


CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	June 7, 2021
Action Required:	Public Hearing; Adoption of Resolution
Presenter:	Charles P. (“Chip”) Boyles, II, City Manager
City Manager Office Contact:	Chip Boyles 
Title:	City Council’s Intent to Remove, Relocate, Contextualize or Cover the Statues/Sculptures of Confederate Generals Robert E. Lee and Stonewall Jackson, located in City public parks

Background:

In March 2016 Charlottesville City Council received a petition to remove the statue/ sculpture of Confederate General Robert E. Lee (“Lee Statue”) from its location in Market Street Park. Following receipt of the petition, City Council established an advisory body referred to as the Blue Ribbon Commission on Race, Memorials and Public Spaces (“BRC”). The mission specified by City Council for the BRC was to provide City Council with options for telling the full story of Charlottesville’s history of race relations and for changing the City’s narrative through its public spaces, specifically including ways in which the City’s public spaces could be utilized to address race (including, among other items, removing or adding context to existing Confederate statues of Confederate Generals Robert E. Lee (located in Market Street Park) and Thomas J. “Stonewall” Jackson.

The BRC’s Final Report was presented to City Council on December 19, 2016. The Final Report indicated that removal and relocation, or contextualization in place, were options recommended by the BRC. The City Council gave consideration to the Final Report and to many public comments received directly by councilors via email and community contacts.

February 6, 2017: by resolution City Council announced its intent to rename Lee Park (the site of the Lee Statue). This intention has been carried out; the park is now named Market Street Park.

February 6, 2017: by resolution City Council announced its intention to remove the statue of Robert E. Lee from the park then named Lee Park, and requested staff to bring Council a range of recommended options over a 60-day period.

February 6, 2017: by resolution City Council specified a number of actions it desired to implement, to implement the recommendations of the BRC Final Report, including (i) a Master redesign of the public spaces in the North Downtown and Court Square Districts,

(ii) removing or contextualizing the Lee and Jackson Statues within the City's public parks, (iii) renaming Jackson Park (which has been carried out; the park is now named Court Square Park), (iv) replacing the slave auction block, (v) identifying and acknowledging the site of the Freedman's Bureau, and (vi) other actions possible.

March 3, 2017: Various individuals and organizations filed a lawsuit ("Lawsuit") against the City, City Council, and individual City Councilors, to obtain temporary and permanent injunctive relief preventing all of the actions contemplated by Council's February 2017 resolutions. (On April 1, 2021 the Virginia Supreme Court decided the lawsuit in favor of the City).

August 12, 2017: UTR Rally.

August 21-22, 2017: by motion City Council voted to approve a motion directing the Lee and Jackson Statues to be covered with black fabric, in mourning for lives lost the weekend of August 12, 2017. (The covers remained in place until February 26, 2018 when they were removed by order of the Circuit Court).

September 5, 2017: by resolution City Council announced its intent to remove a statue/sculpture of Confederate General Thomas J. "Stonewall" Jackson from the park that is now known as Court Square Park, stating that such action should be taken as soon as possible, pending resolution of the Lawsuit.

November 6, 2017: by resolution City Council voted to revise its prior approach for a Master redesign of the public spaces in the North Downtown and Court Square Districts, including Market Street Park and Court Square Park. The 2017 City Council's revised approach called for a two phase Master Plan, one phase to occur prior to removal of the intended removal of the Lee and Jackson Statues and a second phase to occur post-removal.

July 1, 2020: effective July 1, 2020 the General Assembly removed all prohibitive language from the provisions of Va. Code §15.2-1812 (the version that was in effect 2017 – 2019). The legislature transformed the statute into one that is permissive in nature, and that sets out a 60-day process by which localities may make decisions about whether to remove, relocate, contextualize or cover monuments or memorials covered by the re-worked statute.¹

April 21, 2021: the Virginia Supreme Court entered its final mandate entering judgment in favor of the City.

May 3, 2021: by resolution City Council requested the Clerk to publish notice within a newspaper of Council's intent to remove, relocate, contextualize or cover the Lee and Jackson Statues and to set a date for a public hearing thereon. Each of these actions has been referred to within resolutions or motions approved by City Council in 2017 (copies attached). The May 3, 2021 resolution also requested the Board of Architectural Review to consider Council's stated intentions.

¹ The City noted to the Virginia Supreme Court that language indicative of a legislative intent to apply the statutory provisions prospectively remains present in the amended statute; however, the Supreme Court did not offer an advisory opinion on that issue. The Supreme Court stated in its ruling that references to Va. Code §15.2-1812 are to the 2010 version of that statute which was in effect in 2017 and throughout the litigation in Circuit Court.

May 18, 2021: the Board of Architectural Review reviewed Council’s announced intent to remove, relocate, contextualize or cover the Statues.

Discussion:

City Council is following a process set forth within Virginia Code Section 15.2-1812. That process contemplates that City Council will make a decision regarding specific disposition(s) of the Statues, or actions relating to the Statues, *at the end of the process*. At this time, there is no specific disposition to be discussed. However, any or all of the announced intentions (removal, relocation, contextualization, or covering) may singly, or in combination, be carried out by City Council at the conclusion of the statutory process.

1. Public hearing. City Council should conduct the public hearing, as noticed.
2. Vote upon completion of the public hearing. Anytime after completion of the public hearing, City Council may take a vote as to *whether* to remove, relocate, contextualize or cover the Statues. A Resolution for Council’s consideration is attached.
3. 30-day offering period. For a period of 30 days after City Council’s vote to remove, relocate, contextualize or cover the Statues, City Council will “offer [the Statues] for relocation and placement to any museum, historical society, government, or military battlefield”. The attached Resolution references the initiation of the 30-day offering period.
4. Conclusion. After the expiration of the 30-day offering period, City Council has sole authority to make decisions regarding removal, relocation, contextualization or covering of the Statues, on its own timetable and without additional public hearings or processes.

Budgetary Impact:

None at this time. At the end of the statutory process, specific disposition(s) or action(s) of City Council or the City Manager may involve the expenditure of public funds.

