

Attachment 2

City staff response to the appeal of the BAR’s January 18, 2023 decision denying a certificate of appropriateness for installation of rooftop photovoltaic/solar panels at First United Methodist Church located at 101 East Jefferson Street, (BAR 22-10-02).

(Throughout this Response, references to “Staff” represent the collective positions of the BAR, the City’s Preservation and Design Planner, and the City Attorney’s Office.)

EXECUTIVE SUMMARY OF STAFF’S RESPONSE

This appeal has been taken by the pastor and two trustees of First United Methodist Church at 101 East Jefferson Street, the property that is the subject of this appeal. For the reasons stated below (within specific responses to each of the Appellants’ separate contentions), Staff’s position is that the concerns expressed by the Appellant do not provide a basis for the BAR to approve a Certificate of Appropriateness, (CoA) under the standards set forth within Chapter 34 (Zoning) Article II (Overlay Districts), Division 2 (Historical Preservation and Architectural Design Control Overlay Districts).

Council’s Role on Appeal: Reference Sec. 34-286(b) and (c) of the City Code (Chapter 34 of the City Code is referred to as the “Zoning Ordinance”). Council’s role on appeal is to serve as the final decision-maker. Council must consider the appeal, consider the BAR’s position communicated in this Response as the “Staff Response”), and Council may consider any other information, factors or opinions it deems relevant to the application. Council should make a final decision on the application and should not refer the matter back to the BAR.

Staff Response to Appellant’s Contentions

Paragraph 1

Appellant: “We feel the BAR’s vote was based on out-of-date Architectural Design Control Districts Guidelines [*design guidelines*] that are now in conflict and incongruous with the current vision and goals of the City of Charlottesville to promote the use of sustainable energy.”

Staff Response: The BAR’s evaluation of this CoA request is limited to the criteria proscribed in City Code Section 34-276 - *Standards for review of construction and alterations*. The standards (see below) include by reference the City’s 2012 ADC District Design Guidelines and the Secretary of the Interior’s Standards (*Secretary’s Standards*), last updated in 2017.

Regarding the installation of solar panels and the removal of [sections of] the historic character-defining slate roof, both the guidelines and Secretary’s Standards are unambiguous and do not support the CoA request, as submitted. However, the guidelines and the Secretary’s Standards cannot be read as in conflict with sustainability; in fact, they embrace and encourage it: historic preservation is the epitome of *reuse-reduce-recycle*. (See the January 18, 2023 BAR meeting minutes, Attachment 4, re: the BAR

discission on weighing the benefits of retaining the slate roof vs installing the solar panels.)

The design guidelines encourage creative and proactive thinking to incorporate sustainable technologies into historic districts and structures. Sustainability is the first section in the *Introduction* (Chapter I) to the design guidelines. The Secretary’s Standards offer a range of specific guidance on how solar might be successfully--and unsuccessfully-- incorporated into renovations and rehabilitations. The BAR’s design guidelines are overdue for an update, but the standards of review, overall, are neither obsolete or useless regarding sustainability and new technologies. They do not prohibit or prevent the installation of solar panels. They offer guidance for evaluating when an installation is—and is not--appropriate, relative to historic preservation. (The referenced Secretary’s Standards are on pages 6 and 7 of the January 18, 2023 BAR staff report.)

For example, the Secretary’s Standards regarding Solar Technology recommends that solar devices be installed in *a compatible location on the site or on a non-historic building or addition where it will have minimal impact on the historic building and its site*. The BAR’s primary concern was the sanctuary roof, so there was support for solar panels on the north building and other secondary locations. During the several discussions, the BAR even suggested the church consider erecting a frame over the parking lot to accommodate the panels. (See the Discussion on page 2 of January 18, 2023 BAR staff report and the comments n on page 2 of the October 18, 2022 meeting minutes, Attachment 3.)

Paragraph 2

Appellant: “The ADC District Guidelines were last revised in September 17, 2012 and, as admitted by the BAR during our meeting on January 18, 2023, are in need of updating, particularly in regard to renewable energy and specifically solar panels. Since the guidelines’ last revision, the City has approved numerous statements, standards, plans, amendments and initiatives to not only support and encourage sustainable energy, but also to make it a matter of governing policy.”

Staff Response: The statement accurately represents the BAR’s discussion.

