



Date of Council Meeting: July 28, 2015

TOWN OF LEESBURG TOWN COUNCIL MEETING

Subject: County Appeal of Board of Architectural Review (BAR) Decision for Partial Demolition of Four Structures on Edwards Ferry Road
TLAP 2015-0001, 112 Edwards Ferry Road
TLAP 2015-0002, 110 Edwards Ferry Road
TLAP 2015-0003, 108 Edwards Ferry Road
TLAP 2015-0004, 106 Edwards Ferry Road

Staff Contact: Tom Scofield, Preservation Planner, Department of Planning and Zoning

Council Action Requested: Council vote to affirm, reverse, or modify the BAR's decision.

Staff Recommendation: Staff did not support demolition of these four structures during review of the Certificates of Appropriateness and staff recommendations on the demolition requests can be found, in detail, in the Certified Record.

Commission Recommendation: The Board of Architectural Review (BAR) approved motions to allow partial demolition of the non-historic additions on each of the four structures subject to conditions contained in the attached report.

Fiscal Impact: Undetermined.

Work Plan Impact: Not applicable.

Executive Summary: On May 18, 2015 the Board of Architectural Review (BAR) approved motions to allow partial demolition on non-historic additions to the four structures listed above. The County has appealed these decisions requesting that Council reverse the BAR's decision and allow total demolition of each structure. The Leesburg Zoning Ordinance specifies the Council may vote to affirm, reverse, or modify the BAR's decision.

Background: Loudoun County's petition to the Leesburg Town Council seeks to overturn the Board of Architectural Review (BAR) decisions that would allow selective removal of the non-historic and substantially altered portions of the four buildings located at 106, 108, 110 and 112 Edwards Ferry Road NE. The County seeks to allow for total demolition of the structures and construction of the New District Courthouse. The Town Council has continued review of the appeal petition to the July 28, 2015 meeting to provide opportunity for the County to respond to the following questions and requests for additional information:

1. Provide a revised spreadsheet for the estimated costs associated with retaining the four contributing, historic buildings that shows detailed line items in common parlance with straightforward calculations.

2. Provide any available information on the estimated cost of relocating the District Courthouse to Sycolin Road and reconfiguring the County Government Center on Harrison Street for use as the District Courthouse.
3. Is there a conceivable configuration for the New District Courthouse that can achieve one or more of the following while retaining the integrity of the proposed courtroom modules: a) move the new building to a zero-setback condition on the north property line; b) shift more of the mass and height of the new building into the northern “leg” of the existing land parcel; and/or c) increase the distance between the south side of the new building and the 4 houses to achieve the desired 50-foot standoff distance? [Please note that this land parcel is zoned ‘Government Center,’ a special purpose district. As per Section 7.3.2 “*front, side and rear yard setbacks may be reduced or be provided as zero-yard setback if demonstrated to the satisfaction of the Town Council upon recommendation by the Planning Commission that the proposed setback will facilitate a structure that is harmonious and compatible with surrounding uses.*”]
4. Abandonment of the buildings, as implied in the County’s presentation at the July 14th meeting, conflicts with Town codes and regulations while third-party access creates security concerns. Have controlled-access uses (e.g. long-term storage for the Loudoun Museum) and non-third party uses (e.g. Deputy on-site residence) for the four houses been considered?
5. Is relocation of one or more of the contributing, historic buildings an option that is still under consideration by the County?
6. If the Town Council was to overturn one or more of the BAR decision(s), is the County willing to accept BAR condition #2 (archeological and architectural survey) and condition #3 (demolition allowed only after all building approvals are received)?
7. The appeal petition states in writing that the County is willing “*to creatively incorporate and interpret the history of the subject structures as part of the development of the new courthouse in a way that is dynamic and relevant to the public at large. The courts complex is an ideal venue for public interpretation, appreciation and engagement in our shared history. Such efforts could include...selective demolition to salvage specific architectural elements that can be repurposed to create hardscape features, public sculpture, etc.*” What specific ideas are being considered by the County that may assist in reaching a compromise solution? If the Town Council was to overturn one or more of the BAR decision (s), is the County willing to agree to a condition that would demonstrate commitment to the future development of an interpretive open space area in the location of the demolished structures and/or salvage and repurpose architectural elements from the structures?