Alternatives:

- By motion to approve the attached Resolution, City Council may vote to remove, relocate, contextualize or cover the Statues
- By motion, City Council may vote to amend the attached Resolution, and then may vote to approve the amended Resolution.
- City Council may postpone its vote, or may vote not to remove, relocate, contextualize or cover the Statues.

Legal Review:

The City Attorney has reviewed this Agenda Memo and the attached Resolution.

It is requested that Councilors who may wish to propose amendments to the Resolution should contact the City Attorney and City Manager in advance of the meeting, to allow them an opportunity to consider the amendments in advance of the public meeting and to allow the City Attorney to offer legal advice on the proposed amendments.

Alignment with Council Vision Areas and Strategic Plan: Yes.

City Manager Recommendation: It is the City Manager's recommendation to approve this resolution and without further direction from City Council allowing the City Manager on or after July 8, 2021 to remove, relocate, cover either or both statues to while final disposition is being considered by the City Council.

Community Engagement:

Over a course of months in 2016, the BRC and several working subcommittees (for public engagement; case studies; historic site inventories; and historical context/background) conducted studies, engaged with the community through public meetings and forums, and deliberated.

According to the BRC's Interim Report to City Council (September 19, 2016) over 150 people attended the BRC's first community forum at the Jefferson School on July 27, 2016. The BRC gathered for 15 meetings (including 3 public forums), held at different locations throughout the City to make it easier for members of the public to attend and comment.

Attachments:

- (1) Resolution
- (2) 2017 City Council Resolutions (for background information)
- (3) BAR Comments

RESOLUTION

TO REMOVE, RELOCATE, CONTEXTUALIZE OR COVER A STATUE/ SCULPTURE OF ROBERT E. LEE LOCATED IN MARKET STREET PARK AND A STATUE/ SCULPTURE OF STONEWALL JACKSON LOCATED IN COURT SQUARE PARK

WHEREAS in 2017 the Charlottesville City Council (“City Council”) publicly expressed its desire and stated its intentions to remove, relocate, contextualize or cover statues/ sculptures of Confederate Generals Robert E. Lee and Thomas J. “Stonewall” Jackson located, respectively, in Market Street Park and Court Square Park within the City (together, the “Statues”), such desires and intentions having been expressed in various resolutions previously approved by City Council; and

WHEREAS City Council desires to update and restate its previously expressed intentions and plans regarding the Statues and the public parks in which they are located; and

WHEREAS on June 7, 2021 City Council conducted a public hearing and received public comment regarding Council’s intent to remove, relocate, contextualize or cover the Statues; and

WHEREAS City Council has considered the public comments received at the public hearing, the input of the City’s Board of Architectural Review, the analysis and recommendations of City Council’s Blue Ribbon Commission (December 2016 Final Report), and the various findings and matters set forth within resolutions adopted by City Council in 2017;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE THAT:

1. The statue/sculpture of Confederate General Robert E. Lee shall be removed from Market Street Park, and the statue/sculpture of Confederate General Thomas J. “Stonewall” Jackson shall be removed from Court Square Park. This authorization for removal of each statue/ sculpture (together, the “Statues”) includes all related components and appurtenances, such as pedestals, plaques, signs, or panels.

2. For a period of thirty (30) days (“Offer Period”) City Council hereby offers the Statues for relocation and placement to any museum, historical society, government or military battlefield that may express an interest in acquiring the Statues, or either of them, for such purpose. This Offer Period shall commence on the date this Resolution is approved and shall expire at midnight on July 8, 2021. Throughout the Offer Period City Council’s offer shall be published on the home page of the City’s website and on the City’s webpage for bids and proposals, along with a form to be utilized by entities to express interest in acquiring the Statues, or either of them. All expressions of interest by any museum, historical society, government or military battlefield shall be submitted directly to the City Manager, who is hereby authorized to discuss with any such interested entity(ies), on behalf of City Council, the terms upon which the entity(ies) propose to acquire the Statues, or either of them.

In the event City Council approves an agreement with a museum, historical society, government or military battlefield for acquisition, relocation and placement of the Statues, or

either of them, then the Statues, or either of them, may be relocated in accordance with the terms of the agreement.

3. If City Council has not, prior to July 8, 2021, approved an agreement with another entity for relocation and placement of the Statues, or either of them, then at any time on or after July 8, 2021:

- a. the City Manager may carry out a removal of the Statues, or either of them, for placement in storage;
- b. at the City Manager's option, removal of the Statues, or either of them, may be carried out in stages, including, without limitation, removal of any component or appurtenance (such as pedestals, plaques, signs, or panels) separately from the main statue(s)/sculpture(s);
- c. the City Manager may cover the Statues, or either of them, prior to removal;
- d. the City Manager may take any other action with respect to the Statues, or either of them, within the scope of his authority; and/or
- e. City Council may authorize a final disposition of the Statues, or either of them.

4. Prior to removal, the Statues, or either of them, may be contextualized in accordance with a plan approved by City Council after review and comment by the City Manager, the board of architectural review (pursuant to City Code §34-288(3)), and the City's Historic Resources Committee.

5. The City Manager may develop a capital improvements project for a master redesign and improvement of the public parks and other public spaces within the area referred to on the National Register of Historic Places as the Charlottesville and Albemarle County Courthouse Historic District (which project may include, but is not limited to, actions or recommendations set forth in previous resolutions of City Council). Notwithstanding any direction given by City Council within any previous resolution(s), no design services or improvements for such a project shall be procured or commenced until a project scope has been established and all projected costs for public engagement, design services and construction costs have been presented to City Council for consideration within the Capital Improvements Plan for FY2022-2023 or a subsequent fiscal year. Nothing within this requirement shall preclude the City Manager or the City's Director of Parks and Recreation from making non-capital improvements or changes within either Market Street Park or Court Square Park, where funding for the improvements or changes is available within the Parks and Recreation Department's operational budget for the fiscal year in which the improvements or changes are installed.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	June 7, 2021
Action Required:	For Information Only. Provided per City Council request.
Staff Contacts:	Jeff Werner, Historic Preservation & Design Planner
Title:	Board of Architectural Review response to City Council's intent to remove, relocate, contextualize, or cover the Lee and Jackson statues

Background:

On May 3, 2021 City Council adopted a resolution authorizing publication of notice of its intention to remove, relocate, contextualize, or cover statues of Confederate Generals Lee and Jackson currently located within city parks. With that, Council requested that the Board of Architectural Review (BAR) consider the stated intent and provide comment prior to Council's public hearing, which is scheduled for June 7, 2021.

