



Date of Council Meeting: July 14, 2015

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: **Petition to Appeal Final Decisions, Leesburg Board of Architectural Review**
TLAP-2015-0001 (COA app. TLHP-2014-0115, 112 Edwards Ferry Road NE)
TLAP-2015-0002 (COA app. TLHP-2014-0116, 110 Edwards Ferry Road NE)
TLAP-2015-0003 (COA app. TLHP-2014-0117, 108 Edwards Ferry Road NE)
TLAP-2015-0004 (COA app. TLHP-2014-0118, 106 Edwards Ferry Road NE)

Staff contact: Tom Scofield, Preservation Planner
703-771-2773

Date filed: 11 June 2015 (petition was filed within the required 30-day appeal period)

Public hearing date: 14 July 2015

Action required by: 25 August 2015 (75 days from the date petition was filed)

Appellant: Board of Supervisors, Loudoun County, Virginia
c/o Tim Hemstreet, County Administrator
1 Harrison Street SE, MSC #2, 5th Floor, PO Box 7000
Leesburg, Virginia 20177-7000
703-777-0200

Owner of Record: Same as Appellant

Original applicant: Marlene Shade
Dewberry Architects, Inc.
8401 Arlington Boulevard
Fairfax, VA 22031
703-698-9064
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Location: 112 Edwards Ferry Road NE (PID #231-38-8886-000)

Zoning: GC, Government Center
H-1, Old & Historic District

Appeal summary: In accordance with Zoning Ordinance Section 3.10.14.B, *Appeals to Town Council*, the Appellant, the Board of Supervisors, Loudoun County, Virginia, has submitted a petition for an appeal of the final decisions made by the Leesburg Board of Architectural Review (BAR), rendered on May 18, 2015 to approve selective removal of non-historic and substantially altered additions on the rears of the buildings at 112, 110, 108, and 106 Edwards Ferry Road NE. The Appellant requests permission to demolish these buildings allowing for full and complete removal as originally applied for in Certificate of Appropriateness applications TLHP-2014-0115, TLHP-2014-0116, TLHP-2014-0117, and TLHP-2014-0118.

Basis for appeal:

In the petition for appeal [see Attachment 1] of Certificate of Appropriateness applications TLHP-2014-0115, TLHP-2014-0116, TLHP-2014-0117, and TLHP-2014-0118 [see BAR-CR, Tab 1], the Appellant contends that the BAR's decision will negatively impact and significantly interfere with the construction of the New District Courthouse in respect to the following:

- **Design** – Retaining the historic portions of one or more of the four (4) contributing buildings in place will require additional changes to the existing design of the proposed New District Courthouse.
- **Constructability** – Retaining the historic portions of one or more of the four (4) contributing buildings in place will require protection of the historic resources, alter some construction methods, and reduce the available footprint for construction staging on site for the New District Courthouse.
- **Fire safety** – Retaining the historic portions of one or more of the four (4) contributing buildings in place will increase the fire resistance rating requirement for the south wall of the New District Courthouse.
- **Perimeter security** – Retaining the historic portions of one or more of the four (4) contributing buildings in place does not meet the 50-foot minimum standoff distance from the street recommended in the *Virginia Courthouse Facility Guidelines* thereby requiring alternative perimeter security methods.
- **Courthouse campus** – The proposed design of the New District Courthouse is based on traditional design of courthouses and civic buildings in the region and connects with the existing historic courthouse campus.
- **Cost** – Adhering to Town historic preservation regulations and guidelines will increase design and construction costs. (Four scenarios with cost estimates that retain one or more of the contributing buildings in place were prepared.)

Timeline & summary of actions to date:

October 16, 2013 – Loudoun County Board of Supervisors (the BOS) awards a service contract to Dewberry Architects, Inc. for planning and designing the expansion and renovation of county courts facilities.

November 2013 thru March 2014 – the programming process identifies that Phase 3 requires the construction of an 85,000 square foot courts facility to accommodate the future needs of the county court system through the year 2025; thirteen (13) design concepts for the New District Courthouse to be constructed on Edwards Ferry Road NE are reduced to four (4) massing options by the design team, all of which propose removal of the four contributing, historic buildings.

April 16, 2014 – the four (4) massing options are presented to the BOS.

Massing Option #3 is identified as the preferred alternative by the design team



April 23, 2014, Community Meeting #1 – the four (4) massing options for the New District Courthouse are presented at a public meeting with input solicited.

May 12, 2014 – the four (4) massing options are presented to the Leesburg Town Council with input solicited; Council members encourage the design team meet with Town staff and the Leesburg Board of Architectural Review (the BAR).

June 5, 2014 – the design team meets with Town staff to convey the preferred massing option (#3) as selected by “stakeholders” and to discuss applicable code requirements and review processes.

July 2, 2014 – the BOS votes to simultaneously complete Phases 3 and 4 thereby increasing the size of the New District Courthouse to 92,000 square feet.

July 23, 2014, Community Meeting #2 – five (5) conceptual elevations based on the preferred massing option is presented at a public meeting with input solicited.

August 4, 2014 – the four (4) massing options and five (5) conceptual elevations are presented to the BAR with a preferred conceptual elevation identified; BAR members encourage the design team to explore alternatives to demolition that would retain one or more of the four contributing, historic buildings including a specific suggestion regarding removal of non-historic rear additions.