For Council’s information, the following additional discussion occurred and actions were taken by the Loudoun County Board of Supervisors (BOS) at their July 15, 2015 business meeting after Chair York and Administrator Hemstreet apprised the Board of the current status of the appeal before the Town Council:

- Supervisor Letourneau reported that the BOS Finance Committee voted to move forward with the preparation of a strategic plan to assess county space needs that would include consolidation of services at Sycolin Road, explore providing County services in eastern Loudoun County, and presumes that the County Center will stay at its current location on Harrison Street until 2030. He also expressed concern about possible delays and controversy over the entire review process for the New District Courthouse, not just with the demolition issue.
- Chairman York observed during discussion on the matter that construction of the New District Courthouse on the Edwards Ferry Road site may be an effort to fit “two gallons of water in a one gallon jug,” that the issues of public safety and cost are of utmost concern, and that the County would not have a case for further appeal should the Town Council uphold the BAR decision.
- Chairman York stated as his opinion during discussion on the matter, that the compromise to be reached with the Town is in return for overturning the BAR decision, the Government Center and associated County administrative operations will remain in its current location until 2030.
- Supervisor Higgins asked that consideration be given for the possible relocation of “at least two of the historic buildings” by interested private parties.
- A motion was approved by the BOS in the event that Town Council upholds the BAR decision regarding the four contributing historic buildings on Edwards Ferry Road, County staff shall:
 - Bring to the September 16, 2015 BOS meeting, analyses of the costs and impacts of relocating the Government Center to Sycolin Road or Moorefield Station including an analysis of workforce amenities in and around each site;
 - Bring to the same meeting an analysis of the costs and impacts of adapting the existing Government Center building on Harrison Street to serve court functions;
 - Stop work on all applications regarding the Courts Expansion project until further direction is provided by the BOS.
- A second motion was approved by the BOS requesting that “fast-track” status be given to review of the Courthouse Expansion rezoning applications and associated site plan review similar to what was provided K2M and that a resolution be adopted by Town Council accordingly.

The next BOS meeting after the July 28th Town Council meeting will be held on September 2, 2015.

Alternate motions for Town Council to consider:

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):_____.

OR

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 (require an architectural and archeological survey) and #3 (demolition allowed only after all building approvals are received) as set forth in the BAR's approval for the following case(s):_____.

OR

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):_____.

OR

I move an alternate motion

Attachments: The County will be submitting additional information to support the appeal petition.



Loudoun County, Virginia

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July 23, 2015

The Honorable Mayor Kristen C. Umstattd and
Members of the Town Council
Town of Leesburg, Virginia
25 West Market Street
Leesburg, Virginia 20175

**Ref: Courthouse Expansion Project – Phases III and IV
Appeal to the Board of Architectural Review’s Decision**

Dear Mayor Umstattd and Members of the Town Council:

Thank you for the opportunity to provide clarification and additional information in response to the questions and comments raised at the Town Council Meeting held on Tuesday, July 14, 2015 regarding the Courthouse Expansion Project, Certificate of Appropriateness applications TLHP-2014-0115, TLHP-2014-0116, TLHP-2014-0117 and TLHP-2014-0118 and appeal of the Board of Architectural Review (BAR) action.

I would first like to reiterate the four points which constitute the basis of our appeal. The points are summarized in priority order:

1. **Security** – The State of Virginia has incorporated the Virginia Courthouse Facility Guidelines as the planning guide for new or renovated Courthouses within the Commonwealth. These guidelines are intended to provide unifying guidance to judges, public officials and architects for the planning and design of courthouse facilities. These guidelines establish the standard of care to be followed when undertaking a project of this type in the Commonwealth. Fundamentally, the expectation and reality of judicial safety, both inside and outside the courthouse, is integral to fulfilling our justice system's promise of accessibility, impartiality, transparency, and the right to a fair and impartial trial. The guidelines state:

When planning a new courthouse or performing a major renovation of an existing courthouse, the planning and design should assure a high degree of security and safety within and about the building. The site, landscaping, building exterior, internal organization and circulations systems, and environmental and building systems should be planned to maximize the security and safety of judges, court staff and all visitors; the physical structures, equipment, and property; and the information contained in the courthouse.

