

BAR MINUTES
CITY OF CHARLOTTESVILLE
BOARD OF ARCHITECTURAL REVIEW
Regular Meeting
September 19, 2023 – 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 (BAR). Due to the current public health emergency, this meeting is being held online via Zoom and in person at City Space. The meeting process will be as follows: For each item, staff will make a brief presentation followed by the applicant's presentation, after which members of the public will be allowed to speak. Speakers shall identify themselves and give their current address. Members of the public will have, for each case, up to three minutes to speak. Public comments should be limited to the BAR's jurisdiction; that is, regarding the exterior design of the building and site. Following the BAR's discussion, and before the vote, the applicant shall be allowed up to three minutes to respond, for the purpose of clarification. Thank you for participating.

Members Present: Breck Gastinger, Cheri Lewis, James Zehmer, Tyler Whitney, Roger Birle, David Timmerman

Staff Present: Jeff Werner, Mollie Murphy, Remy Trail

Pre-Meeting:

Mr. Birle discussed a conflict of interest with the Albemarle County Courthouse Project.

Mr. Gastinger asked to see how members of the Board felt about the zoning conversation and wanted to add to agenda. There was an email circulated by the neighborhood associations. Preservation Piedmont has been doing a very detailed review of the proposed zoning ordinance.

Staff reported that the BAR will continue to meet in the City Space Conference Room going into the future.

Staff and the BAR went over the items on the Agenda and Consent Agenda. With 104 Stadium Road, the BAR is going to voting to either recommend removal of the IPP designation or denial of the IPP designation to City Council. The recommendations will work its way through the Planning Commission. There are a series of things that must be approved. If the IPP designation is removed, it will not come in front of the BAR again. If the IPP designation is not removed, the entire project is subject to BAR review.

The meeting was called to order at 5:30 PM.

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 – August 15, 2023

Motion to approve Consent Agenda for August minutes by Ms. Lewis. Zehmer second. Vote 6-0, motion passed.

C. Deferred Items

2. Certificate of Appropriateness Application

BAR 23-08-01

410 East High Street, TMP 530033000

North Downtown ADC District

Owner: City Of Charlottesville & County Of Albemarle

Applicant: Eric Amtmann, DGP Architects [on behalf of Albemarle County]

Project: Albemarle County Courthouse, alterations to court entry

Roger Birle – As one of the principals of DGP Architects, I need to recuse myself from discussion of this item.

Jeff Werner, Staff Report – CoA request for: (briefly summarized in the Appendix.)

- At the north elevation, facing High Street, alterations to the sallyport (constructed in 2006) and construction of an enclosed hyphen linking the historic courthouse and 1939 office building.
- At the south portico of the 1939 office building install glazed panels at the five (5) arched openings and construct elevated entry plaza with an ADA accessible ramp.

Eric Amtmann, Applicant – Thank you for the email dialogue over the last 6 weeks fielding a bunch of questions that will hopefully streamline our conversation tonight. I wanted to thank staff for including the 1997 paint analysis that had been done and the BAR had approved. We are planning a full corner to corner repainting. We will use those colors. There are 5 building campaigns, each of different historic value: 1803, 1859, 1865, 1938, and 1983. The sallyport is the same vintage of 1983. It might be a few years later. Each of those periods have different historic value. They are not all the same. We're leaning on the first 3 building campaigns of what is today the County Circuit Court as being the period of significance or the most significant historic period that we're looking for to preserve as much as we can. With the windows, with respect to those building campaigns, the circuit court, which is the 1803, 1859, and 1865 eras, we are keeping and restoring those double-hung windows. The sashes might have to come out and go to the shop. We will be using interior storm windows. Some are URL level 3 bullet resistant. Those are the ones where you have a line of sight from the exterior to the historic circuit courtroom. Other windows will be thermal interior windows. We did look at using a similar system in the other portions, specifically 1938. The performance of those windows is not equal to new clad, double-hung sashes; thus, our intent for 38 is the same thing that we're doing on the Levy Building, which is retaining frames, exterior casings, and wood subsills in place and restoring and discarding sashes and putting in new aluminum clad with the same button patterns for sashed that have insulated glazing rather than using interior storms. Over time, interior storms, if you go into the 1938 building now, which has interior storm windows from the late 20th century, half are missing, quarter of them are broken, a quarter of them don't operate. They're not nearly as effective. Our overall approach to restoration, rehabilitation, renovation is that those are 3 different levels of balance between priority of historic fabric and modern concerns being sustainability, maintenance, upfront cost. There is no single answer to a restoration, rehabilitation, and renovation project. The answer must fit a constellation of priorities. That's a case example. The different treatment of the windows reflects that level of prioritization.

