

LEGAL SUPPLEMENT TO STAFF MEMO TO CITY COUNCIL, MARCH 2, 2026
The Mark – 7th Street, SW - Appeal of BAR Denial of Requested CoA # HST25-0084

State enabling legislation (Virginia Code § 15.2-2306) authorizes the City of Charlottesville, Virginia (“City”), to:

- Within its Zoning Ordinance, designate specific buildings or structures having important historic, architectural, archaeological, or cultural interest. Per City Code Chapter 34, Section 2.9.3., the City established a list Individually Protected Properties (“IPPs”) deemed as landmarks, buildings, and structures of special historic, cultural, or architectural value that lie outside the City’s Architectural Design Control (“ADC”) Districts.
- Provide for a review board to administer the ordinance related to historic districts. Per City Code Chapter 34, Section 5.1.5., the BAR is responsible for administering the provisions of the ADC Districts and IPPs, including the review of certificates of appropriateness (“CoA”).
- Include within its Zoning Ordinance a requirement that no building or structure, including signs, shall be erected, reconstructed, altered, or restored within any such district unless approved by the review board [BAR], or, on appeal, by the governing body of the locality [City Council] as being architecturally compatible with the historic landmarks, buildings, or structures therein. Per City Code Chapter 34, Section 5.2.7.A.1.a., the construction, reconstruction, alteration, or restoration of an IPP requires approval of a CoA under Major Historic Review, either by BAR or City Council on appeal.

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

On July 18, 1991, City Council established by Ordinance the initial list of eighty (80) IPPs, including 204 and 208 7th Street, SW. (The list of IPPs is officially recorded in the City Code Chapter 34, Section 2.9.3.) Per City Code Chapter 34, Section 5.2.7.A.1.a., new construction, alteration, and restoration associated with an IPP requires approval of a CoA.

Per City Code Chapter 34, Section 2.9.3.5.2.7.D.1.a.viii., in reviewing a requested CoA, the *Criteria for Review and Decision* includes consideration of *any applicable provisions of the City’s design guidelines*. For a CoA related to an IPP, the applicable guidelines are the ADC District Design Guidelines, adopted by City Council on September 17, 2012.

On December 16, 2025, BAR denied a CoA for the rehabilitation of two (2) brick dwellings--204 and 208 7th Street, SW; both City-designated IPPs--and construction of a seven (7)-story, multi-unit apartment building (“Project”). Because the Project will encroach onto the two (2) parcels that are IPPs, the entire Project is subject to BAR design review.

On December 31, 2025, within the ten (10)-day period proscribed by City Code Chapter

34, Section 5.2.7.E., the property owner appealed BAR’s decision to City Council.

City Code: Appeal of BAR Decision

City Code Chapter 34, Section 5.2.7.E.1:

- a. [...]
- b. If an application is denied or the applicant objects to the conditions of approval, the applicant will be provided written notice of the decision, including any conditions of approval. Following a denial or approval with conditions, the applicant, the Administrator, or any aggrieved person may appeal the decision to the City Council, by filing a written notice of appeal within 10 business days of the date of the decision.
- c. An applicant must set forth, in writing, the grounds for an appeal, including the procedures or standards alleged to have been violated or misapplied by the BAR, and any additional information, factors or opinions they deems relevant to the application. The applicant, or their agent, and any aggrieved person, will be given an opportunity to be heard by the City Council on the appeal.
- d. City Council will consult with the BAR and consider the written appeal, the criteria [standards for review] set forth within this Section, as applicable, and any other information, factors, or opinions it deems relevant to the application.
- e. A final decision of the City Council may be appealed by the owner of the subject property to the Circuit Court for the City of Charlottesville, by filing with the court a petition at law, setting forth the alleged illegality of the action taken. Such petition must be filed with the circuit court within 30 days after Council’s final decision. The filing of the petition will stay the Council’s decision pending the outcome of the appeal[.]

Appendix: Referenced City Code Sections

2.9.3. Individually Protected Properties (IPP)

A. Intent

The City of Charlottesville seeks, through the creation of a protected property list, to protect community health and safety and to promote the education, prosperity and general welfare of the public, through identification, preservation, protection and enhancement of certain buildings, structures, and landmarks, together with their landscapes and settings, which are of special historic, cultural, or architectural significance, and which are located outside the City’s ADC Districts. To achieve these general purposes, the City seeks to pursue the following goals and objectives:

- 1. To enrich the quality of life for City residents, by protecting familiar landmarks and other treasured elements of the City;
- 2. To protect historic and cultural resources, and thereby to promote tourism and to enhance business and industry;

3. To maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of historically and culturally significant structures;
4. To promote local historic preservation efforts through identification and protection of historic resources throughout the City;
5. To encourage nomination of historic properties to the National Register of Historic Places and the Virginia Landmarks Register; and
6. To ensure that additions, alterations, restorations, landscaping and related elements be in harmony with a building or structure and its setting.

