforts that end up making things chaotic.

Mr. Werner – If it helps, the staff report was my first draft of what will have to go to Council. I laid out in order what the ordinance says. Chapter 28 talks about the café spaces and sidewalks and the rules by that ordinance. The Board of Architectural Review, because of a leased café space within an ADC district, the design elements of that space fall under your purview. We have the city's Comprehensive Plan. Three of the goals in the Comp Plan refer to The Downtown Mall. From Strategy 6.1, 'study how The Downtown Mall can be more welcoming and inclusive for people of all social, cultural, racial, ethnic, and economic backgrounds and act on the findings. They say to support and maintain The Downtown Mall, as not only the economic and cultural hub of the city, but as a historic central place that encourages diversity through activities, residences, goods, and services. The Comprehensive Plan recognizes the importance of that public space. I next went to the Secretary Standards for the Treatment of historic properties as it relates to rehabilitation, not changing or recreating a historic district and some precise language in there about retaining, preserving landscape features that are important in defining the overall historic character of the setting. I finally inserted some comments from the National Register Nomination. I included a statement of integrity and a statement of significance about them. I understand that there are the commercial interests of what these guidelines may or may not do. Your charge, as the BAR, is evaluating how this impacts this historic space in what we have discussed here. Your principles are anchored in the Comprehensive Plan and Secretary's Standards. They respect the significance of The Downtown Mall. I think you have achieved that. I will also have to express that to Council. I am hoping that one of you will be available to go with me. If we want to view this as what we can let the restaurants do, turn this over and not recommend anything. Your charge is looking at this through the lens of this being a historic landscape. It has been individually listed and recognized. I think you have struck that balance.

Per city code (Chapter 34, Section 5.1.5.c.1), the BAR will develop and recommend to City Council for its approval design guidelines for the city's ADC districts. The BAR must develop the 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. We circulated this. I cannot make them offer comment. We are also going to contact them when this goes on Council's agenda.

Mr. Timmerman – There is other documentation that goes through their certificate of occupancy regarding where they are allowed to put their fencing and being more specific about how that is controlled.

Mr. Werner – I had contemplated something in here. There is no mark on the sidewalk out there where The Corner starts. What Ms. Richardson and I are going to do, in preparing the individual document for each space, is to clearly show the dimensions of that space. Some could lease the space but their railing in 5 feet and put planters out there. I would defer that to the zoning staff. They would view it as their enclosure and things should occur within the enclosure. What we are seeing right now is people putting things beyond the leased space. We have talked about possibly geo-referencing. There are ways to do it. Our job is to say what you put in that leased space.

Bizou has its unique furniture and Fitzroy has that composite material. I specifically cited them as those stay. If they need to replace a chair, they can replace it in kind. Where things on The Mall change is when someone sells the business. As I would apply this, if someone bought Bizou, if they want to keep that furniture, it would have to come in. When those changes occur and there is a new lease agreement, they are complying.

Mr. Zehmer – When these guidelines are implemented, there is a new lease granted.

Mr. Bailey – The new occupant may want to keep the old furniture. We could decide.

Mr. Zehmer – For me, the cafes can enhance the experience of The Downtown Mall. It should not detract from the setting of The Downtown Mall.

Motion – Mr. Gastinger – I move to recommend City Council approve the proposed changes and updates to the Architectural Design Control District Design Guidelines regarding Outdoor Cafes, including the guidelines for Catenary Lights and the Guiding Principles for Outdoor Cafes. I further move to recommend that Council concur with the BAR’s recommendations regarding grandfathered and/or nonconforming elements of existing cafes, with the following changes to the chart:

- 1. That the tablecloths and seat cushions revision remove “cloth is preferred” and “compatible with other elements of the café”.**
- 2. Under the planters section we will keep them as a maximum of 30” wide and 36” in height, and that oversized planters are not grandfathered. Second by Mr. Birle. Motion passes 8-0.**

- There was discussion regarding the hiring of a consultant to update the Design Guidelines.
- There is funding available for hiring a consultant to update and address the Design Guidelines and Entrance Corridor Design Guidelines.
- Ms. Keller did specify that a consultant be a historic resource consultant when updating the Design Guidelines.

Adjournment

The meeting was adjourned at 7:58 PM.