

PUBLIC APOLOGY AND STATEMENT

In late 2009, the historic storefront façade (circa 1947) of the former Victory Shoe Store located at 219 West Main Street, Charlottesville, Virginia, was removed without the required prior approval from the City's Board of Architectural Review ("BAR"). Subsequent to the removal, the owner of the building – the Joe H. Gieck Trust ("Gieck Trust") – followed all procedures required by the City and complied with all applicable building regulations to restore the façade to the original 1920s façade. However, the 1947 façade was gone forever.

The Gieck Trust, and Joe and Sally Gieck, have long been committed to the preservation of historic structures in the City of Charlottesville, and particularly, the Downtown area. They recognize that local governments must be able to protect historic resources through valid zoning powers. The Gieck Trust further acknowledges that it should have been cognizant of the historic status of the 1947 façade and admits that the 1947 façade should not have been removed without prior approval of the BAR. The Gieck Trust expresses its sincere apologies for the loss of the 1947 façade. These apologies run to the City of Charlottesville, and to its citizens, particularly those in the Charlottesville-Albemarle community who realize that preservation of our historic resources is a worthwhile and laudable endeavor requiring substantial commitment by the private and public sectors working together.

In furtherance of its endorsement of ongoing efforts to preserve our historic resources and of its desire to provide a reasonable measure of reparation to the public and the community, the Gieck Trust has donated sixteen thousand dollars to the City's Historic Preservation Fund, to be applied toward conducting a much-needed survey of all historic resources in the Downtown area, or toward any other purpose that the City Manager, with the concurrence of the City Council, deems appropriate.

**A RESOLUTION
APPROVING A SETTLEMENT OF
CIRCUIT COURT CASE NO. CL-10-000360-00**

WHEREAS, the City of Charlottesville has a pending action against the defendant Joe H. Gieck Trust in the Charlottesville Circuit Court, Case No. CL-10-000360-00, seeking damages based upon an unauthorized demolition of a historic structure; and

WHEREAS, based upon the facts and circumstances of the case, a reasonable settlement of the matter has been negotiated amongst the parties to the action, including a donation to the City in the amount of sixteen thousand dollars and issuance of a formal public apology and statement by the defendant; and

WHEREAS, it appears to be in the best interests of the City to settle and conclude this matter;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the settlement of the Circuit Court case referenced herein in exchange for a donation to the City in the amount of sixteen thousand dollars and issuance of a formal public apology and statement by the defendant is approved.

America's #1 City

Mary Joy



Neighborhood Development Services
434-970-3182

Approved by Council
May 21, 2012

Yuzge Bayfield

Clerk of Council

Maral S. Kalbian
Architectural Historian

2026 Old Chapel Rd. ■ Boyce, Virginia 22620
Phone (540) 955-1231 ■ Fax (540) 955-1943
mkalbian@verizon.net

November 10, 2011

City of Charlottesville
Mary Joy Scala, AICP
Preservation and Design Planner
Neighborhood Development Services
P.O. Box 911
Charlottesville, VA 22902

RE: Cost Estimate for Resurvey of Downtown ADC and North Downtown ADC District

Dear Mary Joy:

Per your request, I am offering a Cost Estimate to conduct an architectural survey of the historic resources within the Downtown ADC and the North Downtown ADC areas. Based on the approximate number of resources you provided me with, here is my cost estimate to conduct such a survey. I would recommend that you conduct the survey according to the Virginia Department of Historic Resources' guidelines, which would include entry into the Data Sharing System (DSS).

Downtown: 215 properties
With DSS- \$25,500
Without DSS- \$16,000

N. Downtown: 230 properties
With DSS \$26,450
Without DSS \$17,500

Please let me know if you have any questions.

Sincerely,


Maral

Scala, Mary Joy

From: Maral S. Kalbian <mkalbian@verizon.net>
Sent: Wednesday, November 02, 2011 4:57 PM
To: Scala, Mary Joy
Subject: RE: Re-survey of Downtown and N Downtown ADC Districts

OK- here it goes!

Downtown 215 properties

With DSS- \$25,500

Without DSS- \$16,000

N. Downtown 230 properties

With DSS \$26,450

Without DSS \$17,500

25,500
26,450

51,950

Does that help?