B. Established Individually Protected Properties

Following is a list of landmarks, buildings and structures outside the City's ADC Districts, which are deemed by City Council to be of special historic, cultural, or architectural value.

[...]

204 Seventh Street, SW Tax Map 29 Parcel 73

208 Seventh Street, SW Tax Map 29 Parcel 74

C. Amendments to Individually Protected Property List

1. City Council may, by ordinance, from time to time, designate individual buildings, structures or landmarks as Individually Protected Properties; or remove individual buildings, structure or landmarks from the City's list of Individually Protected Properties. Any such action will be undertaken following the rules and procedures applicable to the adoption of amendments to the City's Development Code and official zoning map.
2. Prior to the adoption of any such ordinance, the City Council will consider the recommendations of the Planning Commission and the Board of Architectural Review (BAR) as to the proposed addition, removal or designation. The Planning Commission and BAR will address the following criteria in making their recommendations:
 - a. The historic, architectural or cultural significance, if any, of a building, structure or site and whether it has been listed on the National Register of Historic Places or the Virginia Landmarks Register, or are eligible to be listed on such registers;
 - b. The association of the building, structure or site with an historic person or event or with a renowned architect or master craftsman;
 - c. The overall aesthetic quality of the building, structure or site and whether it is or would be an integral part of an existing ADC district;
 - d. The age and condition of a building or structure;

- e. Whether a building or structure is of old or distinctive design, texture and material;
- f. The degree to which the distinguishing character, qualities or materials of a building, structure or site have been retained;
- g. Whether a building or structure, or any of its features, represents an infrequent or the first or last remaining example of a particular detail or type of architecture in the City;
- h. Whether a building or structure is part of a geographically definable area within which there exists a significant concentration or continuity of buildings or structures that are linked by past events or, aesthetically, by plan or physical development, or within which there exist a number of buildings or structures separated geographically but linked by association or history.

D. A Certificate of Appropriateness is required for certain projects on Individually Protected

E. Properties in accordance with 5.2.6. Minor Historic Review and 5.2.7. Major Historic Review.

5.1.5. Board of Architectural Review

C. Authority

1. General

- a. In order to administer the provisions of the Architectural Design Control Districts and Individually Protected Properties the Board of Architecture Review (BAR) must:

[...]

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

2. Approval Authority

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

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

5.2.7. Major Historic Review

A. Applicability: Major Historic Review is required to receive a Certificate of Appropriateness for

the following project activities [...] for any Individually Protected Property (IPP):

B. Architectural Design Control District and Individually Protected Property. In an ADC District and for an IPP, Major Historic Review for a Certificate of Appropriateness is required for the following exterior activities:

- a. Construction, reconstruction, alteration, or restoration of a building or structure.

[...]

C. Review and Decision Process

[...]

2. Board of Architectural Review Decision

- a. In considering a particular application the BAR will approve the application unless it finds:
 - i. That the proposal does not meet specific standards set forth within this Section or applicable provisions of the City’s design guidelines; and
 - ii. The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the IPP that is the subject of the application.

b. The BAR will approve, approve with conditions, or deny applications for Certificates of Appropriateness in accordance with the provisions of this Section.

c. The BAR, or City Council on appeal, may require conditions of approval as are necessary or desirable to ensure that any new construction or addition is compatible with the scale and character of the Architecture Design Control District, Individually Protected Property, or Historic Conservation District. Prior to attaching conditions to an approval, due consideration will be given to the cost of compliance with the proposed conditions as well as the goals of the Comprehensive Plan. Conditions may require a reduction in height or massing, consistent with the City’s design guidelines and subject to the following limitations:

- i. Along the Downtown Mall, the BAR may limit story height to within 2 stories of the prevailing story height of the block;
- ii. In all other areas subject to review, the BAR may reduce the allowed height by no more than 2 stories; and
- iii. The BAR may require upper story setbacks of up to 25’.

[...]

D. Criteria for Review and Decision

1. Architectural Design Control District and Individually Protected Property

- a. Review of the proposed construction, reconstruction, alteration or restoration of a building or structure is limited to exterior architectural features, including signs, and the following features and factors:
- i. Whether the material, texture, color, height, scale, mass, and placement of the proposed addition, modification or construction are visually and architecturally compatible with the site and the applicable District;
 - ii. The harmony of the proposed change in terms of overall proportion and the size and placement of entrances, windows, awnings, exterior stairs, and signs;
 - iii. The Secretary of the Interior Standards for Rehabilitation set forth within the Code of Federal Regulations (*36 C.F.R. §67.7(b)*), as may be relevant;
 - iv. The effect of the proposed change on the adjacent building or structures;
 - v. The impact of the proposed change on other protected features on the property, such as gardens, landscaping, fences, walls, and walks;
 - vi. Whether the proposed method of construction, renovation, or restoration could have an adverse impact on the structure or site, or adjacent buildings or structures;
 - vii. When reviewing any proposed sign as part of an application under consideration, the standards set forth within *Div. 4.11. Signs* will be applied; and
 - viii. Any applicable provisions of the City's design guidelines.