QUESTIONS FROM THE PUBLIC

No Questions from the Public

QUESTIONS FROM THE BOARD

Mr. Gastinger – Some of the drawings didn't have a key on them. There are a variety of different hatches. On one of them, there are several the chimneys that are hatched. Is there work going on in the chimneys?

Mr. Amtmann – Those are different levels of the masonry work. We're repointing in areas where mortar has failed. We are not cutting out any Portland cement mortar. That can do just as much damage if it has been this long and it hasn't damaged the brick, we're going to leave it alone. Where mortar has failed, we will cut it out and replace it with lime mortar. That's one hatch pattern that you may have seen. Another is brick replacement, where the salmons that are usually softer if they have degraded, they will be removed, cut out, and matching brick put back in. There are also areas, particularly down in the lower level of the 1938 building, where you have those area ways, which are at the High Street grade level, which are below grade in this view that you're seeing. Those area ways have had clogged drains for a while and standing water. You have a combination of rising, damp, efflorescence, and algae. There is cleaning another hatch pattern that is shown. Those are all masonry restoration notes. That's the intent.

Mr. Timmerman – I have a question about the addition, the covers of the windows. I am just curious what the uses of those windows are.

Mr. Werner – That is the elevation of the east wall of the 1938 building.

Mr. Amtmann – In this plan here, the area is stippled in red.

Mr. Timmerman – I was curious what the effect of that new corridor is on those currently exterior windows. It is a couple of meeting rooms.

Mr. Amtmann – Those windows are scheduled to be removed and the openings infilled.

Mr. Timmerman – I had another question about the front elevation where you are infilling the portico with windows and a door. Is that to create a vestibule?

Mr. Amtmann – It is a weather vestibule. Right now, there are two deficiencies. That is the current District Court. It is going to be the new entrance to two circuit courts. The use is changing to the 1938 arcade portico. Currently, there is no queuing space. You come in and the security/magnetometer is at the front door. If there is a line, you're literally outside.

Ms. Lewis – That is not correct. The security is only at the courtroom, which is about 10 feet in.

Mr. Amtmann – In the revised plan, were we to not have a weather lock, the magnetometer will not be where it is currently. To accommodate that queuing space in an interior space, that is the reason for enclosing it. There is no weather lock. There is a single door.

Ms. Lewis – It is currently a wasted space. Unless it is raining, people are not there. People are smoking there. It is a smart move. Not that the conditions will be the same, but because you're rearranging that interior space. I have seen litigants and parties lined up and down that hallway, snaking that hallway previously and out the door. There is no room when you get in there. Even to get halfway up the hallway to the elevator for someone who needs to go upstairs, he doesn't even want to be part of the functions on that floor is impossible. It is a good move.

Mr. Amtmann – The other exterior improvement is the current ramp addition, which was done as part of the 1983 hyphen. It leads to two doors, which aren't public. They go to secure doors, which does provide equal access for someone with a mobility disability. You must ask for special permission to get in. You don't have the same experience. That is the other reason for enclosing that and doing the ramp to the arcade.

Mr. Timmerman – Can you speak more about the exterior stairs and how that gets changed with the new door/windows on the south?

Mr. Amtmann – I think that they are limestone. Those monolithic blocks that are the current treads will remain in place. That floor is being raised 6 or so inches. You can see in that picture where the center arches are. There is another threshold further back at the door. The masonry floor level of the arcade is still about 6 inches below the floor level of the interior. The arcade floor level is being raised up so the ramp that occurs on the exterior can get you all the way up to the interior floor level. Those steps will remain and be encapsulated in the new construction.

Mr. Timmerman – If you were to go into that main front door, you're stepping up. How much of a landing do you have?

Mr. Amtmann – Currently, the door swings over the level change.

Mr. Zehmer – The existing steps that are currently at the face of the loggia aren't shown here. The new plaza will raise up and be at the same elevation of the raised loggia floor?

Mr. Amtmann – Of the interior floor, it is 6 inches higher than the current arcade floor.

Mr. Zehmer – The plaza will be that same elevation. The limestone steps are getting encapsulated under all that.

Mr. Amtmann – That's correct.

Mr. Zehmer – Looking at this floor plan, it looks like you are closing the front door and changing the 2 side windows into doors.