Conceptual Elevation 1

*Conceptual Elevation #2
is identified as the
preferred alternative by
the design team*



Conceptual Elevation 2



Conceptual Elevation 3



Conceptual Elevation 4

*Conceptual Elevation #5
is identified as the favorite
by at least one stakeholder
and a majority of the BAR*



Conceptual Elevation 5

October 17, 2014 – the Preservation Planner meets with the design team to discuss procedural details and content requirements for the pending demolition applications for the four (4) contributing, historic buildings.

November 17, 2014 – four (4) Certificate of Appropriateness (COA) applications requesting demolition of the four contributing, historic buildings are submitted by Dewberry, Inc. [see BAR-CR, Tab1]

December 15, 2014 – the BAR initiates review of the COA applications and opens the public hearing; the Preservation Planner presents information included in the staff reports [see BAR-CR, Tab 3]; the applicant is requested to provide the following additional information:

During the course of the public hearing five (5) Leesburg residents expressed support for preservation in person and an additional five (5) residents sent emails writing in favor of saving the four contributing, historic buildings

1. any additional arguments regarding **historic district contributing status**;
2. an evaluation of the **structural condition/integrity** of the building (arrangements are made with the applicant for a BAR site visit);
3. evidence of any effort made by the applicant to consider **building reuse & alternatives to demolition**;
4. **post-demolitions plans** (no conceptual elevations conveying the appearance of the New District Courthouse were provided with the COA application); and
5. evidence/testimony that demonstrates removal of the building is not just a matter of convenience, but a requirement consistent with **other applicable laws, & ordinances** adopted by the Town, County, and State.

The BAR continues review of the applications to the February 2, 2015 meeting at the request of the applicant.

January 16, 2015 – all BAR members attend a site visit where the interiors and exteriors of the four contributing, historic buildings are inspected & evaluated [see BAR-CR, Tab 4].

January 21, 2015 – a revised design for the New District Courthouse (Conceptual Elevation #5-D) is presented to the BOS [see Attachment 2]; the design team is directed by the BOS to prepare a study for relocating the four contributing, historic buildings to an undetermined, off-site location. (NOTE: a relocation study was never requested by the BAR during the duration of these proceedings.)

Conceptual Elevation 5-D was not presented as an alternative in the earlier public process



Conceptual Elevation 5-D

February 2, 2015 – the BAR continues review of the COA applications and the public hearing remains open; an update is provided by staff; a presentation is made by the applicant [see BAR-CR, Tab 5] regarding the following five criteria/issues:

BAR Finding: Historic significance & contributing status (criterion 1) is affirmed

BAR Finding: Resource condition & integrity (criterion 2) is affirmed

1. **Demolition review criterion: Historic district contributing status** – the applicant states that historic significance and architectural integrity of the buildings as contributing resources in the historic district will not be contested. Also expert testimony is provided by the applicant’s consultant that the building should remain a contributing, historic resource [see BAR-CR, Tab 2].
2. **Demolition review criterion: Structural condition** – the applicant states that the condition and integrity of the buildings will not be contested or disputed. Based on the January 16, 2015 site visit, the BAR finds that the buildings are in good condition and repair with two buildings currently in use and occupied.
3. **Demolition review criterion: Building reuse & alternatives to demolition** – the applicant states that the design team has not been authorized by the BOS to consider building reuse and alternatives to demolition.

02/02/15 BAR Meeting,
continued

4. **Post-demolitions plans** – Conceptual Elevation #5-D and other related design and site information is made available to the BAR [See Attachment 2]. The applicant states that thirteen (13) different conceptual designs were considered by the design team, none of which retain any of the four contributing, historic buildings in place. The BAR requests copies of the thirteen conceptual designs (not provided) and information on the courts facility program & design process. Also the applicant identifies the following issues where the historic buildings are likely to interfere with construction of the District Courthouse:
 - a. New building design
 - b. Constructability
 - c. Upgraded utilities
5. **Other applicable laws & ordinances** – information is presented by the applicant in an effort to demonstrate that removal of the buildings is a requirement consistent with other applicable laws & ordinances adopted by the Town, County and State and not just a matter of convenience. The following specific regulatory issues and construction guidelines are identified:
 - a. Stormwater regulations
 - b. Virginia Courthouse Facility Guidelines (Perimeter security)
 - c. Fire Prevention Code (Fire wall ratings & building separation)
- **Relocation study** – the BAR determines that the importance of the 4 buildings proposed for demolition is the historical context they provide in association with the Edwards Ferry Road streetscape and historic district. Also the buildings serve to mitigate the size, mass and scale of the New District Courthouse building. The BAR concludes that removal of the buildings from the site is the equivalent of demolition.

The BAR continues review to the February 18, 2015 meeting to allow for submittal of additional information; the applicant is asked to extend the Critical Action Date in order to adequately accommodate review of the applications.