Discussion:

At its May 18, 2021 meeting, at the request of City Council, the BAR reviewed and discussed Council's May 3, 2021 resolution. The BAR's discussion followed the presentation of the attached staff summary, which the BAR agreed should be the formal record of staff's presentation [vs the brief, oral summary offered during the meeting]. At the completion of the BAR's discussion, they approved the following statement to Council:

Statement from the Board of Architectural Review

With careful consideration of our Design Guidelines, with guidance from respected national preservation organizations, and in acknowledgement of the Blue Ribbon Commission's public process and work to better understand the history and harmful legacy of these statues, we wish to state our strong support for City Council's intention to remove the Lee and Jackson statues and to temporarily cover and contextualize the statues during a period of time before removal can occur. Furthermore, we look forward to working with a public process to understand how the parks may be redesigned in the future in accordance with the [ADC District Design] Guidelines.

Motion – Mr. Schwarz – (Second by Mr. Mohr). Staff was instructed to send this statement to Council prior to the Council public hearing regarding the Jackson and Lee statues, scheduled for June 7, 2021. Motion passed 7-0.

Community Engagement:

This item was publicly posted as an item on the BAR's May 18, 2021 meeting agenda. The BAR chair invited public comment during *matters from the public*, at the beginning of the meeting, and prior to the BAR's discussion, later in the meeting. No public comments were offered. In response to posting this item on the meeting agenda, no related public comments were submitted to staff or BAR members.

Budgetary Impact:

N/A

Recommendation:

Staff recommends the BAR's statement and staff report be considered by Council in their deliberation of the stated intent to remove, relocate, contextualize, or cover statues of Confederate Generals Lee and Jackson currently located within city parks.

Alternatives:

N/A

Attachments:

Re: BAR's May 18, 2021 discussion of City Council's May 3, 2021 resolution re: the Jackson and Lee Statues

- Summary of the May 18, 2021 discussion and statement to City Council
- BAR Staff Summary for the May 18, 2021 discussion (without attachments)

Summary: BAR May 18, 2021 Discussion Re: City Councils May 3, 2021 resolution

Per City Council Request: BAR consideration of Council's May 3, 2021 Resolution of Intent to Remove, Relocate, Contextualize, or Cover the Statues of Generals Lee and Jackson Currently Located Within City Parks.

- Staff summarized the written report regarding the statues of Confederate Generals Lee and Jackson located within city parks. (Note: BAR agreed the written report will be the formal record of staff's presentation.)
- From the report, staff expressed:
 - The BAR was asked by Council to consider the stated intent [from the May 3, 2021 resolution] and to provide comment prior to Council's public hearing, scheduled for June 7, 2021.
 - The BAR will respond to the request in its role [per City Code] as an advisory body to Council.
 - Council's intent is to remove the statues as soon as possible, consistent with the process prescribed by the Code of Virginia.
 - The statues are not designated as *contributing structures* in the North Downtown ADC District; therefore, the BAR [per City Code] has no purview over the removal or relocation of the statues.
 - A brief history of the statues, including the prior actions of Council relative to removing or relocating the statues.

Comments from the Public

No Comments from the Public

Comments from the Board

(Note: *Design Guidelines* refers to the City's Architectural Design Control District Design Guidelines, adopted September 17, 2012.)

- Mr. Gastinger commented on the role of the BAR as a volunteer board appointed by City Council.
- Mr. Gastinger referred to the Design Guidelines relative to the history and the erection of the statues.
- Mr. Gastinger referred to the following:
 - **Design Guidelines Chapter I (Introduction), Section E, Number 3** – Physical records of its time, place, and use. *Changes that create a false sense of historical development will not be undertaken.*
 - **National Historic Preservation Act** – Properties or structures like sculptures are primarily commemorative in nature, are designed or constructed after the occurrence of an important historic event or after the life of an important person, they serve less as evidence of that particular person's productive life, but as evidence of a later generation's assessment of the past. There has been a misconception by some that the [Lee and Jackson] statues are historic. They were created to shape [and re-shape] the historic narrative. This has been

- documented by the Blue Ribbon Commission [on Race, Memorials and Public Spaces]. These statues tell an incomplete history and they tell a false, painful, and damaging Lost Cause narratives; a portrayal that goes against the Design Guidelines (cited above).
- **Design Guidelines Chapter I (*Introduction*)** – Architectural Design Control (ADC) Districts. Detail and point out properties and elements that define the district. In the North Downtown ADC District description, there is no mention of [former] Lee Park or the statues as character defining features. The description of the sub-area of Jefferson Street and High Street West makes no mention of Market Street Park, Court Square Park, or of the statues as important or character defining features in the district. There is no guidance related to the role that these statues play or contribute in a positive way to the landscape character of the district.
 - **Design Guidelines Chapter II (*Site Design & Elements*)** – Does not address statues in public parks.
 - **Design Guidelines Chapter VI (*Public Design and Improvements*), Section J, Number 1** – Does suggest existing public art and statues should be maintained. However, public art is preferred that offers a place making role in celebrating and communicating the history and culture of the districts. The Blue Ribbon Commission [on Race, Memorials and Public Spaces] report already documents the damaging and misleading role of the statues in telling a Lost Cause narrative. It is meant to include some in the community and exclude others. That narrative is not compatible with contemporary values.
 - **National Trust for Historic Preservation** – issued multiple white papers describing support, from a preservationist perspective, for removing Confederate monuments. The National Trust supports removing statues from public spaces when they continue to serve the purposes for which they were built--to glorify, promote, and reinforce white supremacy.
 - The BAR discussed Mr. Gastinger’s comments, then approved a statement (below) for City Council.

Statement from the Board of Architectural Review

With careful consideration of our Design Guidelines, with guidance from respected national preservation organizations, and in acknowledgement of the Blue Ribbon Commission’s public process and work to better understand the history and harmful legacy of these statues, we wish to state our strong support for City Council’s intention to remove the Lee and Jackson statues and to temporarily cover and contextualize the statues during a period of time before removal can occur. Furthermore, we look forward to working with a public process to understand how the parks may be redesigned in the future in accordance with the [ADC District Design] Guidelines.