Paragraph 3

Appellant: Reference to *City Council Vision Statement 2025*

Staff Response: The BAR’s evaluation of this CoA request is limited to the criteria proscribed in City Code Section 34-276 - *Standards for review of construction and alterations*. These standards (see below) include by reference the City’s ADC District Design Guidelines and Secretary’s Standards. Following that evaluation, Section 34-284(b) requires the BAR find that a request either: a) meets those specific standards or applicable provisions of the Design Guidelines [approval of the CoA]; or b) based on those standards and provisions, is incompatible with the historic, cultural or architectural

character of the district in which the property is located or the protected property that is the subject of the application [denial of the CoA]. In brief, the BAR does not disagree with or dismiss the referenced City policy; however, the review standards available to the BAR include only those proscribed in the City Code.

Paragraph 4

Appellant: Reference to *Solarize Charlottesville campaign*,

Staff Response: See comment above for Paragraph 3.

Paragraph 5

Appellant: Reference to *Charlottesville Standards & Design Manual*

Staff Response: See comment above for Paragraph 3.

Paragraph 6.

Appellant: Reference to *City of Charlottesville Strategic Plan*.

Staff Response: See comment above for Paragraph 3.

Paragraph 7.

Appellant: Reference to *City of Charlottesville Comprehensive Plan*

Staff Response: See comment above for Paragraph 3.

Paragraph 8.

Appellant: Reference to *Charlottesville Climate Action Plan*

Staff Response: See comment above for Paragraph 3.

Paragraph 9.

Appellant: “Additional examples and references to the City's website could be included, but it seems clear that in the ten years since the ADC District Guidelines were last updated the City has dramatically increased its support of sustainable energy. The City's website Renewable Energy: Solar page even highlights FUMC on its Charlottesville Solar: Rooftop Potential map. And while the ADC District Guidelines state that "Sustainability and preservation are complementary concepts, and both goals should be pursued. Nothing in these guidelines should be construed to discourage green building or sustainable design," that was not reflected in the denial of the CoA.”

Staff Response: See comments above for Paragraph 2 and Paragraph 3. Additionally, since 2010, the BAR has reviewed 15 CoA request for solar panels. All were approved. Except for the FUMC project, there have been no requests to install solar panels on a slate roof. Since adoption of the current design guidelines in 2012, the BAR has reviewed and approved 11 CoA requests for solar panels. All were approved. (See list in the Appendix of the January 18, 2023, BAR staff report.)

Paragraph 10.

Appellant: “The solar panel project grows out of a desire by members of the FUMC congregation to live out a commitment to stewardship of the environment and the Charlottesville community through their support of sustainable energy. [...]”

Staff Response: No comment. Refers to matters outside of BAR purview.

Paragraph 11.

Appellant: “We are a community of faith that has made a commitment to remain in a historic building in the downtown area during a period when other congregations have left the area. [...]”

Staff Response: No comment. Refers to matters outside of BAR purview.

Referenced City Code Sections

Section Sec. 34-284. - BAR review and hearing.

[...]

- b) In considering a particular application the BAR shall approve the application unless it finds:
1. That the proposal does not meet specific standards set forth within this division or applicable provisions of the design guidelines established by the board pursuant to section 34-288(6); and
 2. The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the protected property that is the subject of the application

Sec. 34-276. - Standards for review of construction and alterations.

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 design control district;

- 1) The harmony of the proposed change in terms of overall proportion and the size and placement of entrances, windows, awnings, exterior stairs and signs;
- 2) 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;
- 3) The effect of the proposed change on the historic district neighborhood;

- 4) The impact of the proposed change on other protected features on the property, such as gardens, landscaping, fences, walls and walks;
- 5) Whether the proposed method of construction, renovation or restoration could have an adverse impact on the structure or site, or adjacent buildings or structures;
- 6) When reviewing any proposed sign as part of an application under consideration, the standards set forth within Article IX, sections 34-1020, et seq. shall be applied; and
- 7) Any applicable provisions of the city's design guidelines (see section 34-288(6)).

Sec. 34-288. - Responsibilities of BAR.

The function of the board of architectural review ("BAR") shall be to administer the provisions of this division. In carrying out this responsibility the BAR shall:

- 1) Approve, deny, or approve with conditions applications for certificates of appropriateness in accordance with the provisions of this division.
- 2) [...]
- 3) [...]
- 4) [...]
- 5) [...]
- 6) Develop and recommend to the city council for its approval design guidelines for the city's architectural design control districts ("design guidelines"), consistent with the purposes and standards set forth within this division. The BAR shall develop the design guidelines in consultation with the city's urban design committee and after seeking input from business and property owners in the various districts. Guidelines developed by the board shall become effective upon approval by city council and thereafter shall have the status of interpretive regulations. The BAR shall undertake a comprehensive review and update the design guidelines at least once every five (5) years.