February 18, 2015 – the BAR continues review of COA applications and the public hearing remains open; an update is provided by staff; a presentation is made by the applicant that provides the following information [see BAR-CR, Tab 6]:

- **Building reuse & alternatives to demolition** – information summarizing courts system program planning and the design development process is provided, as requested; support letters are submitted by County departments. The BAR advises the applicant that current information communicates a desire of the applicant to remove all four of the four contributing, historic buildings from the property as a matter of convenience, but does not provide adequate justification or evidence demonstrating the necessity for demolition nor communicate whether any alternatives to demolition were considered or explored. The BAR asks the applicant to consider an alternative proposal that would remove non-historic and substantially altered rear additions while retaining the historic front portions of the four contributing, historic buildings.
- **Post-demolitions plans** – information is presented by the applicant regarding the considerations and constraints associated with building constructability, construction staging, and updated utilities. The BAR requests detailed information on these issues and matters.
- **Other applicable laws & ordinances** – information is presented by the applicant regarding considerations and constraints associated with stormwater treatment, perimeter security, and fire safety and separation. The BAR requests additional detailed information on these issues and matters.

02/18/15 BAR Meeting,
continued

An archeological study (75% draft) is also submitted at this time [see BAR-CR, Tab 7] that includes findings that the archeological deposits in the yard areas around the four contributing, historic buildings are substantially disturbed-- additional archeological work on another area of the site is recommended.

The BAR continues review of the applications to the March 2, 2015 meeting to allow for the submittal of additional information regarding stormwater infrastructure and courthouse security; a repeated request is made of the applicant to extend the Critical Action Date.

BAR Finding: Fire safety regulations (issue 5c) do not warrant demolition

March 2, 2015 – the BAR continues review of the COA applications and the public hearing remains open; the Critical Action Date is administratively extended to March 16, 2015 by the County Administrator; the pending BOS agenda item and the proposal to remove non-historic and substantially altered rear additions while retaining the historic front portions of the four contributing, historic buildings is discussed with the applicant; the BAR continues the application to the March 16, 2015 meeting [see BAR-CR, Tab 8].

March 4, 2015 – At a regular business meeting the BOS votes to :

- Direct the design team to develop a scenario whereby 106 & 108 Edwards Ferry Road would be removed from the site while retaining the “oldest” portions of 110 & 112 Edwards Ferry Road;
- Issue a solicitation to the general public asking for interested third parties to submit proposals for relocating one or more of the four historic buildings; and
- Extend the Critical Action Date to the May 18, 2015 BAR meeting.

March 16, 2015 – Tim Hemstreet, County Administrator, provides the BAR with a summary of actions taken at the March 4, 2015 BOS meeting; Mr. Hemstreet and the BAR agree that the next meeting should specifically address stormwater management and site constraints for the New District Courthouse, and will include the project’s civil engineer; the BAR calls a Special Meeting for March 25, 2015 [see BAR-CR, Tab 9].

BAR Finding: Storm water regulations (issue 5a) do not warrant demolition

March 25, 2015 – Bill Fissell, Civil Engineer, Dewberry, Inc. provides the BAR with a summary of stormwater management issues including quality and volume treatment and controls; Bill Ackman, Director of the Leesburg Department of Plan Review provides additional testimony; Peter Hargreaves, Loudoun County Design Manager presents information on the need for upgrading utilities onsite; the BAR concludes that reasonable, cost-effective alternatives exist for offsite stormwater treatment and upgrade of onsite utilities that would not require demolition; the BAR calls a Special Meeting for April 13, 2015 [see BAR-CR, Tab 10].

BAR Finding: Upgraded utilities (criteria 4c) do not warrant demolition

BAR Finding: Perimeter security guidelines (issue 5b) do not warrant demolition

April 13, 2015 – the Preservation Planner presents an evaluation (design review matrix) of the appearance of the New District Courthouse with and without the contributing, historic buildings in place; an analysis prepared by the Preservation Planner on removal of non-historic and substantially altered rear additions on all four contributing, historic buildings is presented to the BAR; the applicant presents information on the conceptual study of preservation alternatives that include keeping the “oldest” portions of 110 and 112 Edwards Ferry Road and four constructability scenarios with associated costs for the New District Courthouse prepared for the April 15th BOS meeting; a copy of the Request for Interest solicitation issued by Loudoun County to the general public for relocating any or all of the four contributing, historic buildings is also provided; the BAR continues review of the applications to the May 4, 2015 meeting and reserves other dates for special meetings, if needed [see BAR-CR, Tab 11].

BAR Finding: Constructability issues (criteria 4b) do not warrant demolition

April 15, 2015 – the BOS delays action on the conceptual study of preservation alternatives and four constructability scenarios until the May 6th BOS meeting.

BAR Finding: Applicant presents a courthouse design alternative preserving at least one (1) contributing resource (criteria 3 & 4a)

May 4, 2015 – the updated action item prepared for the May 6th BOS meeting is shared with the BAR including a revision that retains the historic portion of 112 Edwards Ferry Road that will be recommended to the BOS by the design team; the 75-year lifecycle cost analysis for the four constructability scenarios for the New District Courthouse is also shared; the applicant states that there is no way to retain all four buildings and fit the 92,000 square foot building on the site; the BAR and applicant engage in a detailed discussion about the south elevation of the New District Courthouse serving as a “background building” with 110 and 112 Edwards Ferry Road retained in place [see BAR-CR, Tab 12].

May 6, 2015 – the BOS rejects the conceptual study of preservation alternatives and four constructability scenarios including the preservation alternative for 112 Edwards Ferry Road as recommended to the BOS by the design team.

BAR final decision made

May 18, 2015 – the BAR finalizes review of the COA applications and closes the public hearing; the Preservation Planner presents the final COA staff reports with staff recommendations including the completed analysis on the non-historic or substantially altered rear additions on the four contributing, historic buildings that may be removed without impacting historic and architectural integrity; the BAR completes the Statement of Findings checklists and a final decision vote is made [see BAR-CR, Tab 13].

