

Draft: Report to the City of Burlington Planning and Zoning Commission and the Burlington City Council

From: City of Burlington Historic Preservation Commission

Prepared by a subcommittee of the HPC, members: Pennington, Vandermaas-Peeler, Meinking,  
1.28.22, 9-11am in City conference room

Under statute (160D-944) the Historic Preservation (HPC) is directed to deliver this report in response to the applications submitted in April and May 2021 by residents of the south side of the 1000 block of W Davis Street to withdraw their properties from the West Davis/Fountain Place Historic Overlay district. The removal of properties from established historic districts is unprecedented in Burlington, and indeed there is little to no precedent in North Carolina. City staff and the HPC moved with deliberateness to establish an appropriate process for this unusual and unanticipated situation during a pandemic that disrupted normal city operations. City staff were in regular communication with the property owners and the HPC discussed the applications at most of its subsequent monthly meetings to ensure the process moved forward. In May, 2021, the City of Burlington issued a Request for Proposals to conduct a Property Removal Study to understand the ramifications of the proposed changes to the Historic Overlay District. It received a Property Removal Study by Richard Grubb and Associates at its December, 2021 meeting and referred the report to the State. During its January 2022 meeting the HPC appointed a subcommittee to draft this report with the charge to deliver a draft that could be considered at the February HPC meeting. On February 8, 2022, the HPC received both the subcommittee's draft, the Consultant's report and presentation and the response of the State Historic Preservation Office to these applications and it then conveyed this report to the Planning and Zoning Commission for its recommendation to the City Council.

It is the recommendation of the HPC that the city of Burlington reject these applications and preserve the integrity of this economically and historically important neighborhood. Our recommendation to deny these applications rests on the following considerations:

1. The Property Removal Study commissioned by the City of Burlington and prepared by Richard Grubb and Associates included in this report recommends rejection of these applications and a series of measures to address concerns raised by the property owners.
2. The State Response to the aforementioned Report agrees with the deleterious effect that the property removal would have on the local historic district. Pursuant to NC GS 160D-944, it also questions whether the removal would be "for cause" and whether there has been any change to this portion of the district; the HPC does not find the removal to constitute "for cause" nor for there to have been any change or destruction to this portion of the district.
3. Withdrawal of these very important contributing structures would threaten the Integrity of the W. Davis Street/Fountain Place Historic District, establish precedent for others to

withdraw, affect property values in the vicinity of Burlington's historic downtown and the economic value to the city of Burlington that this district represents.

4. The grounds cited in the applications for seeking withdrawal from the district do not accurately reflect HPC practice, the nature of the design standards, or some applicants' interactions with the HPC.

#### With Reference to the Property Removal Study

We concur with the conclusions of the Property Removal Study, namely:

- That the "West Davis-Fountain Place LHO District is a cohesive collection of individual properties where the whole is greater than the sum of its parts," attesting to "the special historic character of Burlington" and "the efforts of local citizens and elected and government officials to protect and enhance this character."
- That "the removal of properties from the district" will entail a "negative outcome for the community."
- That "rather than remove the properties from the LHD, improvements to the historic preservation program are recommended."

Among the consultant's recommendations are a set of initiatives that were well underway at the time these applications were submitted: the city's Historic Preservation Design Standards are currently being revised, a process that should be complete by July 2022; city staff are producing a streamlined process by which property owners seek Certificates of Appropriateness for property improvements, staff and Historic Preservation Commission member participate in ongoing training, and new efforts to expand community education programming are well underway. Additional information about these initiatives is provided below. We would note here the wide-ranging revision of and improvement to the historic preservation processes in progress and ongoing good-faith efforts by the HPC to address the concerns that these applicants and other residents of Burlington express.

#### With Reference to the NC State Historic Preservation Office Response to the Applications

1. The State's Response suggests that the Consultant's Report "frames a fundamental question – are the reasons given by the applicant the ones contemplated by the North Carolina General Statutes as being 'for cause?'".
  - The HPC does not find that the applicants' reasons for removing the properties in question from the historic district meet criteria for being "for cause."
2. The State's Response further questions whether "the special significance and/or integrity of this portion of the district changed or been destroyed since the local district designation was established?". In particular, the Response cites [NC GS 160D-944](#).
  - The HPC does not find that the special significance and/or integrity of this portion of the district has been changed or destroyed since the local district designation was established. The centrality of this portion of the district to the overall district's significance is detailed both in the Consultant's Report (pp.2-2 through 2-7) and in the original application for historic district designation (National Register of

Historic Places Inventory – Nomination Form for West Davis Street-Fountain Place District).