Motion – Mr. Schwarz – (Second by Mr. Mohr). Staff was instructed to send this statement to Council prior to the Council public hearing regarding the Jackson and Lee statues, scheduled for June 7, 2021. Motion passed 7-0.

-end-

**City of Charlottesville
Board of Architectural Review
Staff Summary for BAR Discussion
May 18, 2021**



City Council Intent to Remove, Relocate, Contextualize or Cover Two monumental sculptures (the “Statues”) and related pedestals, panels, plaques, signs, etc.

- Stonewall Jackson Statue: East High Street, TMP 530039100 (Court Square Park)
- Robert E. Lee Statue: East Market Street, TMP 330195000 (Market Street Park)

District: North Downtown ADC District

Status: Non-contributing

Owner: City of Charlottesville

Request

On May 3, 2021 City Council adopted a resolution (attached) *authorizing publication of notice of Council’s intention to remove, relocate, contextualize or cover statues of Confederate Generals Lee and Jackson currently located within city parks*. With that, Council requested that the Board of Architectural Review (“BAR”) consider the stated intent and provide comment prior to Council’s public hearing, which has been scheduled for June 7, 2021.

Background

In March 2016 Charlottesville City Council received a petition to remove the statue/ sculpture of Confederate General Robert E. Lee (“Lee Statue”) from its location in Market Street Park. Following receipt of the petition, City Council established an advisory body referred to as the Blue Ribbon Commission on Race, Memorials and Public Spaces (“BRC”). The mission specified by City Council for the BRC was to provide City Council with options for telling the full story of Charlottesville’s history of race relations and for changing the City’s narrative through its public spaces, specifically including ways in which the City’s public spaces could be utilized to address race (including, among other items, removing or adding context to existing Confederate statues of Confederate Generals Robert E. Lee (located in Market Street Park) and Thomas J. “Stonewall” Jackson (located in Court Square Park)).

The BRC’s Final Report was presented to City Council on December 19, 2016. The Final Report indicated that removal and relocation, or contextualization in place, were options recommended by the BRC. City Council considered the Final Report as well as many public comments received directly by councilors via email and community contacts. Thereafter, City Council voted on several occasions to implement various BRC recommendations; however, a civil lawsuit filed in March 2017 (the “Lawsuit”) and events of August 2017 intervened and hampered progress on several initiatives:

- **February 2017:** City Council adopted a resolution stating its intention to remove a statue depicting Confederate General Robert E. Lee from a City park, and provided the City Manager a 60-day period to formulate a range of alternatives. The Lawsuit (and related injunctions prohibiting City Council from taking further action) precluded this intention from being carried out.

- **August 2017:** City Council voted to approve a motion directing the Lee and Jackson Statues to be covered with black fabric, in mourning for lives lost the weekend of August 12, 2017. (The covers remained in place until February 26, 2018 when they were removed by order of the Circuit Court). Following the 2018 Court Order, the Lawsuit and related injunctions precluded City Council from covering the Statues
- **September 2017:** City Council announced its intent to remove a statue/sculpture of Confederate General Thomas J. “Stonewall” Jackson from the park that is now known as Court Square Park, stating that such action should be taken as soon as possible, pending resolution of the Lawsuit.
- **November 2017:** by resolution, City Council announced its intention to implement a two-phase process to establish a Master Plan for redesign of the public spaces in the North Downtown and Court Square Districts (including Market Street Park and Court Square Park), to involve numerous stakeholders, including representatives of the BAR. The Lawsuit and related injunctions made it difficult to proceed with this planning process in a cost-effective manner that would have allowed for discussion and development of a full range of options, so the process was put on hold.

On April 21, 2021, the City received the Virginia Supreme Court’s mandate (final decision) on April 21, 2021. The mandate releases the City from the prohibitions of the injunction(s) entered by the Charlottesville Circuit Court. In 2020 the Virginia General Assembly amended the provisions of Va. Code Sec. 15.2-1812 (effective July 1, 2021) removing prohibitive language and allowing a process by which City Council may proceed to make final decisions regarding its intent to remove, relocate, contextualize and/or cover the Statues. City Council will hold a public hearing on June 7, 2021 and has asked the BAR to consider the matter prior to the public hearing. City Council’s priority is removal of the Statues as soon as possible, and City Council would desire to cover or contextualize the Statues during a period of time that may intervene before removal can be accomplished.

The Lee Statue has been in its current location for 97 years; the Jackson statue, for 100 years. In the mid-1990’s the City successfully undertook a process to have each Statue included on both the Virginia Landmarks Register (“VLR”) and the National Register of Historic Places (“NRHP”). The Nomination Forms for each Statue are available for BAR members and the general public to review on the website for the Virginia Department of Historic Resources (Lee: #104-0264; Jackson #104-0251). The Statues are located within a “Charlottesville and Albemarle County Courthouse District” (#104-0072), which district is itself listed on both the VLR and the NRHP. The VLR and NRHP listings represent state and federal recognition of properties, but they do not create any legal obligations or requirements for the City or other landowners.

Consistent with the provisions of Va. Code Sec. 15.2-1812, City Council plans to offer the Statues for at least a 30-day period to any museum, historical society, government or military battlefield; therefore, one potential disposition of the Statues would be a transfer of ownership to another entity for relocation. Removal of the Statues from the parks would likely result in their being de-listed from the VLR and NRHP; however, if the Statues were transferred to another entity, and if the entity desired to maintain the listing, federal Department of Interior standards

allow a process for review of the appropriateness of receiving site, relative to the purposes for which the Statues were listed.