Summary of BAR findings specific to 112 Edwards Ferry Road NE:

After consideration of all information, evidence and testimony, the BAR findings specific to Certificate of Appropriateness application TLHP-2014-0115 requesting approval for demolition of the contributing, historic resource at 112 Edwards Ferry Road NE [Attachment 3] are as follows:



1. Demolition review criterion: Contributing status, Historic significance – The building at 112 Edwards Ferry Road NE **retains its status as a significant, contributing resource** in the Leesburg Old & Historic District, a finding that the applicant did not contest or dispute [see Attachment 4]. The building is significant for the following reasons:
 - The circa 1813 building reflects the Federal style of architecture--one of the primary, character-defining attributes of the Leesburg Historic National Register District. It has been identified as one of five Federal-style urban form dwellings in the historic district. (Buildings of the ‘Federal’ architectural style (1780-1830) comprise about 10% of the contributing resources in the Leesburg historic district.)
 - Noteworthy features indicative of the Federal architectural style include:
 - Brick laid in Flemish bond on the façade with 5-course American or Common bond on the sides and rear;
 - Flat, brick jack arches over doors and windows; and
 - Vertical emphasis to window openings on the first floor.
 - Only 10% of the 513 contributing buildings in the Leesburg historic district are older than the brick portion of this building.
 - The building is contemporary with the Valley Bank building (c.1805) and Harrison Law office (c.1800) on the corners of Church & Market streets.
 - The building is one of two examples in the historic district of a masonry, single-story dwelling constructed in the early 19th century that has a frame, second floor added as a later historic addition.

- The dwelling was owned by 4 generations of the Slack family (1857-1980)
 - The brick portion of the building was on the frontline during the horse artillery attack on Leesburg by Union Cavalry and was present during Union and Confederate occupations of Leesburg during the Civil War.
2. Demolition review criterion: Contributing status, Resource integrity – The building at 112 Edwards Ferry Road NE retains integrity of location, design, setting, materials, workmanship, feeling and association and, therefore, **contributes to the significance and importance** of the Leesburg Old & Historic District, Leesburg National Register Historic District, and the Edwards Ferry Road streetscape, a finding that the applicant did not contest or dispute [see Attachment 4].
 3. Demolition review criterion: Structural condition – The building at 112 Edwards Ferry Road NE is in **good condition, structurally sound and maintains weather-tight integrity**, a finding that the applicant did not contest or dispute and was confirmed by the BAR during the January 16, 2015 site visit.
 4. Demolition review criterion: Consideration of building reuse & alternatives to demolition – Although reuse of the building as part of the courts expansion was not the original intent or desire, the applicant **succeeded in providing an alternative conceptual design** [Option #4 in BOS May 6th Action Item--see Attachment 5] that would allow the historically significant portion of the building at 112 Edwards Ferry Road NE to be retained in place site while accommodating the construction of the 92,000 sq. ft. New District Courthouse. The Loudoun County Board of Supervisors has voted to reject this alternative conceptual design.
 5. Post-demolition plans:
 - a. Setback of new building – In the design for the New District Courthouse the applicant **succeeded in providing an appropriate setback** from Edwards Ferry Road that is: a) consistent with the ‘Government Center’ zoning category that allows for flexibility in establishing setbacks for new buildings; b) consistent with the design guidelines for the Old & Historic District; c) compatible with the existing historic courthouse campus to the west; and d) accommodates the historically significant portion of the building allowing it to be retained on site [see Attachments 5 &6].
 - b. Constructability – The applicant **succeeded in providing an alternative conceptual design** that would allow the historically significant portion of the building at 112 Edwards Ferry Road NE to be retained in place while accommodating staging of construction for the New District Courthouse [see Attachment 6]. The courthouse design team recommended approval of the alternative conceptual design, but it was rejected by the BOS on May 6.
 - c. Utilities – The applicant **succeeded in providing an alternative conceptual design** that would allow the historically significant portion of the building at 112 Edwards Ferry Road NE to be retained in place during the upgrade and operation of utilities associated with the New District Courthouse [see Attachments 5 & 6]. The courthouse design team recommended approval of the alternative conceptual design, but it was rejected by the BOS on May 6, 2015.
 6. Other applicable laws & ordinances:
 - a. Stormwater regulations – The applicant **succeeded in providing an alternative conceptual design** that would allow the historically significant

portion of the building at 112 Edwards Ferry Road NE to be retained in place while providing stormwater treatment for the New District Courthouse. The courthouse design team recommended approval of the alternative conceptual design, but it was rejected by the BOS on May 6, 2015 [see Attachment 6].