Chapter 8 of this document goes on further to address the planning for Courthouse Security, and states, “*Security is achieved through a combination of architectural/physical, personnel and operations and technological/equipment measures.*”

A significant tool used to meet these important security requirements is the creation and maintenance of a physical separation between the courthouse building and surrounding obstacles such as trees, fences and other buildings. This physical separation is referred to as the “stand-off distance”. The intent of the stand-off distance is to minimize pedestrian and vehicular traffic, control the perimeter area, and have unobstructed view angles from the courthouse to the perimeter to identify any potential threat or intrusion. The minimum stand-off distance that is stated in the guidelines is 50 feet, while 100 feet is the more desirable or optimal distance. This stand-off distance has been established from extensive research and input from security professionals and is based on the time required for an individual to recognize and react to a potential threat. Additionally, surveillance monitoring equipment, such as cameras and audio equipment are recommended for use to enhance monitoring and managing the stand-off distances and view angles.

Regarding the nearby properties not under the County’s control, we acknowledge that we cannot control these off-site properties. Other mitigation strategies will need to be implemented to address those concerns. These include additional courthouse building modifications to “harden” the structure and provide for enhanced levels of protection. This “hardening” may include additional ballistic glass, increased structural steel reinforcement, increased masonry reinforcement, and a decrease in the window fenestration. The preferred, but not always available, option is to control the ownership of nearby structures located within the stand-off distance. The County takes a different position when it comes to buildings that are owned and operated by the County as is the case with the four Edwards Ferry Road buildings under review and subject to this appeal. These buildings, no matter how the building massing or footprint may be adjusted, will remain in whole, or in part, within the 50 foot stand-off distance. As such, their presence prevents the County from providing the recommended required minimum level of protection against potential threats and prevents our design from satisfying the standard of care stipulated in the state guidelines.

2. **Constructability** – The 1.9 acre Church Street site is, without question, the most optimal location for the Courthouse Expansion project to occur. This statement is predicated on both the need for close proximity with the other court services and functional efficiencies for the services supporting the courts operation. Case load growth and directly functional relationships between services are driving the building size and program requirements. The site, with its irregular shape and immediate adjacencies to a cemetery, a business, a residence, and busy streets on three of its six sides presents a variety of construction obstacles. The constrained site will accommodate the three story, 92,000 square foot building and it is adjacent to the existing courts complex and in close proximity to Town businesses which support the Courthouse function.

The footprint of the proposed Courthouse will occupy slightly more than one acre of land. The four Edwards Ferry Road buildings, which are the subject of this appeal, consume an

additional 0.4 acres. Thereby leaving only 25% of the overall site to receive delivery, store, stage, and manage the host of materials needed to construct the building. The remaining half acre space does not leave adequate room for all the construction activities as it is made up from smaller isolated areas, thus robbing the contractor of efficiencies in the construction process. This limitation on space would cause the need for frequent and unpredictable closures to the busy streets surrounding the project, thus creating delay and potential safety concerns for the motoring public and pedestrians.

The construction activity will entail the use of cranes to move materials from varying locations on the site, both vertically and horizontally. Potential crane placement locations were identified in our presentation material at the July 14th meeting. These crane placement locations will most likely occur at multiple locations throughout the construction phase and may at times, occur concurrently from multiple locations. Given the limitations of the crane such as lifting capacity and horizontal lifting distance, the contractor may have to significantly increase the crane size, which will translate to increased hourly operational costs, inefficient operations, lengthening of the construction duration and further complicating the use of valuable site space needed for material staging.