Mr. Amtmann – That's correct. As you go in the west door, which is the one on the left, is the indoor. You can see the queuing space, which is where we will have the barrier set up so people can line up. The overflow queuing space can be in the weather lock. We know, based on the occupant load and the expected caseloads, that interior queuing space does not accommodate everybody that will always be in line. The out-door is the east door on the right. That door is locked from the exterior.

Mr. Zehmer – Was that change of that fenestration called out anywhere else? Were there details related to that in the packet?

Mr. Amtmann – No. They will be the same as the arcade windows.

Mr. Zehmer – I am concerned about the change of fenestrations.

Mr. Whitney – Can we discuss the High Street elevation? The replacement wall with the garage door is in a similar location. That wall is not moving out towards High Street?

Mr. Amtmann – It is moving back. Right now, it is essentially flush with the 1938 construction at the northeast corner. The brick is almost too thin. It is a flat wall. It is going to move back around 16 to 18 inches so that the cornice of that one-story addition above the first floor will be received into the 1938 brick. It is moving back so that there is a step, which will better acknowledge the different periods of building campaign.

COMMENTS FROM THE PUBLIC

No Comments from the Public

COMMENTS FROM THE BOARD

Mr. Zehmer – I will start with arcaded loggia. My preference would be to leave it open. I understand that there are weather concerns. The arcaded loggia of Virginia courthouses are a signature of what makes Virginia architecture Virginia architecture. Of the 95 county courthouses in the Commonwealth, roughly 60 have neo-classical porticos. About 19 have open arcaded loggias. About 15 are ‘other.’ Our oldest courthouse here has a portico. This 1938 addition had these arcaded loggia to harken back to the colonial period courthouses in Virginia. I feel strongly that we should not have divided light windows there. If we must enclose it, I would encourage us to do a single-pane type glass recessed to the back edge of the brick if possible. From the street and the exterior, it still reads as a void. I know that you’re matching up with that 1983 hyphen and it is adjacent to it. I feel that it is honorific to the past and the future if we leave that reading as voids. I would point that with the Caroline County Courthouse, they built a new annex. I think that it is successful in the way that it provides weather shelter but still has that solid void pattern. I would encourage you to do that. In terms of the change in fenestration from the front door and changing those two windows to doors, we need to see some details on that because they weren’t included in the packet. I am not necessarily opposed to it because I understand that functionally it is very important for the courthouse to work right, especially for entrance and exit. I don’t know if we can approve it without seeing details.

Mr. Timmerman – That is an interesting comment about the Virginia architecture and solid void. What was the influence for how you created that fenestration? Was it the 1983?

Mr. Amtmann – It was but this is a good suggestion. I will say that it is already being considered and not difficult to achieve.

Mr. Timmerman – One thing that I would like to see is 3Ds of the sallyport. When walking down the street, I always appreciated the stark contrast between the two buildings. You mostly see that behind that sallyport, which was a bit of an eyesore and getting in the way of appreciating those two buildings. I wish we could do something about that or maybe that screen. That was a 1983 version, the porous brick screen. I am concerned. I need to see it. I am looking at it in elevation. I would love to see the massing of that enclosed volume in the back.

Mr. Amtmann – It shows on the east elevation. It shows that relationship.

Mr. Timmerman – I think that it is the flatness of that wall and being able to appreciate that building as one entity. You have the connector. You have another mass that is being added in there that is creating a bit more ambiguity. It would be interesting to see the 3D massing of how all those things come together. There is a lot going on there. My concern would be that is adding another mass that jumbles things up. You are going to close those windows off. I know that there are weather issue considerations. I wonder if there is any possibility of taking that volume and making it less of a volume and more of other loggia or an open corridor that will allow for those windows to remain or allow some natural daylight to go into those

rooms. A porch-like structure would allow you to discern the old from the new and understand that distinction. That tool of looking at it from 3D would help understand that better.

Ms. Lewis – On page 48, that was the floorplan. I am looking at the weather vestibule. You have a handicapped ramp, but you don't have a door. Is that an oversight that you don't have a door drawn on the east side of that weather lock?

Mr. Amtmann – That is an intermediate landing. You're still rising to the plaza level.

Ms. Lewis – You still must come around to the front. There is a singular door into the vestibule.

Mr. Amtmann – That's correct. It is the same experience if you walk up the stairs. It is the same door everyone uses, which is what you are supposed to do.

Ms. Lewis – You're filling in. You have glass infill on that side.

Mr. Zehmer – The purpose for the ADA is to experientially have the same experience. Did you think about of encapsulating those original limestone steps; just moving them out to be the new steps?