- b. Virginia Courthouse Facility Guidelines (Perimeter security) – The applicant **succeeded in providing an alternative conceptual design** that would allow the historically significant portion of the building at 112 Edwards Ferry Road NE to be retained on site while providing perimeter security for the New District Courthouse through other means. The courthouse design team recommended approval of the alternative conceptual design, but it was rejected by the BOS on May 6, 2015 [see Attachment 6].
- c. Fire Prevention Code (Fire wall ratings & building separation) – The applicant **succeeded in providing an alternative conceptual design** that would allow the historically significant portion of the building at 112 Edwards Ferry Road NE to be retained on site while meeting and addressing the Fire Prevention Code. The courthouse design team recommended approval of the alternative conceptual design, but it was rejected by the BOS on May 6, 2015 [see Attachments 5 & 6].
7. Public-sector vs. Private-sector projects – The BAR concluded that nothing in the regulations or guidelines adopted by the Town of Leesburg allows preferential or separate treatment for public-sector applications in a manner differently than private-sector applications including the additional cost typically associated with the preservation and rehabilitation of contributing historic resources. Furthermore, Zoning Ordinance Section 7.5.2, *Applicability*, states that COA rules, requirements, and procedures “*apply to all property...located within the boundaries of the H-1 Overlay District*” and Section 7.5.5, *Certificate of Appropriateness*, states that COA rules, requirements, and procedures “*apply to both public and private structures and facilities.*”
8. Town ordinances and regulations – The BAR concluded that this COA request for demolition is not consistent with and does not comply with any of the standards and requirements set forth in Section 7.5.8 of the Zoning Ordinance and the Old & Historic District Design Guidelines nor is it consistent with historic preservation objectives and policies provided for in the Leesburg Town Plan [see Attachments 7 & 8].
9. Negative impact on streetscape and historic district – The BAR has concluded in its findings that the removal of this building, along with the other three buildings proposed for removal, whether through demolition or relocation, will individually and collectively create an adverse and negative impact on the significance and integrity of the Edwards Ferry Road streetscape, the locally-designated Old & Historic District, and the Leesburg National Register Historic District [see Attachment 9] along with the fact that retaining the four (4) buildings in place will serve to mitigate the appearance of the size, mass, and scale of the large 92,000 sq. ft. courthouse building [see Attachment 10].
10. Parking – Although mentioned in the petition for appeal, the subject of parking was not specifically considered by the BAR in their review of this application. The parking facilities proposed as part of the courts facility expansion **exceed the town’s parking requirements** and, as currently designed, are primarily provided off site on other land parcels currently owned by the County.

**Motion for BAR
final decision in case
TLHP-2014-0115
(approved 5-1-1):**

In the matter of BAR Case TLHP-2014-0115, 112 Edwards Ferry Road NE, a request to demolish the contributing historic building; a motion was made to adopt the *Statement of Findings Common to All Applications*, a checklist dated May 18, 2015 prepared by staff and completed by the BAR; to adopt the *Statement of Findings Particular to Case TLHP-2014-0115*, a checklist dated May 18, 2015 prepared by staff and completed by the BAR [see BAR-CR, Tab13]; and after consideration of the information included in the COA application submitted by Dewberry, Inc. date stamped November 17, 2014 along with associated testimony and evidence provided thereafter; that application TLHP-2014-0115 be **APPROVED IN MODIFIED FORM** and subject to the following conditions of approval:

1. As recommended in the final Staff Report, dated May 18, 2015, authorization and approval is granted for demolition of the area indicated in red on the diagram identified as Exhibit A attached to the final Staff Report for 112 Edwards Ferry Road NE [see Attachment 11]; no other portion of the building is included in this approval. This selective, partial demolition will have negligible negative impact on the size, scale, massing and pedestrian-oriented nature of the Edwards Ferry Road streetscape and the surrounding historic district neighborhoods, and will minimally impact the integrity of the contributing historic resource, helping to provide a sense of scale and character between the proposed large institutional building and the smaller scale neighborhoods it will adjoin.
2. As provided in the Procedures and Regulations for Demolition and Relocation of Existing Structures as outlined in the Old & Historic District Design Guidelines, the applicant must conduct an intensive-level survey in accordance with the Virginia Department of Historic Resource's Guidelines for Conducting Cultural Resource Surveys in Virginia (1999, revised 2000); the applicant must conduct a Phase 1 archaeological study to determine if the property yields information important in Leesburg's history; and the applicant must demonstrate that the site will be prepared and maintained in accordance with a landscape plan once portions of the building have been demolished;
3. The demolition may occur only after receipt by the applicant of both a building permit for new construction of the New District Courthouse and after final approval for the submitted rezoning TLZM-2015-0002;
4. For the interface between the "Red Area" and "Green Area" as identified in Exhibit A of the final staff report, an exploratory investigation shall be performed by the applicant to identify and determine the historic materials to be saved and the non-historic materials, or otherwise approved materials to be removed with review and approval by the Preservation Planner;
5. The applicant will return to the BAR with post-demolition plans for rebuilding the portions of the building newly exposed.
6. This approval shall not be construed as authorization, approval, or endorsement of any version or alternative concept for the exterior appearance of the New District Courthouse facility as presented to date by the applicant;
7. This approval in modified form is based on the General Statement of Findings common to 106, 108, 110, 112 Edwards Ferry Road NE and the Statement of Findings specific to 112 Edwards Ferry Road NE [see BAR-CR, Tab13].