Maral

From: Scala, Mary Joy [mailto:scala@charlottesville.org]
Sent: Wednesday, November 02, 2011 11:51 AM
To: 'Maral S. Kalbian'
Subject: RE: Re-survey of Downtown and N Downtown ADC Districts

That's a good question. Even if they are in a National Register District, I doubt that most of the buildings are in DSS, and they probably should be entered. How would that change your estimate, and I need Downtown and N Downtown separated, because we may just do Downtown. Thank you

Mary Joy Scala, AICP
Preservation and Design Planner
City of Charlottesville
Department of Neighborhood Development Services
City Hall - 610 East Market Street
P.O. Box 911
Charlottesville, VA 22902
Ph 434.970.3130 FAX 434.970.3359
scala@charlottesville.org

From: Maral S. Kalbian [mailto:mkalbian@verizon.net]
Sent: Wednesday, November 02, 2011 9:01 AM
To: Scala, Mary Joy
Subject: RE: Re-survey of Downtown and N Downtown ADC Districts

Hi Mary Joy-

Do they need to be entered into DSS?
If not, I think that probably somewhere between 30 and 40K would take care of it.

Maral

From: Scala, Mary Joy [mailto:scala@charlottesville.org]
Sent: Tuesday, November 01, 2011 5:14 PM
To: Maral S. Kalbian (mkalbian@verizon.net)
Subject: Re-survey of Downtown and N Downtown ADC Districts

Maral,

I need an estimate of the cost for a re-survey of the Downtown Architectural Design Control (ADC) District and (separately) the North Downtown ADC District. The combined area is already on the National/State Registers, so we do not need to meet their requirements. I would like to have exterior photos (color digital), architectural description of the primary and secondary structures, a site description and a statement of significance, including whether it is contributing or not.

This project would be bid out if it happens; this inquiry is to help plan for funding.

Downtown ADC contains approx. 215 properties. Many have no surveys at all.

N Downtown contains approximately 230 properties.

Approx. 100 of these in the N Downtown area were recently surveyed, but just need to be updated.

Let me know if you have questions. Thank you.

Mary Joy Scala, AICP
Preservation and Design Planner
City of Charlottesville
Department of Neighborhood Development Services
City Hall - 610 East Market Street
P.O. Box 911
Charlottesville, VA 22902
Ph 434.970.3130 FAX 434.970.3359
scala@charlottesville.org

LAW OFFICES
TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.

THE VIRGINIA BUILDING
25 N. CENTRAL AVENUE
STAUNTON, VIRGINIA 24401

RANDALL T. PERDUE
Telephone Extension: 116
Email: rperdue@tstm.com

Mailing Address:
POST OFFICE BOX 108
STAUNTON, VIRGINIA 24402-0108

TELEPHONE (540) 885-1517
FACSIMILE (540) 885-4537
REAL ESTATE FACSIMILE (540) 885-6780

Web Address: <http://www.tstm.com>

October 21, 2011

*Via Electronic Mail: harrisrm@charlottesville.org
Hard Copy by Mail*

Richard M. Harris, Deputy City Attorney
OFFICE OF THE CITY ATTORNEY
CITY OF CHARLOTTESVILLE
Post Office Box 911
Charlottesville, Virginia 22902

RE: *City of Charlottesville v. Joe H. Gieck Trust*
Case No. CL10-000360-00

Dear Rich:

Thank you for the information that you provided on September 16, 2011. I have had an opportunity to review the material as it might relate to the current action against the Joe H. Gieck Trust (the "Trust") in regard to the removal of the façade at the property located at 219-221 West Main Street.

As you might expect, we believe that there are significant distinctions between the Parham matter in 1989 and the current case. First, and most significant, the Parham matter involved the complete demolition of three buildings (your letter indicates that there were two building but the accompanying Stop Order letter and other materials indicate that there were three buildings). In the present case, the building was not demolished. The building remains, and it retains its assessed value according to the information that you provided. Of course, we intend to assert that the façade in this case constitutes neither a "building" nor a "structure" as those terms are defined and applied under the zoning ordinance.

The fact that the building remains and that the assessed value of the building has not changed presents the problem of determining the measure of damages under §34-86(c). Our position is quite simple: §34-86(c) permits the recovery of damages equal to twice the value of the building or structure that was demolished, razed, or moved. We believe that the measure of damages is directly

TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.