Mr. Amtmann – We could. The quantity isn't sufficient. There were more steps in the new construction than there are currently.

Mr. Zehmer – In theory, it is great. We encapsulate that they are there in case this gets reversed. The likelihood of that is unlikely or very far into the future.

Mr. Gastinger – This project is trying to tackle so many things that is tricky. It seems like this is going to bring a lot of excellent new functionality to this building. With the exterior renovations, it is going to give this some new life. I applaud the change in the trim color. Most probably won't notice that a whole lot has changed with the exterior appearance. It is going to work a lot better. That's a tricky thing to pull off. I am supportive of the project.

Mr. Werner – I know that we don't look at the interior space. From my experience and work with the county and the city, there was this discussion of how we use the space. There is a lot of programmatic things driving what is going on in these buildings. There is a lot pushing and pulling and moving things. It is linked to what is going on behind the Levy Building. All of this is accommodating those changes that are happening or coming with the court system. It has been a three-dimensional puzzle. They have been grappling with it for a long time. It is nice to see it coming fruition.

Mr. Amtmann – The number one issue is safety and security. You have judges walking through public lobbies, juries mixing with the public, which is not Ok. That is the reason for that corridor that nobody loves. It is two corridors because there is public, staff, and judge. That is the reasoning.

Mr. Timmerman – I left that open. I realized that was secure. I left that open-ended with the question of: Were there other alternates explored?

Ms. Lewis – There are no juries in this annex.

Mr. Amtmann – These are two circuit courts.

Ms. Lewis – They will be. Currently, in that hallway, there are no jurors because it is a general district court, and they don't have juries. The judges do come from another way. They're not in that hallway.

Mr. Amtmann – The new program is two circuit courts with juries. To repurpose the building as a circuit court, we must provide a separate circulation.

Ms. Lewis – Where is the security checkpoint?

Mr. Amtmann – At the west door. You go through the queue, which is the last thing before you're in the public lobby room. There is also the primary security station, which is also behind the center opening.

Ms. Lewis – I favor this provided that the vestibule is not used as a security area. This is an important place where peoples' futures are determined even if short of a criminal trial.

Mr. Amtmann – Right now, they hang out in the plaza in front of the Circuit Court outside.

Ms. Lewis – If I am meeting a client, I don't want to be having that meeting inside of the building. There are confidential things that I may have to tell my client, or my client wants to tell me at the last minute. This is still going to be a crowded hallway. The adverse party could be next to you, and you don't know who they are. You don't want those conversations to be occurring inside the building. On a rainy day, families need a place to gather as they walk in. Litigants, their counsel, and other people need a place to meet the people that they are going to be working with inside. Attorneys need a place before they go through the gauntlet. I want to make sure that the vestibule is not taken over as an additional security gauntlet.

Mr. Amtmann – There are an appropriate number of attorney-client conference rooms that are new on the interior as well.

Ms. Lewis – All the current ones are always locked for security reasons, which is good. You must go to the Clerk's office to get a key to open them up. I can't just go in there for 5 minutes. The way that the clerk's office is currently set up, it is the other end of the building. It is not convenient. They're never open for good reasons. You do want a weather-proof space. Enclosing that space works where people can meet up. Mr. Zehmer's suggestion, instead of having fenestration on those voids on the loggia, just to have clear glass is even better. I can see my client is standing right inside waiting for me. Those meetups are very important. We're creating more courtrooms, which is great and much needed for the circuit court. We currently have two and one is the tiny one but insufficient. We're still not solving our parking problem for this courthouse. People are parking at Market Street.

Mr. Gastinger – Many of those interior uses are tied to exterior. We are tasked with reviewing the project that has been put forward.

Ms. Lewis – I am talking about the exterior space: the front plaza or the vestibule. You need a place where people gather before they enter the courthouse. I have expressed the reasons why you don't want to be in the courthouse doing your business. You want to be quiet and walk into the courtroom. I am not saying that we're solving the parking problem downtown. People are coming from different directions. There is not a parking garage next door.

Mr. Timmerman – With that new addition on the back, are those new windows along there?

Mr. Amtmann – Yes. One of the comments that we reviewed in the last 6 weeks that came through the email was reuse of removed 1938 windows, which was taken out of this resubmittal. Based on the philosophy that I explained earlier for sash replacements in 1938 windows, it doesn't make sense to try to reuse things that are coming out of 1938 construction in modern construction. By default, we replace the sashes anyway. We would be moving 1938 frames and sills and putting sashes in them, which doesn't make sense. All new, all clad windows for the new openings, which will differentiate new construction from historic.