Summary of BAR findings specific to 110 Edwards Ferry Road NE:



After consideration of all information, evidence and testimony, the BAR findings specific to Certificate of Appropriateness application TLHP-2014-0116 requesting approval for demolition of the contributing, historic resource at 110 Edwards Ferry Road NE [see Attachment 3] are as follows:

1. Demolition review criterion: Contributing status, Historic significance – The building at 110 Edwards Ferry Road NE **retains its status as a significant, contributing resource** in the Leesburg Old & Historic District, a finding that the applicant did not contest or dispute [see Attachment 4]. The building is significant for the following reasons:
 - The circa 1840 portion of the building reflects early 19th century frame vernacular architecture--one of the only buildings remaining in the historic district from this historical period.
 - The circa 1910 major addition on the west side of the building reflects late 19th century frame vernacular architecture--a side-gable form with minor Queen Anne stylistic influences.
 - Noteworthy features indicative of this architectural type include:
 - Projecting center gable with arched window;
 - Front porch with turned posts; and
 - Transom and sidelights on front entrance.
 - The dwelling was owned by 3 generations of the Slack family (1876-1980)
 - The earliest portion of the building was on the frontline during the horse artillery attack on Leesburg by Union Cavalry and was present during Union and Confederate occupations of Leesburg during the Civil War.
2. Demolition review criterion: Contributing status, Resource integrity ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0115 above***
3. Demolition review criterion: Structural condition ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0115 above***
4. Demolition review criterion: Consideration of building reuse & alternatives to demolition – Although reuse of the building as part of the courts expansion was not the original intent or desire, the applicant **succeeded in providing an alternative conceptual design** that would allow the historically significant portion of the building at 110 Edwards Ferry Road NE to be retained on site while accommodating the construction of the 92,000 sq. ft. New District Courthouse. Also the BAR concluded that retaining the historic portion of the building would assist in maintaining the integrity of the Edwards Ferry Road streetscape and mitigate the impact of the size, mass and scale of the New District Courthouse. The Loudoun County Board of Supervisors has voted to reject this alternative conceptual design.
5. Post-demolition plans:
 - a. Setback of new building ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0115 above***
 - b. Constructability – The applicant failed to provide convincing and compelling evidence that factors associated with staging construction of the New District Courthouse requires the demolition or removal of the building at 110 Edwards Ferry Road NE. Based on information, evidence and testimony provided by the applicant, the BAR concluded that convenience is not adequate justification and the same costs and challenges are faced by the private sector when constructing new buildings

in the commercial section of the historic district. Courthouse Commons and Courthouse Square were cited by the BAR as specific private sector examples [see Attachments 5 & 6].

- c. Utilities – The applicant failed to provide convincing and compelling evidence that the installation and operation of utility upgrades associated with the New District Courthouse requires the demolition or removal of the building at 110 Edwards Ferry Road NE. Based on information provided by the applicant, the BAR concluded that convenience is not adequate justification and that reasonable alternatives to demolition exist whereby utilities can be installed in a manner that would allow the historically significant portion of 110 Edwards Ferry Road NE to be retained on site. Furthermore, **the applicant provided an alternative design** that would allow the historically significant portion of the building at 110 Edwards Ferry Road NE to be retained in place while providing upgraded utilities for the New District Courthouse [see Attachments 5&6]
6. Other applicable laws & ordinances:

- a. Stormwater regulations – The applicant failed to provide convincing and compelling evidence that the construction and operation of stormwater infrastructure associated with the New District Courthouse requires the demolition or removal of the building. Based on testimony from Town staff and the project engineer, the BAR concluded that reasonable alternatives to demolition exist and **treatment of stormwater offsite is a preferred option** that would allow the historically significant portion of the building to be retained on site. Furthermore, **the applicant provided an alternative design** that would allow the historically significant portion of the building at 112 Edwards Ferry Road NE to be retained in place while providing stormwater treatment for the New District Courthouse [see Attachment 6].
- b. Virginia Courthouse Facility Guidelines (Perimeter security) – The applicant failed to provide convincing and compelling evidence that exterior perimeter security issues associated with operation of the New District Courthouse requires the demolition or removal of the building. Based on information provided by the applicant, the BAR concluded that reasonable alternatives exist and that the 50-foot standoff distance as outlined in the *Virginia Courthouse Facility Guidelines* is a recommendation, not a requirement [see Attachment 6].

In addition, the BAR noted that several privately-owned, contributing buildings in the historic district currently violate the preferred 50-foot standoff distance for both the existing and proposed courthouse campus.

Furthermore, the applicant provided an alternative design that would allow the historically significant portion of the building at 110 Edwards Ferry Road NE to be retained on site while adequately addressing perimeter security issues [see Attachment 5].

- c. Fire Prevention Code (Fire wall ratings & building separation) – The applicant failed to provide convincing and compelling evidence that fire prevention code requirements associated with construction and operation of the New District Courthouse requires the demolition or removal of the building. Based on information and testimony provided by the applicant, the BAR concluded that convenience is not adequate justification and that there are reasonable alternatives to demolition including increasing the fire ratings of walls to be constructed in close proximity to the building.

The BAR noted that the same costs and challenges are faced by the private sector when constructing new buildings in the commercial section of the historic district and that a privately-owned building at 114 Edwards Ferry Road NE located at a similar distance from the proposed court facility presents the same challenge and requirement for the New District Courthouse [see Attachments 5 & 6]. Furthermore, **the applicant provided an alternative design** that would allow the historically significant portion of the building at 110 Edwards Ferry Road NE to be retained on site while adequately addressing fire prevention code issues.

