

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	May 15, 2023
Action Required:	Motion to Approve a Certificate of Appropriateness, or Motion to Deny a Certificate of Appropriateness
Presenter:	Jeffrey Werner, Historic Preservation and Design Planner
Staff Contacts:	Jeffrey Werner, Historic Preservation and Design Planner
Title:	Appeal of ERB (Entrance Corridor Review Board) approval of a Certificate of Appropriateness for construction of an apartment building at 2005 Jefferson Park Avenue.

Background

- On December 20, 2022, an application was submitted for an Entrance Corridor Certificate of Appropriateness [design review] for the development of Tax Parcels 17-104 (2005 JPA), 17-103 (104 Observatory Avenue), and 17-103.1 (2007 JPA); collectively referred to as *2005 Jefferson Park Avenue* (or *JPA*). [Note: 104 Observatory Avenue is not within the EC Overlay; however, as a component of the project, its development was included in the design review.]
- On February 14, 2023 and on March 14, 2023, the City's Entrance Corridor Review Board (ERB) approved a certificate of appropriateness (CoA) for construction of an apartment building at 2005 JPA. [Note: Due to a public notice error for the February 14, 2023 meeting, the matter was readvertised and reviewed on March 14, 2023.]
- Following the February 14, 2023 and on March 14, 2023 ERB meetings, staff received from six individual parties eight letters appealing to Council the approval of the CoA. (Attachment 1.) Two from property owners who reside near the development (116 and 128 Observatory Avenue) and four from owners of rental properties located near the development (107, 111, and 123 Washington Avenue and 119 Observatory Avenue). All six parties filed appeals following the February 14, 2023 meeting. Two of the six filed appeals following the readvertised meeting on March 14, 2023. It was decided to respond to all eight letters collectively.
- State enabling legislation allows localities to regulate the design of development along arterial streets or highways [*entrance corridors*] that are significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts, to ensure that such development is architecturally compatible with the historic landmarks, buildings, and structures to which these routes lead and a requirement that no building or structure may be erected, reconstructed, altered or restored unless approved by the local review board (or, on appeal, by the governing body) as being architecturally compatible with the other properties within the district. (Va. Code §15.2-2306). Per City Code §34-307(a)(5), the project at 2005 JPA is within the *Fontaine Avenue/Jefferson Park Avenue Entrance Corridor* and therefore, per §34-309, is subject to ERB design review.

- State law also requires the City, by enacting the above, include within its ordinance the right to appeal the decision of the local review board. (Va. Code §15.2-2306) This is implemented in the City’s zoning ordinance by §34-314: Following approval of an application by the ERB, any aggrieved person, may note an appeal of that decision to the city council.

Note: The order of presentation for Council’s review of an appeal from a ERB decision is: (1) City Preservation and Design Planner presentation of the staff report (ten minutes), (2) Appellants’ presentation (ten minutes), and (3) ERB chair presentation (five minutes).

Discussion

CoA request for the development of 1.7 acres (three parcels, existing structures to be razed) to construct a multi-story, brick and stucco apartment building with a footprint of approximately 312-ft x 155-ft. The building will feature two, five-story wings separated by a courtyard and atop a two-story, brick foundation/podium, which provides a street level, primary entrance and encloses an internal parking garage accessed off Washington Avenue. (See Attachment 4.)

City Council’s role in this appeal is to make the final decision on the certificate of appropriateness (i.e., approve or deny the CoA).

According to City Code §34-314(c): reviewing an appeal of an ERB decision, Council shall review the application as if the application had come before it in the first instance. Any aggrieved person, shall be given an opportunity to be heard on the appeal. (See the appellant’s letters in Attachment 2.) Council may consider any information or opinions relevant to the application which is the subject of such decision, including, but not limited to, those provided by the ERB.

In evaluating this appeal—this request that Council deny a CoA for the proposed development-- Council should, as the ERB did on February 14, 2023 and March 14, 2023, apply the criteria for Entrance Corridor Design Guidelines (refer to the ERB staff reports) and standards for considering certificates of appropriateness within City Code § 34-310 (below). To assist in that, Council should review the summary and recommendations in the February 14, 2023 ERB staff report. (See Attachments 4, 5, and 6. These are also accessible at the following link, beginning at page 18 of the pdf: [PC-ERB Meeting - Feb 14 2023](#). Note: the material presented to the ERB on March 14, 2023 was identical to the material presented at the meeting on February 14, 2023.)