Mr. Timmerman – What is that addition above the sallyport going to look like? Are you going to try to match the brick? Are you going to try to do something complementary?

Mr. Amtmann – It will match the 1983 brick, which is not historic. It is not the period of significance that we are referring to.

Mr. Timmerman – I will reiterate Mr. Gastinger's comments and commend you on the project. It is tricky with a lot of moving parts. I appreciate the ethos of a clear distinction between the different eras and the attention to preservation.

Mr. Whitney – I have a comment about the sallyport addition. It is a very prominent view that people drive by right there on High Street. The current gate might not be beautiful. It does allow airiness. It doesn't take away from the prominent building that is right there on High Street. Including that will be very prominent. I was relieved to see that the dark bronze finish on the door is much better than it being a bright silver metal. It will be different there on High Street. I appreciate that the door is receding a little bit in the color choice rather than making it prominent.

Mr. Timmerman – Is there any thought about doing anything with the wall around the mechanical equipment, revising it in any way?

Mr. Amtmann – We're going to leave it alone. It must allow airflow. The open brick pattern was intentional. Similar equipment is going back, which is quite large equipment. It is just 3 feet of space. It needs to be air porous.

Mr. Zehmer – I know you're putting some traditional Scone lights. Do you have a basis of design for those?

Mr. Amtmann – We don't yet. We could provide that for an administrative review if you would like, along with any changes to arcade fenestration muttons.

Ms. Lewis – On the east side addition, are there jack arches currently on the second story windows on that 1938?

Mr. Amtmann – I think so. The measured drawings are the most accurate.

Ms. Lewis – I know that you're putting them in. I just wondered if they're on the existing today.

Mr. Zehmer – I am curious about the changes in the entrance fenestration. I would like to see details on that. I don't know how we move forward with that. I could approve some of the new corridor and the sallyport. I could get behind approving that. With the entrance to the 1938 building, I would like to see details on the changing the center door to a window and changing the windows to doors. We should see details on that. It sounds like the applicant is amenable to my suggestion of a solid glazed enclosure for the

loggia. We should still see the details on that. If we're going to ask for details, go ahead and throw those in the mix.

Mr. Amtmann – Mr. Werner, can you still do approvals contingent upon a final administrative review of details. I don't remember if that is still allowed.

Mr. Werner – It came down to an approval of a CoA. This is an unusual one given the nature of the entire facility and how we're working on this. The City and County don't pay a fee for an application. There are two ways to do it. If there is something that you all would like to specifically see, you can express that and have it submitted for the BAR record. I am not concerned about the lighting fixtures. We don't get it that often. I don't imagine that it is going to be something strange. It is a detail that you can articulate and want to see as staff review. You can say it that way. If you want to peel something out of this, approve the rest and the other thing comes in as another CoA at the next meeting. That's fine. In the new ordinance, I am trying to work towards how you all can instruct me to review things. That is the simplest path. Give clear instruction or pull that piece out and ask it.

Mr. Amtmann – For example, on the east court site, that CoA was approved with a final presentation, which is still pending of sample panels for brick and color palette. That is what I am proposing.

Mr. Werner – As long as it is not a CoA on massing like we used to do. The litmus test for me is whether you're approving something that they can get a building permit with. If you peel it out or add it up, that is fine with me.

Mr. Gastinger – It seems to me that this would be the cleanest, in this case, to peel it out and request the detail for the portico as a separate CoA. Given that 95 percent of the rest of the project is fine, we move forward with that piece.

Mr. Werner – Specifically, this is the glazing and the 5 openings on the south.

Mr. Zehmer – Most importantly is the fact that you're changing the original buildings fenestration. The main door that you come into the building right now, they are proposing to change that door to window. The two flanking windows are being proposed to be changed to doors. That's a major change. We all recognize that the proposed new functionality of the building justifies that change. We need to see the details on that to do our job correctly. The entrance of the loggia and into the building needs to be submitted as a new CoA. The other proposed changes are acceptable to include the new sallyport, the secure corridor addition, and the new entry plaza in front of the 1938 building is acceptable.

Motion to Approve – Motion to approve CoA by Mr. Zehmer. Timmerman second. Vote 5-0. Birle abstains. Motion passed 5-0.