7. Public-sector vs. Private-sector projects ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
8. Town ordinances and regulations ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
9. Negative impact on streetscape and historic district ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
10. Parking ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0115 above***

Summary of BAR findings specific to 108 Edwards Ferry Road NE:



After consideration of all information, evidence and testimony, the BAR findings specific to Certificate of Appropriateness application TLHP-2014-0117 requesting approval for demolition of the contributing, historic resource at 108 Edwards Ferry Road NE [see Attachment 3] are as follows:

1. Demolition review criterion: Contributing status, Historic significance – The building at 108 Edwards Ferry Road NE **retains its status as a significant, contributing resource** in the Leesburg Old & Historic District, a finding that the applicant did not contest or dispute [see Attachment 4]. The building is significant for the following reasons:
 - The circa 1875 portion of the building reflects late 19th century frame vernacular architecture.
 - The circa 1935 second floor addition reflects early 20th century frame vernacular architecture--a front-facing gable form with minor ‘Folk Victorian’ influences.
 - Noteworthy features indicative of this architectural type include:
 - Cornice returns on gable ends; and
 - Front porch with turned posts.
 - The dwelling was owned by 3 generations of the Slack family (1875-1980)
2. Demolition review criterion: Contributing status, Resource integrity ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0115 above***
3. Demolition review criterion: Structural condition ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0115 above***
4. Demolition review criterion: Building reuse & alternatives to demolition – The applicant did not provide an alternative conceptual design that would allow 108 Edwards Ferry Road NE to remain in place as part of the New District Courthouse project. The BAR concluded that retaining the historic portion of the building would assist in maintaining the integrity of the Edwards Ferry Road streetscape and mitigate the impact of the New District Courthouse.

5. Post-demolition plans:
 - a. Setback of new building ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0115 above***
 - c. Constructability – The applicant stated at the May 4th BAR meeting that there is no way to retain the historic portions of all four contributing buildings in place and also address all issues associated with construction and operation of the new 92,000 square foot courthouse building on the same site, however, a scenario was developed outlining estimated costs and illustrating appearance [Option #2 in BOS May 6th Action Item--see Attachment 12].
 - d. Utilities – The applicant stated at the May 4th BAR meeting that there is no way to retain the historic portions of all four contributing buildings in place and also address all issues associated with construction and operation of the new 92,000 square foot courthouse building on the same site, however, however, a scenario was developed outlining estimated costs and illustrating appearance [Option #2 in BOS May 6th Action Item--see Attachment 12].
6. Other applicable laws & ordinances:
 - a. Stormwater regulations – The applicant stated at the May 4th BAR meeting that there is no way to retain the historic portions of all four contributing buildings in place and also address all issues associated with construction and operation of the new 92,000 square foot courthouse building on the same site, however, however, a scenario was developed outlining estimated costs and illustrating appearance [Option #2 in BOS May 6th Action Item--see Attachment 12].
 - b. Virginia Courthouse Facility Guidelines (Perimeter security) – The applicant stated at the May 4th BAR meeting that there is no way to retain the historic portions of all four contributing buildings in place and also address all issues associated with construction and operation of the new 92,000 square foot courthouse building on the same site, however, however, a scenario was developed outlining estimated costs and illustrating appearance [Option #2 in BOS May 6th Action Item--see Attachment 12].
 - c. Fire Prevention Code (Fire wall ratings & building separation) – The applicant stated at the May 4th BAR meeting that there is no way to retain the historic portions of all four contributing buildings in place and also address all issues associated with construction and operation of the new 92,000 square foot courthouse building on the same site, however, however, a scenario was developed outlining estimated costs and illustrating appearance [Option #2 in BOS May 6th Action Item--see Attachment 12].
7. Public-sector vs. Private-sector projects ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
8. Town ordinances and regulations ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
9. Negative impact on streetscape and historic district ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
10. Parking ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0115 above***

Summary of BAR findings specific to 106 Edwards Ferry Road NE:



After consideration of all information, evidence and testimony, the BAR findings specific to Certificate of Appropriateness application TLHP-2014-0118 requesting approval for demolition of the contributing, historic resource at 106 Edwards Ferry Road NE [see Attachment 3] are as follows:

1. Demolition review criterion: Contributing status, Historic significance – The building at 106 Edwards Ferry Road NE **retains its status as a significant, contributing resource** in the Leesburg Old & Historic District, a finding that the applicant did not contest or dispute [see Attachment 4]. The building is significant for the following reasons:
 - The circa 1870 building reflects mid to late 19th century frame vernacular architecture--a side-gable form with minor Italianate stylistic influences.
 - Noteworthy features indicative of this architectural type include:
 - Cornice returns on gable ends; and
 - Sidelights and transom on the front entrance.
 - The dwelling was owned by 3 generations of the Slack family (1874-1980)
2. Demolition review criterion: Contributing status, Resource integrity ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0115 above***
3. Demolition review criterion: Structural condition ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0115 above***
4. Demolition review criterion: Consideration of building reuse & alternatives to demolition – ***the same conclusion and finding was reached by the BAR for this requirement as described in TLHP-2014-0117 above***
5. Post-demolition plans:
 - a. Setback of new building ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0115 above***
 - b. Constructability ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0117 above***
 - c. Utilities ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0117 above***
6. Other applicable laws & ordinances:
 - a. Stormwater regulations ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0117 above***
 - b. Virginia Courthouse Facility Guidelines (Perimeter security) ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0117 above***
 - c. Fire Prevention Code (Fire wall ratings & building separation) ***the same conclusion and finding was reached by the BAR for this issue as described in TLHP-2014-0117 above***
7. Public-sector vs. Private-sector projects ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
8. Town ordinances and regulations ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
9. Negative impact on streetscape and historic district ***the same conclusion and finding was reached by the BAR as described in TLHP-2014-0115 above***
10. Parking ***the same conclusion and finding was reached by the BAR***