Discussion

BAR Purview: City Council refers changes for City-owned property to the BAR for review and comment, through two channels: **(1)** changes proposed to be made to property that contains a “contributing structure” designated within the ADC Guidelines, or that is an “individually protected property” per City Code Sec. 34-273(b), go through the certificate-of-appropriateness process, pursuant to City Code Sec. 34-275 or Sec. 34-277; and **(2)** changes to other City-owned property are referred to the BAR for informal [advisory] review outside the COA process, as authorized by City Code Sec. 34-288(3). In the present circumstances: the Statues are not “buildings”, they are not designated on maps within the Guidelines as “contributing structures” within the local ADC District, and the parks are not individually protected properties per City Code Sec. 34-273(b); therefore, City Council’s request for review by the BAR falls within the informal [advisory] review category. In this capacity, the BAR may offer comment and recommendations.

The following is intended as a framework for the BAR’s discussion of City Council’s stated intent to remove, relocate, contextualize and/or cover the Statues. No specific disposition has been proposed or decided at the time this staff report was written. City Council is following a statutory process referenced in Va. Code Sec. 15.2-1812 which requires City Council to state its intent, hold a public hearing, and offer the Statues to other entities. Once those steps have been taken, City Council has the sole authority to determine the disposition of the Statues. Between now and Council’s ultimate action(s), City Council may wish to take short-term interim steps (such as covering or contextualization) before removal/ relocation is completed and before a redesign of the two parks is undertaken.

The Statues are not simple pieces of public art. They carry significant and different meanings to many different people. Since the events of August 11 and 12, 2017, they have even greater prominence in a national dialog on race, public space, right-wing extremism, public process, and equity. While a review of City Council’s intentions for disposition of the Statues involves complicated assessments outside the BAR’s usual focus on architectural matters involving landscaping and design, there are aspects of the Design Guidelines which can provide context for the BAR’s discussion.

The City’s Architectural Design Control District Design Guidelines:

The City’s ADC Design Guidelines (“Guidelines”) offer detailed guidance on window mullions, roof forms, landscape, and building mass (i.e., matters relating to “architectural compatibility” of a proposed action, *see* Va. Code Sec. 15.2-2306). Even within the Chapter on Public Design and Improvements, the focus of the Guidelines is on compatibility of a proposed action with “architectural features” and the “character” of the district. The Guidelines are ill-suited to evaluate the City Council’s intent relative to removal or relocation of the Statues, which involve actions that are the subject of a much larger, and important, cultural conversation than can be addressed as a design or architectural issue. Contextualization or covering of the Statues more closely resemble the types of actions typically reviewed by the BAR relative to specific proposals. As noted above, the Statues were previously covered for approximately six months in 2017-2018. It is staff’s understanding that covering the Statues is an option that Council may desire to implement on an interim basis prior to its preferred option of removing and/or

relocating the Statues; however, contextualization and/or screening are actions which could also potentially be addressed within a Master Plan for redesign of these spaces. City Council's resolutions, including those calling for a Master Plan/ Redesign of the parks, are consistent with the recommendations of the BRC, and contemplate BAR participation in a master planning process. (With the current review of the Guidelines, this discussion should be considered when updating Chapter VI, *Public Design & Improvements*.)

Flexibility

Within the Guidelines, Chapter I, *Introduction*, Section B gives some context, and urges flexibility. For example, "The guidelines are flexible enough to respect the historic past and to embrace the future."

Community Values:

Chapter VI, *Public Design & Improvements*, Section A suggests that improvements and amenities added to public property within historic districts should be "compatible with the general architectural features and character of an area or district." Chapter VI also states that "new public spaces and improvements should reflect contemporary design principles and values." As to community values, the BAR may look to the Final Report of the BRC (December 2016), which provided a significant and inclusive public process of research, conversation and discovery, which produced recommendations that provide guidance to the City regarding. That process and the subsequent recommendations offer the BAR guidance in considering issues of historical interpretation, meaning, and community values. (Summary of the BRC's recommendation is attached. The complete BRC Final Report is available on the City's website. See pages 91 through 118 of:

http://weblink.charlottesville.org/public/0/edoc/793914/ CouncilBook_20161219Dec19.pdf.)

False Sense of History:

Chapter I, *Introduction*, Section E describes the BAR's and the guideline's role in reading our landscapes and fabrics as "physical records of its time, place, and use. Changes that create a false sense of historical development ... will not be undertaken."

Statues occupy a particularly challenging place in the preservation movement and preservation law. In cities across the nation, removal of Confederate statues has been undertaken in recent years specifically to add historical context and communicate perspectives previously ignored. As noted by Professor Peter Byrne, Georgetown Law, in *Stone Monuments and Flexible Laws*: "The purposes of historic preservation include the conservation of the physical remains of the past that express the significance of past people, events, movements, and places in order to give contemporary people a sense of orientation to and meaning from their cultures and places"; but, citing the NRHP, "*properties primarily commemorative in nature normally are not eligible for listing. ... Such resources are created consciously to shape cultural memory and often reflect biases that promote a fictitious or propagandistic narrative about the subject.*"¹

Professor Byrne's comments directly relate to a statement in the Guidelines, Chapter VI, Section J: "Public art is preferred that offers a place-making role in celebrating and communicating the history and culture of the districts." The NRHP nominations for each Statue identify each Statue as public art, not as commemorative installations. The work of the BRC has educated many regarding the Lost Cause narrative that informed the selection of these particular installations to be placed in these particular locations within the City. In one of the City's briefs to the Virginia

Supreme Court, the City included the following excerpt from a 2009 decision of the United State Supreme Court in Pleasant Grove City, Utah v. Summum: “Governments have long used monuments to speak to the public. ... A monument, by definition, is a structure that is designed as a means of expression. When a government entity arranges for construction of a monument, it does so because it wishes to convey some thought or instill some feeling in those who see the structure. ... Public parks are often closely associated in the public mind with the governmental unit that owns the land. City parks. ... commonly play an important role in defining the identity that a city projects to its own residents and to the outside world. ... Government decision makers select the monuments that portray what they view as appropriate for the place in question, taking into account such factors as aesthetics, history and local culture.”

Many in the public may be unaware of the specific political, social and cultural forces that led to the installation of the Statues in the 1920’s. The research and communication of the BRC and many others in the Charlottesville community have greatly improved public awareness on these points.