Having considered the standards set forth within the City Code, including the ADC District Design Guidelines, I move the proposed alterations to the Albemarle County Court House satisfy the BAR's criteria and are compatible with the North Downtown ADC District, and that the BAR approves the application as submitted with the following modifications:

- 1. Alterations to the south entrance loggia and fenestration of the 1938 court building be submitted as a separate CoA. [Specifically, the five arched openings at the brick portico and the existing two windows and entry door that will be altered for the weather vestibule. (See plan on drawing labeled First Floor – West Site.)]**
- 2. [For new exterior lighting] lamping will be dimmable, have a Color Temperature (CCT) not exceeding 3,000K, and a Color Rendering Index (CRI) not less than 80, preferably not less than 90.**
- 3. [White window/trim] paint color to be similar to color approved by BAR in 1997.**

D. New Items

3. Recommendation for Rezoning Application

BAR 23-09-01

104 Stadium Road, TMP 160002000

Individually Protected Property

Owner: Woodrow Too, LLC

Applicant: Subtext Acquisitions, LLC

Project: Rezoning Application

Jeff Werner, Staff Report – Note: There is no formal BAR application or submittal for a ZMA/ZTA request. To review the City’s historical survey and additional documentation provide by the applicant, see the February 15, 2023 submittal and staff report. Applicant has requested City Council approve a ZMA/ZTA that would remove the IPP designation of 104 Stadium Road (TMP 160002000). In reviewing such a request, City Code requires that Council consider the recommendation of the BAR, with that recommendation based on the criteria found in City Code Section 34-274. (See the Discussion below.)

Mr. Whitney – I am reading the City Council resolution. The piece about thoroughly documenting the existing building has been included in the resolution. Is there any reason that we would need to include it in our recommendation tonight?

Mr. Werner – I felt like it was an opportunity to request that documentation now and not have it be contingent on something that might happen to get that done. That’s the reason I make the recommendation.

COMMENTS FROM THE BOARD

Mr. Gastinger – This is not a formal CoA proposal. It is open to conversation amongst the Board. A concern of mine is that we see projects fall through frequently. It does happen in this town. There is a lot of detritus still standing from unfinished projects. I want to make sure that, in this process, I would like to encourage City Council to consider mechanisms to continue to protect this property for whatever reason the proposed development stops at any point in time prior to demolition. I don’t see the reason to have this property protected if the house is knocked down.

Mr. Whitney – I would agree with that sentiment. It seems that the logic of making it an IPP in the first place. It was related to the structure that was there. If the structure is gone, I don’t see a reason why the IPP would remain. It seems contingent on the house that there is no reason why we should recommend the removal of the IPP at this stage until that house goes away.

Mr. Birle – I agree. This house is a chance. Even if this development falls through, if the IPP is gone, you have no protection for this house at all. Anyone can tear it down.

Mr. Zehmer – Let’s say this development did fall apart and another one came in. They would have to go through the CoA process for demolition again? It is a different applicant.

Mr. Werner – If the IPP remains is in place, procedurally, removing or adding the historic designation is a formal process. With the map amendment and zoning text amendment, you all make a recommendation. Planning Commission makes a recommendation and Council considers it. Mr. Gastinger said it best with

“consider a mechanism” to protect this. The question for clarification might be protection in terms of a mechanism to retain the IPP should this project fall through. My point about saying that the process for a zoning map amendment and zoning text amendment is not something that the clerk will decide on or that we can check off. It must happen. Council makes a decision. I don’t know if they can say that they’re going to make this but contingent upon what might happen in the next couple of years. A legislative decision like that would have to be made. There can be conditions to that. I think that I can explore a mechanism. That request to Council makes sense.

Mr. Gastinger – Could the IPP be reinstated?

Mr. Werner – I could ask all those questions. What you’re expressing is the same thing we expressed to Council at the appeal. If this project doesn’t go through, this building is lost. The counter to that is that Council essentially granted the right to demolish this with the conditions that are here. That’s why I am pushing for documentation. We know that gets done. This doesn’t get lost in the ‘weeds.’ It is not two years from now and this thing is finally going, and we never got the documentation. At least, we have covered that base. You will have to trust me to go and sit down with legal and say, “how would we characterize it such that this structure isn’t demolished inadvertently or without the development project getting approval?” The answer to that might be that we can’t. I can check on that.

Mr. Whitney – It seems that the conditions City Council applied are trying to do the mechanism we’re describing. If the demolition is approved meeting the condition that an approval of design review CoA to ensure that the building is not demolished without an appropriate and city approved replacement.