Compounding the construction complexity and site constraints is the need to construct a pedestrian tunnel under Church Street to provide secure connectivity between the existing and the new Courthouse. This tunnel is a critical project component as it will be used to transport inmates throughout the courts complex while keeping them separated from the general public in a secure area. To complete the tunnel construction, Church Street must be closed for an extended duration. This road closure will place additional demands for space on the site and cause adjacent road closures, primarily on Edwards Ferry Road.

In summary, if the four Edwards Ferry Road buildings were to remain on the site, the construction process will be significantly impacted in regards to efficiency, safety and the frequency and duration of adjacent road closures. The design is being carefully considered to minimize these challenges; however as outlined above constructing this building on a tight site within a downtown urban environment will provide many challenges.

- 3. Storm Water Management** – Storm Water Management water quality and quantity control is a requirement of the State of Virginia and the Town of Leesburg. Just as the irregular shape of the site discussed above in the discussion on constructability presented several construction obstacles, the site shape and topography present constraints to the resolution of storm water management. Over 100 acres of offsite drainage area is being conveyed through the Pennington and the Courthouse site. This places a significant burden on the site as the water flow must be accommodated to prevent upstream flooding, as well as flooding at the Courthouse site and on immediately adjacent properties. Conventional design would seem to dictate that placement of storm water management structures (vaults), which control water quality and quantity, would be placed at the low point of the site. This point happens to coincide with the location of the four Edwards Ferry Road buildings. The County has explored a variety of alternatives such as: purchasing BMP (Best Management Practices) credits; over-controlling or over-retaining water on the Pennington lot; locating the vaults under the Courthouse, building the vaults within the

Courthouse structure; and storing storm water on the Courthouse roof. Several of these options continue to be investigated, however, options that place the vaults in the building, under the building or on top of the building have been discarded because of operational, safety, structural, long-term maintenance and cost concerns. The detailed site engineering and approvals of the storm water management systems will evolve as part of the Town site plan process which is subsequent to the BAR and zoning approvals. None of the options discussed above can be finalized until the site plan is more fully developed and significant interaction occurs between our design consultant and the Town's review staff, to mutually agree on the best practical stormwater solution. Whatever option is ultimately selected and approved, the impact on the site, building, and schedule is an unknown component and may very well escalate costs even further than what is described herein.

4. **Project Cost Escalation** - The County fully understands and acknowledges that the BAR cannot consider cost as they review the applications presented to them. We understand they have a specific role in the Town's vision for historic preservation, and we respect their role. However, as the governmental entity; one who has identified a goal of developing, enhancing and maintaining a vital downtown economy, the Town Council is afforded greater latitude to consider cost and other impacts that the BAR may not. For many years, it has been a joint goal of the Town and the County to keep the Courts in downtown Leesburg, thus keeping employees and visitors of the Courthouse engaged in the downtown economy. As with all projects, private or public, controlling and managing cost is a critical obligation, and this obligation is enhanced even further when using public funds.

The County presented at least three cost spreadsheets to the Town Council last week. Questions were raised by various Council Members and it is our hope to clarify the spreadsheet data. Please accept our apologies for any misunderstandings. We may have created some confusion by attempting to provide more information than that which was actually needed. This action coupled with an error of attaching a spreadsheet not directly associated with the appeal may have led to the confusion. Within this letter is a reformatted version of the spreadsheet followed by a more detailed description of those cost centers. You may recall from your previous review of this material, the high level cost centers were: additional design; additional construction; additional operational, and additional schedule or delay impact costs.

Revised Spreadsheet for Town of Council Review **July 23, 2015 Revised**
Loudoun County Courthouse Expansion Phase II and IV
Cost Analysis of Impact of Retaining Edwards Ferry Road Buildings on New Courthouse Site

Option 2 – Maintain the street frontage of the 4 buildings, (partial demolition). Move 110 to street.