As the nation’s oldest and most respected preservation organization, The National Trust for Historic Preservation (NTHP) has shaped preservation approaches and preservation law in the United States. In recent years, the NTHP has expressed support for removing Confederate Monuments, both from a preservationist perspective and as guidance to review boards and local governments. The following is an excerpt from the NTHP’s 2020 Statement on Confederate Monuments: “*We believe it is past time for us, as a nation, to acknowledge that these symbols do not reflect, and are in fact abhorrent to, our values and to our foundational obligation to continue building a more perfect union that embodies equality and justice for all. We believe that removal may be necessary to achieve the greater good of ensuring racial justice and equality. Although Confederate monuments are sometimes designated as historic, and while many were erected more than a century ago, the National Trust supports their removal from our public spaces when they continue to serve the purposes for which many were built—to glorify, promote, and reinforce white supremacy, overtly or implicitly.*”²

Public Necessity:

Through the experiences of our community in recent years, City Council developed its intent to remove the Statues out of a sense of public necessity. As documented in the work of the BRC prior to August 2017, and as experienced by the entire community in August 2017 to the present, City Council recognizes the significant harm and pain caused by the Statues to many residents. The issues related to removal, relocation, contextualization or covering the Statues are complex and relate directly to our ability and capacity, as a City and as City residents, to address a difficult and painful past. Residents of this community have been active in conversations about race and public spaces for many years. Leaders in our community, both elected and unelected, created a lengthy and considered process to facilitate these discussions, which yielded careful recommendations. Having the benefit of that public process and input, City Council has announced its intention to remove, relocate, contextualize and/or cover the Statues and the architectural focus of the Guidelines provides no basis on which to override that decision-making process.

Character of the City’s Local Architectural Design Control District:

The portions of the BAR Guidelines which relate to Council’s intentions, as presented at this time, are those which speak to landscape and neighborhood character.

Chapter I of the Guidelines describes each ADC district in detail through a text narrative, with plan diagrams that identify contributing and non-contributing structures, and through the descriptions of sub-areas within each district. In the description of the North Downtown ADC District, there is no mention of the previously named Lee Park or Jackson Park, nor of the statues themselves; no mention of them as *character defining features* of the district. The descriptions for the sub-areas of Jefferson Street/High Street West and Court Square make no mention of the parks or statues. There is no mention of how the two parks (Market Street Park and Court Square Park) or the Statues contribute to the landscape character of the district. In Chapter II, *Site Design and Elements*, there is no mention of the Statues or either park.

In Chapter VI, *Public Design and Improvement*, the statues are described as *focal points* of each park. In that same Chapter, Section J suggests that existing public art and statues should be maintained; however, in that same section there is also the recommendation that public art should offer “a place-making role in celebrating and communicating the history and culture of the districts”. The BRC’s Final Report documents in detail the misleading and damaging role of the statues in telling a specific Lost Cause narrative specifically intended to express inclusion of some in the community and the exclusion of others—a narrative incompatible with contemporary values. The Guidelines for this ADC District contain no mention of the Lost Cause narrative and its objectives. Consistent with City Council’s intentions new *focal points* for each park could be achieved by other means following removal, relocation, contextualization and/or covering of the Statues.

The Statues have been documented and photographed, as evident by the VLR and NRHP listings. Removal or covering of the Statues will not result in a loss of information about them, and would pave the way for City Council to update its public spaces in a manner that adds context and historically correct detail previously omitted from the nominations that established the state- and federally-listed Courthouse District.

Deference to City Council:

Consistent with the BAR’s responsibility to serve as an *advisory body* (per City Code Section 34-288(3)), City Council has requested the BAR’s input relative to the intended changes to these parks. To be clear, per Va. Code Sec. 15.2-1812, at the conclusion of the process currently being followed by City Council, City Council “shall have sole authority to determine the final disposition” of the Statues.

Also consistent with its role as an advisory body, the BAR should participate in any Master Plan process to redesign Market Street and Court Square Parks, and to provide input on any planned future improvements and installations in these locations.

Recommended Action

No BAR action is required; however, the BAR may instruct staff to provide Council a summary of this discussion.

Attachments (Omitted for memo Council)

~~City Council Resolutions~~

- ~~May 3, 2021: Authorizing publication of notice of Council's intention to remove, relocate, contextualize or cover statues of Confederate Generals Lee and Jackson currently located within city parks~~
- ~~February 6, 2017: Blue Ribbon Commission Public Spaces Recommendations~~
- ~~September 5, 2017: To transform the City of Charlottesville's core public spaces in keeping with the recommendations of the Blue Ribbon Commission on Race, Memorials and Public Spaces such that a more complete history of race is told and the City's commitment to truth, freedom and equity is affirmed~~
- ~~September 5, 2017: Remove and relocate the statue of Stonewall Jackson from Justice Park and expedite the removal of both the Jackson and Robert E. Lee statues pending final disposition~~
- ~~February 6, 2017: Remove statue of Robert E. Lee from Lee Park~~
- ~~February 6, 2017: Re-name Lee Park~~

~~Recommendations: Blue Ribbon Commission on Race, Memorials, and Public Spaces~~

- ~~Summary from Final Report to City Council December 19, 2016 (From pages 7-19)~~

¹ Byrne, J. Peter, Stone Monuments and Flexible Laws: Removing Confederate Monuments Through Historic Preservation Laws (June 22, 2020). <https://ssrn.com/abstract=3633473> or <http://dx.doi.org/10.2139/ssrn.3633473>

² National Trust for Historic Preservation Statement on Confederate Monuments, June 18, 2020 <https://savingplaces.org/press-center/media-resources/national-trust-statement-on-confederate-memorials#.YJFyPflKhPY>

PREVIOUS RESOLUTIONS OF CITY COUNCIL (2017) (9 PAGES, TOTAL)

RESOLUTION

AUTHORIZING PUBLICATION OF NOTICE OF CITY COUNCIL'S INTENTION TO REMOVE, RELOCATE, CONTEXTUALIZE OR COVER STATUES OF CONFEDERATE GENERALS LEE AND JACKSON CURRENTLY LOCATED WITHIN CITY PARKS, AND TO HOLD A PUBLIC HEARING THEREON

WHEREAS, the Charlottesville City Council intends to remove, relocate, contextualize or cover the statues of Confederate General Robert E. Lee and Stonewall Jackson installed, respectively, within Market Street Park and Court Square Park (together, the "Statues"); now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE:

1. THAT the Clerk of Council shall cause notice of City Council's intent to remove, relocate, contextualize or cover the Statues to be published within a newspaper having general circulation within the City. Such notice shall specify the time and place of a public hearing at which interested persons may present their views, not less than thirty (30) days after the date of publication of the notice, and

2. THAT the City's Board of Architectural Review is hereby requested to consider City Council's stated intent to remove, relocate, contextualize or cover the Statues prior to the public hearing date specified in the published newspaper notice.