Mr. Werner – It goes back to that loop we were talking about in the preliminary meeting. That means the BAR has purview. To have a design CoA prior to demolition or removal of the IPP, it requires that the BAR has purview over design review. That is an option. The other option, per the resolution, is that Council makes the decision to remove the IPP. That is what this question is. The goal from the applicant is to get the IPP removed so the design review goes forward under the Entrance Corridor and this project is not under the BAR purview.

Dylan Lambur, Applicant – We have a long road ahead. There are a lot of requests that we’re making. There is going to be a lot of people reviewing this. Regardless of your recommendation, we’re happy to work with city staff to provide some assurances and make everyone comfortable. Like you mentioned with City Council’s decision, people have been trying to think about that and implement mechanisms to do that. We’re figuring it out together. There are going to be a ‘lot of eyes’ on this.

Mr. Gastinger – There are 3 main issues that I see. There is the primary question, which would be against our mandate to support the removal of this IPP, given that we are charged to protect it. The second being staff’s recommendation that we go ahead and request the documentation. The third being some acknowledgement of encouraging City Council to consider what it can do to continue to protect the property if the project doesn’t move forward as planned. Are there any other considerations or elements we need to include in the motion?

Mr. Lambur – Is there going to be any difference than what has already been included?

Mr. Werner – I have examples of what we have done. It is not a film documentary. It is relatively simple criteria.

Mr. Lambur – I meant the requirement that has already been included. The wording is almost identical.

Mr. Gastinger – The difference is that we would like to request that happen or bring it to City Council’s attention that that should happen sooner rather than later.

Mr. Werner – The tree points that I understand is that following the review of adding or subtracting from designations and the understanding that this has been an IPP that you all would support it or recommend it remain an IPP. Second is a clarification of the documentation that it be done sooner and not later. You can maybe fill in that blank or make a recommendation. The third piece is considering a mechanism to protect the building and maintain its IPP status should the project not move forward. That is clear, and it is something I would have to ask legal how to say it. You don’t have to say it legally tonight.

Mr. Birle – Just by saying that we’re denying a request to remove the IPP, doesn’t it take that into consideration? That is the first thing we must do. If we deny it, doesn’t that take care of that third part of it?

Mr. Gastinger – City Council is not going to accept our denial. They’re going to remove the IPP status to allow this project to move forward no matter what we do here tonight.

Mr. Werner – I think that reasonable recommendations will be taken into consideration.

Mr. Gastinger – They have already allowed the demolition.

Ms. Lewis – Have they said that they don’t want the BAR to review anything? I haven’t heard that. I am saying that there is a possibility they may want us to review it. There is a difference between how we review, and entrance corridor reviews. The staff report is very thorough. The reasons besides this being an IPP is the reason why the site would need to be reviewed. It is adjacent to Oakhurst Gildersleeve. Even if you didn’t retain this building there is a language in the architecture around there. What is on JPA and that corner and near that corner, there is fabric there; even with this gone. There is good reason that I think the applicant doesn’t want this to look like a suburban mall. There is a reason why the applicant would want it to fit in. It would be appropriate and attractive in its location and maybe defer to its history.

Mr. Werner – The Entrance Corridor guidelines raise all those things. The challenge with the Entrance Corridor is that it is not a design panel. We happen to have some good architects on the Planning Commission. The design review still takes everything you said into consideration. It will be interesting where we go with that. I think it is best to express what you would like Council to do. Having been there and heard the conversation, I would be surprised if Council suddenly backpedaled.

Mr. Birle – Wouldn’t City Council want to keep the IPP designation so that we are involved? There are two different things. There is one thing about saying ‘yes’ and this can go through.

Mr. Werner – It does go through design review. The Entrance Corridor is the design review.

Mr. Zehmer – If that house was not there, it would not come before us.

Mr. Timmerman – Does it impede the progress? It is a different scenario. If something is put in front of them and they must make the decision of this development going through if we can demolish, they’re going to demolish it. This is a different scenario. You’re making the case now. We would like this designation removed because it helps us this way. It doesn’t stop the development or make it not happen. A discussion we were having was that it was a foregone conclusion that if we deny this, when it is put in front of City Council, they’re going to override us. I am not sure that is necessarily the case. The first time was about demolishing the property. It seemed as if demolishing the property was an obstruction. If they

couldn't do it, then the development couldn't go through. In this case, it seems to me a bit different. If we were to deny this, it seems to be a different scenario. I don't know if it is a foregone conclusion that they would override us again.