Additional Project Expenses	Low End Cost	High End Cost
A. Additional Design Costs (Fees and Change Orders)		
1. Redesign	\$450,000	\$500,000
2. Additional studies	\$150,000	\$250,000
3. Total Additional Design Costs	\$600,000	\$750,000
B. Additional Construction Costs:		
1. Additional Security Cost (Cameras and Hardware)	\$30,000	\$32,000
2. Fire Rating of the South Elevation	\$38,500	\$40,000
3. Edward's Ferry Road Buildings Protection	\$50,000	\$75,000
4. Inefficiency Penalty/Monitoring	\$300,000	\$330,000
5. BMP Purchase	\$30,000	\$40,000
6. Partial Demolition of 4 Buildings	\$60,000	\$100,000
7. Improvements to 4 Buildings	\$320,000	\$360,000
8. Move 110 to Street	\$157,000	\$160,000
9. Total Additional Construction Costs:	\$985,500	\$1,137,000
C. Additional Operational Costs:		
1. Security Staff	\$240,000	\$250,000
2. Utility and Maintenance (present value 2015) ¹	\$284,165	\$326,080
3. Total Additional Operational Costs	\$524,165	\$576,080
D. Sub-Total Costs: (A.3. + B.9. + C.3.)	\$2,109,665	\$2,463,080
E. Initial Schedule Costs due to Delays:²		
1. Additional Construction Costs Items (Section A)	\$29,565	\$34,110
2. Original project cost (\$57,000,000 overall project) ³	\$1,140,000	\$1,140,000
3. 4 Buildings Impacting Construction Zone	\$570,000	\$570,000
4. Total Additional Schedule Costs:	\$1,739,565	\$1,744,110
F. Total Costs (D + E.4.)	\$3,849,230	\$4,207,190

¹ Utility and maintenance costs derived from a present value calculation assuming low end cost of 12,000/year and a high end cost of 13,770/year for a term of 75 years and 4 percent annual interest. Corrected based on inquiry from Councilman Butler received on July 20, 2015.

² Project delay costs computed assuming 6 month project delay at 6% annual construction inflation.

³ The original overall project cost was assumed at \$57,000,000.

Section A – Additional Design Costs: Given our original design is inconsistent with the BAR’s final decision; a redesign would be required to maintain the four Edwards Ferry Road buildings. This redesign would include, but may not be limited to, building floor plans, elevations, additional life-safety code analysis, fire separation requirements, percentage of allowable wall openings (doors and windows) in the south facade, and a re-evaluation of the security system requirements. Additional design would also be necessary to address modifications to the Edwards Ferry Road Buildings.

Following the redesign effort the new project design will need to be processed for further review which will dictate the need for updated cost estimates and resubmission to the Town reviewers. Site work redesign will be necessary to address storm water management changes and conflicting utilities. Where the Edwards Ferry Road buildings have later additions removed, elevations and associated construction details will require additional design, additional BAR approval, and additional BAR review relating to the construction and details of the existing buildings.

Section B – Additional Building Construction Costs: If the four Edwards Ferry Road buildings were to remain, there will be additional construction related costs. These include, but may not be limited to, additional security cameras and hardware to monitor the stand-off distance discussed previously in the security section; costs associated with enhancing the fire rating on the south elevation; “hardening” of the south façade and possible purchase of BMP’s for stormwater management or other stormwater management costs unknown at this time. There will be additional costs to remove the non-historic additions of the Edwards Ferry Road buildings based on the staff preservationist’s recommendations, as well as making upgrades to the remaining portions of the buildings. Retaining the four Edwards Ferry Road buildings will create an obstacle that the contractor will need to work around and protect. This will inherently reduce the contractor’s production rates and thus cause additional cost to monitor the building condition and erect a protective framing system. A cost has been included to physically relocate the building at 110 Edwards Ferry Road to the street edge as a means to provide additional separation from the proposed courthouse.

Section C – Additional Operational Costs: The County constructs facilities with long operational lives making an investment with taxpayer dollars stretch as far as possible. A project of this type (new Courthouse) is typically planned for an operational life span of 75 years and, should the Edwards Ferry Road buildings remain, additional security staff time will be required to manage the risk of their proximity.