Additionally, it should be noted that at the March 14, 2023 meeting, staff summarized for the ERB and offered comment on the issues raised in the six appeal letters that were submitted following the February 14, 2023 meeting. (See letters 1 through 6 in Attachment 1.) Staff’s response begins at 00:23:45 of the meeting video for March 14, 2023: [Plan Comm meeting video Mar-14-2023](#)

From the City Code for Entrance Corridor Overlay Districts

Sec. 34-310. - Standards for considering certificates of appropriateness.

1. The review board, the city council on review of an application, and the director in conducting an administrative review, shall consider the following features and factors in determining the appropriateness of proposed construction, reconstruction, alteration or restoration of buildings or structures pursuant to this article:
2. Overall architectural design, form, and style of the subject building or structure, including, but not limited to: the height, mass and scale;
3. Exterior architectural details and features of the subject building or structure;
4. Texture, materials and color of materials proposed for use on the subject building or structure;
5. Design and arrangement of buildings and structures on the subject site;

6. The extent to which the features and characteristics described within paragraphs (1)–(4), above, are architecturally compatible (or incompatible) with similar features and characteristics of other buildings and structures having frontage on the same EC street(s) as the subject property.
7. Provisions of the Entrance Corridor Design Guidelines.

ERB Actions

February 14, 2023. The ERB reviewed a CoA request to construct a new apartment building at 2005 JPA. motion to approve the CoA passed 7-0. (Motion by Commissioner Russell, seconded by Commissioner Mitchell.)

Having considered the standards set forth within the City’s Entrance Corridor Design Guidelines, I move to find that the proposed design for 2005 Jefferson Park Avenue is consistent with the Guidelines and compatible with the goals of this Entrance Corridor, and that the ERB approves the Certificate of Appropriateness application as submitted, with the following conditions of approval:

- Glass will be clear, at the locations noted in the staff report.
- New railings, if required, will match the metal rail at the podium terrace [as presented in the submittal dated 12/20/2022].
- All exterior lighting and interior lighting visible from the garage will have lamping that is dimmable, has a Color Temperature not exceeding 3,000K, and has a Color Rendering Index not less than 80, preferably not less than 90. Additionally, the owner will address any reasonable public complaints about light glare by either dimming the lamp or replacing the lamps/fixtures. [Note: This condition addresses two light sources: *exterior lighting* refers to all site and exterior lighting fixtures; *interior lighting visible from the garage* refers to all lighting fixtures within (inside) the garage.]
- Dumpsters and trash and/or recycling bins to be located within the garage and pulled to the curb only on collection days.
- If used for mechanical units, utility/service boxes, storage, trash containers, the *Mech Equip* area noted on sheet 44, at the west elevation, will be appropriately screened. That screening will be subject to approval by design staff and must be memorialized as an amendment to the site plan.
- Any ground-level mechanical equipment and/or utility boxes will be appropriately screened. That screening will be subject to approval by design staff and must be memorialized as an amendment to the site plan.
- Meters and panel boxes for utility, communications, and cable connections will be located preferably within the garage; if not, then in non-prominent locations on the side elevations only and appropriately screened. That screening will be subject to approval by design staff and must be memorialized as an amendment to the site plan.
- Stucco used on this site will be a durable synthetic material which is mechanically fastened over appropriate drainage mats with a code compliant water-resistant barrier.
- Bicycle runnels shall be provided as part of the multi-use path at the rear of the site.
- There will be no up-lighting of landscaping on the site.
- The number, size, type and character of all plantings (trees, shrubs etc.) and the biofilter shall be installed and maintained in substantial accordance with the drawings. [Reference sheets 44 through 48 of the submittal dated 12/20/2022.]
- Screening of vehicular lighting at the south wall of the parking garage, particularly at headlight level. [Re: glare and brightness visible outside the garage.]

Link to February 14, 2023 meeting video. (Public comments begin at approximately 00:20:00. ERB discussion begins at approximately 00:40:00.): [Plan Comm meeting video Feb-14-2023](#)

March 14, 2023. Due to a public notice error for the February 14 meeting, this matter was readvertised and on March 14, 2023 reviewed again by the ERB. A motion to approve the CoA passed 5-0. (Motion by Commissioner Stoltzenberg. Seconded by Commissioner Schwarz.)