Mr. Werner – It is not a denial or approval. It is a recommendation of what Council would do.

Valerie Long, Applicant legal counsel – I wouldn't want to speak for Council anymore than anyone else. At the risk of getting into a lot more detail tonight, we know that this entire project will go through the Entrance Corridor review process. The reason that property is before the BAR is because the property itself and the building were designated as an IPP. The building and the only other reference were to the stone staircase down to Woodrow Street. Without the property itself, it would no longer qualify for protection. It is not in a historic district. Without the building that led to it being designated for IPP, it is no longer appropriate to be before the BAR. I appreciate the concerns about wanting to have it be a quality design and development at a prominent location. We're comfortable with Entrance Corridor Review. They have handled another large project in the past year several times successfully. It is challenging to have to bring projects through two design review boards with potentially different opinions on things. It would lead to a lot of confusion. It would lead to additional delays. We're trying to avoid that, if possible, given the number of applications that we're trying to coordinate together in one place. We did uncover substantial additional information about how and why the property was designated for IPP. We learned about that while we were preparing for the appeal before City Council. The short explanation is that the owner of the property at the time volunteered for the stone house to be designated as an IPP as part of an offer to purchase the lot on the corner, the adjacent lot that is vacant now (409 Stadium). There is a lot of discussion about how the neighbors and others at the time wanted 409 Stadium to stay vacant and not have an apartment building on it. It was an afterthought based on our extensive review of the record. There was no discussion at the time that decision was made at Council about any historic character or merit of protecting the house itself. It was a mechanism to ensure that 409 Stadium was left vacant. When Council made that decision, they said that they want the house to be an IPP. Staff appropriately brought that to the BAR and there was a staff report. It is thin on the merits of how the house qualifies or merits protection as an IPP. That is why when Subtext had their study done. It was challenged to find much reason for continuing to maintain the property. When you look through the criteria about the demolition criteria, it does not satisfy it.

Ms. Lewis – That information was made known to us during our decision. We don't want to revisit our prior vote or Council's vote to demolish or the merits of this property as an IPP.

Ms. Long – I should clarify that it was the level of detail we were able to determine based on further research into the minutes and into the prior staff reports. There were 3 public hearings at City Council and at least one meeting of the Planning Commission. I should have been clearer. We learned much more about the details of that prior process.

Ms. Lewis – That deal to make this an IPP politically motivated or whatever the reasons. We do agree that it wasn't vetted in the way that other IPPs were in the past.

Mr. Werner – In context, it is what came up in the Council's discussions this summer.

Mr. Gastinger – With the question before us, it is not a retrial of that decision. Given that our charge is to apply our guidelines to protect the properties and districts under our purview, it would be impossible for us to recommend removal of this IPP designation. That is our role. City Council has a different role and has clearly stated a different set of priorities for this property.

Motion to recommend Council deny the ZMA/ZTA – Mr. Gastinger – Having reviewed the criteria under City Code Section 34-274, I move the BAR recommend that City Council deny the request to remove the IPP designation of 104 Stadium Road. Furthermore, the BAR has two considerations, should Council approve the request [to remove IPP designation] the BAR recommends:

1. A condition that within six (6) months or, if sooner, prior to application for a demolition permit, the property and building will be documented thoroughly through photographs and measured drawings according to the Historic American Building Survey, with that documentation submitted to staff for the BAR archive.

2. Council explore a mechanism to restore [if the building is not razed] or retain [until demolition is certain] the IPP status, should the proposed development not move forward as planned.

Second by Mr. Birle. Motion passes 6-0.

E. Other Business

4. Informal discussions with Greg Jackson:

- 416-418 West Main Street. Support for construction of decks and canopies/awnings.
- 601-617 East Market Street. BAR willing to consider a request to replace windows at courtyard elevation. Applicant said no changes to primary elevation [Market St.].

5. Staff questions/discussion:

- Updated on McKee Block GPR investigation. Received CLG grant.
- Trees at 1410 Grady Ave: Removing the two trees will require BAR review and they would want letters from a licensed engineer and an arborist stating why the trees must be taken down and a plan to replace the trees.
- Zoning revisions. Staff asked if BAR had questions/comments re: Preservation Piedmont's recent letters. BAR suggested we might have a work session within next two weeks to discuss the revisions. Re: IPPs list [in ordinance]: Agreement to keep on the list the eight IPPs in ADC Districts; OK removing IPP that was razed [Riverdale Drive].
- Design Guidelines update

Adjournment

The meeting was adjourned at 8:22 PM.