3. The State's Response "does not disagree with the[se]" observations," given in the Consultant's Report, that removal of the properties in question would likely lead to "a precedential value and cascade effect...that may work to the detriment of other citizen property owners and their positive expectations about investing and living in a locally designated historic district."
  - o The HPC agrees that the removal of these properties – a full block located at the entrance to the district – would have the deleterious effect detailed above.

Additional Local Context and Information Informing the HPC's Recommendation to Reject Applications

The HPC offers the following as additional context for the Planning and Zoning Commission's consideration:

1. History of Applications Associated with the Properties in Question.

A review of previous applications connected to these properties shows a history of HPC approval for work requested. In particular, the HPC points to Tables 2.3-2.6 of the Consultant's Report for a history of applications submitted to the HPC, including nature of the work proposed and approval status. Some of these approvals are for the use of materials that are energy efficient.
2. Initiative to Revise the Design Standards.

In July 2021, the City of Burlington received notification that they were awarded a matching grant from FY 2021 Historic Preservation Fund (HPF) for Certified Local Governments (CLG) administered through the State Historic Preservation Office (HPO), Division of Historic Resources, Office of Archives and History, North Carolina Department of Natural and Cultural Resources, for the Revision of the Design Standards. It wasn't until December 2021 that the City was authorized by the State to solicit RFPs. In January of 2022, City Staff and HPC members interviewed two potential consultants for this job and a contract is being negotiated as of January 28, 2022. The revised Standards will be in effect for HPC's use in July 2022.
3. Community Involvement and Engagement.

There is widespread community interest and involvement in the preservation and promotion of Burlington's distinctive historical character. The non-profit [Preservation Burlington](#) was founded in 2016 to coordinate and support community involvement in historic preservation and its noteworthy success has contributed to the rapid recent growth in the downtown area and the elevation of property values.
4. Growth in the District.

The intention of these applications runs counter to the growing interest in the preservation of Burlington's history. Indeed, a recent architectural survey update of the historic districts of Burlington and adjacent areas commissioned by the City of Burlington recommends expansion of these districts to include properties important to Burlington's history that were not included in the original districts.

5. Streamlined COA Process.

City Staff has already implemented strategies to increase efficiency and make the process for COA applications more transparent. Minor COAs, in particular, have largely shifted to an Administrative Approval process (wherein the HPC is consulted only as needed) and Major COA application materials have become more substantial, contributing to a more informed and streamlined discussion by HPC.

6. Ongoing HPC Member Training.

The HPC currently has a full membership with 7 active members, all appointed by City Council. The City Council is recognized as a Certified Local Government (CLG) in North Carolina's historic preservation program. In accordance with the CLG requirements, commission staff person and commissioners have attended training or participated in the virtual CLG Training Series between the period of October 1, 2020, and September 30, 2021. Some of the trainings during this time period included: National Trust for Historic Preservation Virtual Workshops, SHPO Summer 2020 Training Series, and UNC School of Government Quasi-judicial Board Workshop. In 2022, staff and commissioners will continue to participate in the available training sessions. In addition, the staff provides training materials to all new commission members.

7. Timeline of HPC's involvement.

Recognizing that the applicants have found the process of seeking removal of their properties inefficient, we would note that the HPC has acted quickly at every phase of the process.

**Dates of commission involvement with properties since submission of the applications:**

- May: 5/11/2021 - Glen Raven request (submitted 4/27/201) to remove properties - 1010, 1016 and 1022 West Davis Street discussed. Request for Proposals initiated.
- June: 6/8/2021 - Robinson request (submitted 5/21/201) to remove property - 1004 West Davis Street discussed. RFP amended to include this property.
- August: Robinson request to replace windows with modern, insulated cut glass to improve power efficiency was approved unanimously. This is important to note since a primary reason for removal request from the Robinsons is that current standards severely limit the homeowners ability to make energy efficient updates and improvements to their dwelling.
- August: 8/10/2021 site visits noticed.
- September: 9/7/2021 site visits conducted.
- August - December: Staff and Consultant were in communication about the report (drafted 8/23/2021) and edits during this period.

- December: 12/3/2021 Final Consultant's Report (Property Removal Study) submitted to City Staff.
- December: 12/14/2021 Consultant's Report (Property Removal Study) received by HPC and referred to the State Historic Preservation Office for its response.
- January: 1/10/2022 Subcommittee appointed to draft HPC report and recommendation.
- January: Consultant incorporated edits from the State's Response into the Report. This report will be part of the 2/8/2021 HPC packet.
- February: HPC received response from the State Historic Preservation Commission and delivered its recommendations to the Planning and Zoning Commission