[Note: This is the same motion and conditions approved by the ERB on February 14, 2023.]

Having considered the standards set forth within the City's Entrance Corridor Design Guidelines, I move to find that the proposed design for 2005 Jefferson Park Avenue is consistent with the Guidelines and compatible with the goals of this Entrance Corridor, and that the ERB approves the Certificate of Appropriateness application as submitted, with the following conditions of approval:

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- Stucco used on this site will be a durable synthetic material which is mechanically fastened over appropriate drainage mats with a code compliant water-resistant barrier.
- Bicycle runnels shall be provided as part of the multi-use path at the rear of the site.
- There will be no up-lighting of landscaping on the site.
- The number, size, type and character of all plantings (trees, shrubs etc.) and the biofilter shall be installed and maintained in substantial accordance with the drawings. [Reference sheets 44 through 48 of the submittal dated 12/20/2022.]
- Screening of vehicular lighting at the south wall of the parking garage, particularly at headlight level. [Re: glare and brightness visible outside the garage.]

Link to March 14, 2023 meeting video. (ERB discussion begins at approximately 00:22:00.)

[Plan Comm meeting video_Mar-14-2023](#)

Alignment with City Council's Vision and Strategic Plan

Upholding the ERB's decision contributes to Goal 3 - A Beautiful and Sustainable Natural and Built Environment, specifically objective 3.1: *Engage in robust and context sensitive urban planning and implementation.*

Community Engagement

City Code §34-313 requires public notice prior to the ERB's formal review of a CoA request. For the February 14, 2023* and March 14, 2023 ERB meetings, the abutting landowners were notified by letter and the meeting was publicly posted. [Note: §34-313 - *ERB review process* refers to the public notice provisions under §34-284. This is within the ordinance division addressing the City's ADC Design Control Districts. The ERB and BAR follow the same public notice requirements.] (* After it was realized the on-site notice for February 14 was posted late, the matter was readvertised for March 14.)

During the February 14, 2023 meeting, five individuals offered comments from the public. All expressed concern for and/or opposition to the project. (Kenneth Hill, owner of 111 Washington Avenue; William Schaaf, owner of 113 Washington Avenue; Lorna Martens, owner of 128 Observatory Avenue; Bonnie Williams, JPA neighborhood resident; and Anne Benham, owner of 116 Observatory Avenue.)

During the March 14, 2023 meeting, there were no comments from the public.

Meeting minutes for the February 14 and March 14 ERB meetings are not available. Council can review the public comments and the ERB's discussions via the meeting video links noted above, under the *Discussion*.

Budgetary Impact

None.

Recommendation

Based on the application materials, the information and standards set forth within City Code §34-310 [standards for considering a CoA] and for the reasons set forth within this memo, the staff response to the appeal (Attachment 2), and the February 14, 2023, ERB staff report (Attachment 3), staff's recommendation is that City Council approve the requested CoA--upholding the ERB's action--and not refer the matter back to the ERB. Additionally, should Council approve the CoA, staff recommends the CoA incorporate the ERB's conditions of approval. (See Resolution 1 in Attachment 4.)

However, should Council determine to deny the requested CoA, it should state in the resolution the reasons for that denial. (See Resolution 2 in Attachment 4.)

Alternatives

- *Approval of the CoA.* If City Council agrees with the ERB decision, Council should vote to uphold the ERB's decision, resulting in approval of the CoA.
- *Denial of the CoA.* If City Council agrees with the appellant(s), Council should vote to overturn the ERB decision, resulting in a denial of the CoA. That motion should include a statement of the reasons for the denial.

Attachments

1. Attachment 1 - 2005 JPA Appeal - appeal letters Feb and March 2023

2. Attachment 1 Addendum - 2005 JPA appeal (letters from M.Poling)
3. Attachment 2- 2005 JPA appeal - staff response (Draft April 2023)
4. Attachment 3 - 2005 JPA - ERB staff report March 14 2023
5. Attachment 4 2005 JPA - ERB staff report Feb 14 2023 (final 2-3)
6. Attachment 5 - 2005 JPA Review of EC guidelines (Attach 2 from Feb 14 2023 ERB staff report)
7. Attachment 6 - 2005 JPA applicant submittal
8. Attachment 7 - 2005 JPA - Draft resolutions
9. Attachment 8 - City Code _EC Overlay Districts