Richard M. Harris, Deputy City Attorney

October 21, 2011

Page 2

tied to the item demolished or razed. Here, the building was not demolished or razed, therefore recovery of twice the value of the building is not available. Therefore, assuming that the façade constitutes a "structure," or something less than a full building, then the question becomes how to measure the value of the removed façade when the City's assessed value for the property does not allocate a value for the façade.

You have suggested for the purposes of settlement that we measure the value of the façade by reference to the cost to construct the replacement façade. We do not agree that the replacement cost is an accurate measure of the value of the façade. We believe that the accurate measure of damage resulting from the removal of the façade would be the difference between the value of the building with the old façade and the value of the building with the new façade. Again, according to the City's assessed value, that amount would be \$0.00; according to the appraisal performed by David Lane with Pape and Company, the difference is an increase in value of approximately \$83,000.00.

We believe that there are additional mitigating factors in this case. As Mr. Gieck explained during our meeting in June, he was not aware that the tenant had removed the entire façade until after he received a telephone call from Ms. Scala. In addition, even if Mr. Gieck had authorized the removal of the façade, he was not aware that authorization for removal would have been required. (By contrast, in the Parham matter the contractor knew that authorization was required; it had filed its application but demolished the buildings prior to obtaining complete authorization). Mr. and Mrs. Gieck own several other buildings located along the downtown mall, and they or their tenants have made modifications or improvements to façades on those buildings without first obtaining certificates of appropriateness. It is true as you allege in paragraph numbered "21" of your Complaint that Mr. Gieck had obtained a permit for demolition on the same property a year prior; however, that permit involved an entire building and not a component of a building as in this case.

Also, the plate glass in the old façade was cracked, and Mr. Gieck's property manager had been advised that applicable building codes required replacement of plate glass at street level with tempered glass. Several glass suppliers advised further that tempered glass was not available in the rounded shape as contained in the old façade. Clearly, some change in the old façade would have been necessary to address the safety concerns presented by the cracked glass.

Mr. and Mrs. Gieck remain committed to historic preservation. They have demonstrated their commitment by investing in the acquisition, preservation and improvement of several historic buildings along the downtown mall. The allegation in paragraph numbered "21" of your Complaint demonstrates that Mr. and Mrs. Gieck seek to comply with zoning requirements when they are aware

TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.

Richard M. Harris, Deputy City Attorney
October 21, 2011
Page 3

of their application. It seems unjust, inequitable and unnecessary to exact a highly-punitive sanction against Mr. and Mrs. Gieck under the circumstances of this case.

Consequently, I am authorized to offer a contribution in the amount of \$10,000.00 by Mr. and Mrs. Gieck to the historic preservation fund in exchange for a complete release by the City against the Trust for all claims arising from the removal of the old façade. Mr. Gieck would like to avoid protracted litigation; however, he is prepared to defend against what he believes to be a misapplication of the sanction authorized under the zoning ordinance.

All statements and positions recited in this letter are made for the purposes of settlement only, and shall not be admissible as evidence of liability against the Trust, or Mr. and Mrs. Gieck.

If you have any questions or concerns with this information, please advise.

With regards, I am

Very truly yours,



Randall T. Perdue

RTP:pd

cc: Joe H. Gieck, Trustee, Joe H. Gieck Trust

Scala, Mary Joy

From: pghallock@gmail.com on behalf of Gardiner Hallock <pgh@arcadiapreservation.com>
Sent: Thursday, November 03, 2011 4:37 PM
To: Scala, Mary Joy
Cc: Jennifer Hallock
Subject: Charlottesville Resurvey Estimates

Mary Joy,

No problem and for urban surveys we usually estimate \$50 a property for the survey and DSS.

So for Downtown ADC the Survey and DSS would be \$10,750 plus approximately \$1,500-\$2000 for organizing time, labeling photos, and supplies (more if they are traveling from a couple hours away). So a possible total could be \$12,000 to \$14,000.

For the North Downtown District, it depends who the consultant was.

If Lydia or Maral did the surveys then the 100 that are done are probably great and won't need much in the way of updating. So lets say \$15 per for those and the normal \$50 for the remaining 130. That gives a figure of \$8000 for the survey with \$1,000-1,500 tacked on for organizing, photos, travel and supplies. That gives a total in the range of \$9,000 to around \$11,000. However, if the already completed surveys are not well done and will need to be re-photographed, then you might increase that number by a \$1000-\$2000.