RESOLUTION
BLUE RIBBON COMMISSION PUBLIC SPACES RECOMMENDATIONS

WHEREAS to transform the City of Charlottesville's core public spaces in keeping with the recommendations of the Blue Ribbon Commission on Race, Memorials and Public Spaces (BRC) such that a more complete history of race is told and the City's commitment to truth, freedom and equity is affirmed; and

WHEREAS the Charlottesville City Council made a clear commitment to reveal and tell the full story of race through our City's public spaces when it established the BRC in August 2016; and

WHEREAS the BRC's Final Report acknowledged that far too often our public spaces and histories have ignored, silenced or suppressed African American history, as well as the legacy of white supremacy and the unimaginable harms done under that cause; and

WHEREAS the public spaces of Charlottesville's Historic North Downtown and Court Square Districts contain the Robert E. Lee statue in Lee Park*, the Stonewall Jackson statue in Jackson Park, the slave auction block and the Reconstruction era's Freedman's Bureau;

BE IT RESOLVED that the City Council of Charlottesville directs staff to:

- In consultation with community and stakeholder groups chosen at the discretion of the City Manager such as the Jefferson School African American Heritage Center, the PLACE Design Task Force, the Human Rights Commission and the Historic Resources Commission to write and issue (within 90 days of the adoption of this Resolution) a Request for Proposal (RFP) for professional design services to create a Master Plan for the Historic North Downtown and Court Square Districts that would;
 - Redesign and transform Jackson Park through the addition of a new memorial to Charlottesville's enslaved population while retaining its ability to function as a community gathering space,
 - Redesign Lee Park, independent of the Lee statue while retaining its ability to function as a community gathering space,
 - Replace the current plaque at the slave auction block with one that is legible,
 - Identify and acknowledge the site of the Freedman's Bureau.

BE IT FURTHER RESOLVED that all submissions through the RFP process shall:

- Provide at least two preliminary Master Plan options of the above inclusive of new site plans, elevations and sections, 3D visualizations, and specifications for signage, commemorative plaques, lighting and landscape elements as appropriate throughout this historic precinct so as to create a coherent narrative.
- Engage the community at large in a manner that ensures that those underrepresented communities are fulsomely included in the process, as well as the Board of Architectural Review (BAR) the Historic Resources Commission, the Human Rights Commission, the PLACE Design Task Force, Planning Commission and City Council.
- Provide preliminary cost estimates on all options.
- Establish a timeline to be completed within 12 months of contract signing.
- Allow for the development, design and implementation of a final Master Plan as adopted by City Council, with a projected estimated budget not to exceed \$1,000,000.00**

BE IT FURTHER RESOLVED, that the City Council of Charlottesville, Virginia, supports re-naming Jackson Park and hereby directs staff to bring Council a range of options on how and what to rename the park within 60 days of the adoption of this Resolution for its consideration.

Approved by Council
February 6, 2017

A handwritten signature in cursive script, appearing to read "Sam Bradford", is written over a horizontal line.

Acting Clerk of Council

* The City Council voted to relocate the Robert E. Lee statue per a majority vote taken on February 6, 2017.

** Should the fabrication and installation of a new memorial for Charlottesville's enslaved population exceed the established budget, additional grants and private funds shall be raised to supplement the City's contribution.

RESOLUTION
(as AMENDED)

To transform the City of Charlottesville's core public spaces in keeping with the recommendations of the Blue Ribbon Commission on Race, Memorials and Public Spaces (BRC) such that a more complete history of race is told and the City's commitment to truth, freedom and equity is affirmed

WHEREAS the Charlottesville City Council made a clear commitment to reveal and tell the full story of race through our City's public spaces when it established the BRC in August 2016; and

WHEREAS the BRC's Final Report acknowledged that far too often our public spaces and histories have ignored, silenced or suppressed African American history, as well as the legacy of white supremacy and the unimaginable harms done under that cause; and

WHEREAS the public spaces of Charlottesville's Historic North Downtown and Court Square Districts contain the Robert E. Lee statue* in Emancipation Park, the Stonewall Jackson statue in Justice Park, the slave auction block and the Reconstruction era's Freedman's Bureau;

BE IT RESOLVED that the City Council of Charlottesville directs staff to:

- In consultation with community and stakeholder groups chosen at the discretion of the City Manager such as the Jefferson School African American Heritage Center, the PLACE Design Task Force, the Human Rights Commission, the University of Virginia and the Historic Resources Commission to write and issue (within 90 days of the adoption of this Resolution) a Request for Proposal (RFP) for professional design services in conjunction with expertise in art and history to create a Master Plan for the Historic North Downtown and Court Square Districts that would;
 - o Remove the Robert E. Lee and "Stonewall" Jackson statues* from Emancipation and Justice Parks, pending court decisions and/or changes in the Virginia Code,
 - o Provide near- and long-term park redesigns for both Justice and Emancipation Parks with and without the statues (as resolving the fate of these statues may take time, but the need to begin changing the narrative surrounding these statues is immediate),
 - o Redesign Justice Park including the addition of a new memorial** to Charlottesville's enslaved population while retaining its ability to function as a community gathering space,
 - o Redesign Emancipation Park, independent of the Lee statue including the addition of a new memorial** in keeping with the recommendations of the BRC and results of an extensive public engagement process while retaining its ability to function as a community gathering space,
 - o Replace the current plaque at the slave auction block with one that is legible,
 - o Identify and acknowledge the site of the Freedman's Bureau.
 - o Incorporate the work of the Equal Justice Initiative with regards to the placement and installation of the historical marker commemorating the lynching of John Henry Adams in Albemarle County.