Annual maintenance and ongoing utility costs will be required even though the buildings will not be occupied. On July 20, 2015, Councilman Butler submitted a series of three questions relating to the spreadsheet. The first questioned the calculation of the 75-year cost for building maintenance and utility costs. A typical high level cost analysis prepared consistent with the architecture industry would simply compute the value by multiplying the annual cost times the life-span in years. The Councilman suggested this practice should be replaced with a present worth calculation to more realistically represent the current day (2015) cost impact. As such, we have modified the computation using his suggested format

and adjusted the numbers accordingly. His second and third comments were related to a different cost center and will be addressed in the respective narrative summary.

Section D – Sub-Total Costs: This section displays the sub-total of the Section A, B and C values. Specifically, the value displayed are the sum of lines A.3. + B.9. + C.3.

Section E – Schedule Impact & Additional Cost of Delay: Based on the time needed to complete the redesign work noted above in Section A, four months will be added to the overall project schedule. Due to the complexity of the construction work in and around the Edwards Ferry Road buildings, if retained, two months will be added to the overall project schedule (6-month cumulative delay). Project time delays impact project costs, based upon annual cost increases. For the purpose of this analysis, the calculation assumes construction cost inflation at ½ percent monthly or 6 percent annually. The costs shown in this section represent the cost inflation assuming a 6 month delay were realized. It is important to note that the actual delay will most likely exceed the 6 month assumption. Further delay will only compound this additional cost.

Section F – Total Costs: Councilman Butler’s second question from July 20th related to confusion on how the bottom line total cost was derived. We have reformatted the spreadsheet to provide clarification regarding how the total cost value was calculated (sum of the values contained in line D + E.4.).

His final comment relates to the submission of multiple spreadsheets which was explained above in this section. Please refer only to the spreadsheet contained in this letter and ignore the previous submittals.

The Board of Supervisors, at their March 4, 2015 Business Meeting, briefly discussed the concept of creating an interpretive historical marker or sign where the four Edwards Ferry Road building are located or some form of display inside the new courthouse that would articulate the prior and historic uses on the site. County Staff welcomes the opportunity to discuss in greater detail with the Town of Leesburg these opportunities to celebrate the historical nature of these four buildings, as well as to document the role of the Slack Family in the history of the Town. One design idea discussed is to provide imagery of the appearance of the houses throughout their history in signage on the site itself in the approximate area of the houses. The 112 Edwards Ferry Road house could be “recreated” as a landscape feature by outlining the original 1820 footprint of the foundation walls on the site or if possible, to retain that actual footprint in the site. Other design concepts range from developing graphic display’s where the buildings stood, documenting their elevations in photographic display panels to incorporating elements of the buildings in the interior or exterior of the courthouse building. We would work with Town appointed staff to identify which historical pieces to be saved and which pieces would be best suited to be incorporated into the interpretive displays, building interior or exterior envelope.

If the Town Council were to grant our appeal, we would also be willing to commit to a process of identifying building components that may have significance and either incorporate those into the interpretive displays or ensure they are available for preservation efforts. Please understand the County is bounded to specific code requirements regarding the disposition of these items. It

Letter to Mayor Umstadd and Town Council

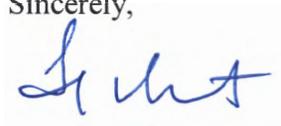
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appears from a cursory review of the code, we may be able to donate these items to either the Town or a bonafide non-profit whose mission is to protect historic artifacts. If neither the Town nor a non-profit would express interest in the salvaged components, we would be compelled to auction them in a public format. Either way, we would be willing to extend a cooperative effort with the Town to ensure those items of significance are preserved and made available. The County is willing to document and catalogue the historical significance of the four Edwards Ferry Road buildings.

Thank you in advance for your consideration and deliberation on the County's behalf. I look forward to meeting with you on July 28th. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Hemstreet", is placed over a light grey rectangular background.

Tim Hemstreet
County Administrator

CC: Board of Supervisors
Leo Rogers, County Attorney
Charles Yudd, Assistant County Administrator
Joe Kroboth, Director, DTCI