**Collective motion
for BAR final
decision in cases
TLHP-2014-0116
TLHP-2014-0117
TLHP-2014-0118
(approved 5-1-1):**

In the matter of BAR Cases TLHP-2014-0116, 110 Edwards Ferry Road NE, TLHP-2014-0117, 108 Edwards Ferry Road NE, and TLHP-2014-0118, 106 Edwards Ferry Road NE, requests to demolish the contributing historic buildings; a motion was made to adopt the *Statement of Findings Common to All Applications* in the form of a checklist dated May 18, 2015 prepared by staff and completed by the BAR; to adopt each *Statement of Findings* particular to each individual case in the form of checklists dated May 18, 2015 prepared by staff and completed by the BAR; and after consideration of the information included in each COA application submitted by Dewberry, Inc. date stamped November 17, 2014 along with associated testimony and evidence provided thereafter; that applications TLHP-2014-0116, TLHP-2014-0117, and TLHP-2014-0118 be **APPROVED IN MODIFIED FORM** subject to the same conditions specified in the approval for TLHP-2014-0115.

**Regulation for
appealing BAR
decisions:**

Zoning Ordinance Section 3.10.14.B, Appeals to Town Council

Appeals to Town Council for any final decision of the BAR may be made by any resident, property or business owner, or applicant by filing a petition with the Clerk of Council, setting forth the basis of the appeal, within thirty (30) days after the final decision of the BAR is rendered. Upon receipt of the appeal, the Clerk of the Council shall promptly schedule a public hearing as soon as reasonably practicable and comply with all applicable notice requirements.

The Board of Architectural Review shall file certified or sworn copies of the record of its action, which includes the minutes and documents it considered when rendering its decision and the Clerk shall forthwith transmit to the Town Council all the papers constituting the record upon which the action was taken. If the applicant wishes the Town Council to consider the transcript of the hearing as part of the record, the applicant shall pay all costs of the transcription of the hearing.

Pursuant to Code of Virginia Sec. 15.2-2306, the filing of the petition shall stay the decision of the Board of Architectural Review pending the outcome of the appeal to the Town Council, except that the filing of such petition shall not stay the decision of the BAR if such decision denies the right to raze, demolish or move any structure or building subject to the provisions of this section.

In any appeal, the Town Council shall review the Board of Architectural Review record, consider the written appeal and the criteria set forth in the H-1 Corridor Design Guidelines and to that end shall have all the powers of the Board of Architectural Review. The Town Council may reverse, or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made.

The Town Council review shall be limited to the issues raised on appeal. The failure of Town Council to affirm, modify, or reverse the decision of the BAR within 75 days from the date the petition is filed shall be deemed to constitute an affirmation of the BAR's decision, unless all parties to the appeal agree in writing to extend such time period.

**Town Council
options:**

In accordance with Zoning Ordinance Section 3.10.14.B, *Appeals to Town Council* the Council may:

- Affirm, wholly or partly, the decision of the BAR; or
- Reverse the decision of the BAR; or
- Modify any order, requirement, decision or determination of the BAR and make such order, requirement, decision or determination as the Council

believes ought to be made.

Action can be taken separately for each of the four (4) individual COA applications or collectively under a single motion.

Alternate motions:

Motion to affirm: I move to AFFIRM and uphold the decision of the Board of Architectural Review granting approval of the demolition request in modified form as rendered on May 18, 2015 for the following case(s):_____.

Motion to reverse: I move to REVERSE the decision of the Board of Architectural Review as rendered on May 18, 2015 and approve the County's request for total demolition, without the modifications issued by the BAR, but subject to conditions #2, #3 and #6 as set forth in the BAR's approval for the following case(s):_____.

Motion to modify: I move to MODIFY the decision of the Board of Architectural Review rendered on May 18, 2015, in the following manner:

- _____;
- _____;
- _____;

applicable for the following case(s):_____.

Attachments:

1. Petition of Appeal, Tim Hemstreet letter, 6/11/15, 28 pgs.
2. Concept #5-D for New District Courthouse, Dewberry, Inc., 2/2/15, 3 pgs.
3. Photos of the four contributing, historic buildings, 6 pgs.
4. Contributing status, applicant statement & consultant letter, 2/2/15, 2 pgs.
5. Option #4 preserving historic portions of 112 Edwards Ferry Road and cost summary, BOS May 6th Action Item, 1 pg.
6. Site constraints drawing, Dewberry, Inc, 5/6/15, 1 pg.
7. Section 7.5.8, Leesburg Zoning Ordinance, 2 pgs.
8. Old & Historic District Design Guidelines for Demolition, 3 pgs.
9. Historic districts boundaries, 1 pg.
10. Enhanced photos showing Edwards Ferry Road streetscape with proposed courthouse building in background, Dewberry, Inc., 1 pg.
11. "Exhibit A" from final staff report, Leesburg Preservation Planner, 1 pg.
12. Option #2 preserving historic portions of all four contributing historic buildings and cost summary, BOS May 6th Action Item, 1 pg.