BE IT FURTHER RESOLVED that all submissions through the RFP process shall:

- Provide for each park at least two preliminary Master Plan options (one with and one without the statues) of the above inclusive of new site plans, elevations and sections, 3D visualizations, and specifications for signage, commemorative plaques, lighting and landscape elements as appropriate throughout this historic precinct so as to create a coherent narrative.
- Engage the community at large in a manner that ensures that those underrepresented

communities were fulsomely included in the process, as well as the Board of Architectural Review (BAR) the Historic Resources Commission, the Human Rights Commission, the PLACE Design Task Force, the University of Virginia, Planning Commission and City Council.

- Provide preliminary cost estimates on all options.
- Establish a timeline to be completed within 12 months of contract signing.
- Allow for the development, design and implementation of a final Master Plan as adopted by City Council, through a total project budget not to exceed \$1,000,000.00**
- Be given a three month extension for all submissions from the date of the adoption of these amendments.
- Be reviewed and rated by a community selection committee appointed by the City Manager, with representation inclusive but not limited to the above cited groups as well as external experts.
- Begin a process of working with the necessary parties to include the library as part of this plan.

BE IT FURTHER RESOLVED that the Board of Architectural Review (BAR) shall meet as soon as possible to vote on the removal of both statues as required by Charlottesville City ordinances, so that there is no procedural delay in removing the statues should the courts find in the City's favor.

BE IT FURTHER RESOLVED, that the City Council of Charlottesville, Virginia, supports re-naming Jackson Park and hereby directs staff to bring Council a range of options on how and what to rename the park within 60 days of the adoption of this Resolution for its consideration.

* NOTE: The Robert E. Lee statue will be relocated as per a 3:2 majority vote by City Council on February 6, 2017. The "Stonewall" Jackson statue will be relocated as per the date of the adoption of these amendments.

**NOTE: Should the fabrication and installation of a new memorial for Charlottesville's enslaved population (and other memorials) exceed the established budget, additional grants and private funds shall be raised to supplement the City's contribution. The actual design of a new memorial to Charlottesville's enslaved population (and an as yet to be determined memorial in Emancipation Park) shall be determined by an independent process (including but not limited to a design competition.)

Approved by Council
September 5, 2017



Clerk of Council

(Resolution offered by Councilor Galvin, February 6, 2017 with amendments submitted by Councilor Galvin, on August 21, 2017 and on September 5, 2017)

RESOLUTION

To remove and relocate the statue of Stonewall Jackson from Justice Park and expedite the removal of both the Jackson and Robert E. Lee statues pending final disposition

WHEREAS the monuments of Confederate generals Robert E. Lee and Stonewall Jackson that sit in Charlottesville's Emancipation and Justice Parks were erected not as war memorials after the Civil War, but as 20th Century testaments to a fictionalized, glorified narrative of the rightness of the Southern cause in that war, when the actual cause was an insurrection against the United States of America promoting the right of southern states to perpetuate the institution of slavery; and

WHEREAS the continued presence of these monuments conveys the visual message that Charlottesville supports the cause for which these generals fought; and

WHEREAS the Monuments of Confederate generals Robert E. Lee and Stonewall Jackson have become flashpoints for white supremacist violence throughout the summer of 2017, with white nationalist and Ku Klux Klan rallies at the Jackson monument and culminating in the armed invasion of Charlottesville during the "Unite the Right" rally "defending" the Lee monument; and

WHEREAS the continued presence of these monuments in Charlottesville's historic downtown district constitute a clear and continuing threat to public safety, both from continuing white supremacist defense of their presence and from anti-racist activists who may feel motivated to vandalize them; and

WHEREAS City Council voted on February 6, 2017, to remove the statue of Robert E. Lee from the park formerly known as Lee Park, and to change the name of the park;

NOW THEREFORE BE IT RESOLVED, that we, the City Council of Charlottesville, Virginia, order the removal of the statue of Stonewall Jackson from Justice Park as soon as possible, following the successful resolution of the current court case in favor of the City;

BE IT FURTHER RESOLVED, that upon the successful resolution of the current court case in favor of the City and until successful bids are accepted, both statues will be moved to a storage location pending final disposition, and successful bidders will be required to reimburse the cost of removal.

BE IT FURTHER RESOLVED, that if no responsive proposals are received, Council may consider donation of the statue to an appropriate venue; and

BE IT FURTHER RESOLVED, that the City of Charlottesville will issue a Request for Bids for disposition of the statue, and will advertise this RFB widely, including to organizations responsible for sites with historic or academic connection to Robert E. Lee, Stonewall Jackson or the Civil War, with the following criteria for award:

- The statue will not be displayed to express support for a particular ideology.

- The successful applicant will pay for or take responsibility for removal and transportation.
- The removal and transportation will be carried out in a manner that preserves the integrity of the sculpture.
- The display of the statue will preferably be in an educational, historic or artistic context.
- The purchaser will pay for any repair for any damage to the park incurred as a result of the removal.
- Some preference will be given to proposals that include a plan for maintenance of the statue's National Register of Historic Places listing

Approved by Council
September 5, 2017

A handwritten signature in cursive script that reads "Yaiqe Rice". The signature is written in black ink and is positioned above a horizontal line.

Clerk of Council

**RESOLUTION
TO REMOVE THE STATUE OF ROBERT E. LEE FROM LEE PARK**

BE IT RESOLVED that the City of Charlottesville shall remove the statue of Robert E. Lee from the park currently known as Lee Park; and

BE IT FURTHER RESOLVED, that Council hereby directs staff to bring Council a range of recommended options for moving forward with decisions on destination and design within 60 days for Council consideration.

Approved by Council
February 6, 2017

A handwritten signature in cursive script, appearing to read "Sara Bragg", is written over a horizontal line.

Acting Clerk of Council

**RESOLUTION
TO RE-NAME LEE PARK**

BE IT RESOLVED that the park currently known as Lee Park in the City of Charlottesville shall be renamed; and

BE IT FURTHER RESOLVED that City Council hereby directs staff to bring Council a range of recommended options, within 60 days for our consideration, for a new park name.

Approved by Council
February 6, 2017

A handwritten signature in cursive script, appearing to read "Sarah Brantley", is written over a horizontal line.

Acting Clerk of Council