Jennifer: Do you have anything to add?

Let me know if you have any questions and I hope that helps,

Gardiner

staff time -

~~10,750~~
2,000
Dntn 14,000
N Dn tn 13,000

27,000

1,000
28,000

Manly Jay
fj
J

LAW OFFICES
TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.

THE VIRGINIA BUILDING
25 N. CENTRAL AVENUE
STAUNTON, VIRGINIA 24401

RANDALL T. PERDUE
Telephone Extension: 116
Email: rperdue@tstm.com

Mailing Address:
POST OFFICE BOX 108
STAUNTON, VIRGINIA 24402-0108

TELEPHONE (540) 885-1517
FACSIMILE (540) 885-4537
REAL ESTATE FACSIMILE (540) 885-6780

Web Address: <http://www.tstm.com>

October 21, 2011

*Via Electronic Mail: harrisrm@charlottesville.org
Hard Copy by Mail*

Richard M. Harris, Deputy City Attorney
OFFICE OF THE CITY ATTORNEY
CITY OF CHARLOTTESVILLE
Post Office Box 911
Charlottesville, Virginia 22902

RE: *City of Charlottesville v. Joe H. Gieck Trust*
Case No. CL10-000360-00

Dear Rich:

Thank you for the information that you provided on September 16, 2011. I have had an opportunity to review the material as it might relate to the current action against the Joe H. Gieck Trust (the "Trust") in regard to the removal of the façade at the property located at 219-221 West Main Street.

As you might expect, we believe that there are significant distinctions between the Parham matter in 1989 and the current case. First, and most significant, the Parham matter involved the complete demolition of three buildings (your letter indicates that there were two building but the accompanying Stop Order letter and other materials indicate that there were three buildings). In the present case, the building was not demolished. The building remains, and it retains its assessed value according to the information that you provided. Of course, we intend to assert that the façade in this case constitutes neither a "building" nor a "structure" as those terms are defined and applied under the zoning ordinance.

The fact that the building remains and that the assessed value of the building has not changed presents the problem of determining the measure of damages under §34-86(c). Our position is quite simple: §34-86(c) permits the recovery of damages equal to twice the value of the building or structure that was demolished, razed, or moved. We believe that the measure of damages is directly

TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.

Richard M. Harris, Deputy City Attorney

October 21, 2011

Page 2

tioned to the item demolished or razed. Here, the building was not demolished or razed, therefore recovery of twice the value of the building is not available. Therefore, assuming that the façade constitutes a "structure," or something less than a full building, then the question becomes how to measure the value of the removed façade when the City's assessed value for the property does not allocate a value for the façade.

You have suggested for the purposes of settlement that we measure the value of the façade by reference to the cost to construct the replacement façade. We do not agree that the replacement cost is an accurate measure of the value of the façade. We believe that the accurate measure of damage resulting from the removal of the façade would be the difference between the value of the building with the old façade and the value of the building with the new façade. Again, according to the City's assessed value, that amount would be \$0.00; according to the appraisal performed by David Lane with Pape and Company, the difference is an increase in value of approximately \$83,000.00.

We believe that there are additional mitigating factors in this case. As Mr. Gieck explained during our meeting in June, he was not aware that the tenant had removed the entire façade until after he received a telephone call from Ms. Scala. In addition, even if Mr. Gieck had authorized the removal of the façade, he was not aware that authorization for removal would have been required. (By contrast, in the Parham matter the contractor knew that authorization was required; it had filed its application but demolished the buildings prior to obtaining complete authorization). Mr. and Mrs. Gieck own several other buildings located along the downtown mall, and they or their tenants have made modifications or improvements to façades on those buildings without first obtaining certificates of appropriateness. It is true as you allege in paragraph numbered "21" of your Complaint that Mr. Gieck had obtained a permit for demolition on the same property a year prior; however, that permit involved an entire building and not a component of a building as in this case.

Also, the plate glass in the old façade was cracked, and Mr. Gieck's property manager had been advised that applicable building codes required replacement of plate glass at street level with tempered glass. Several glass suppliers advised further that tempered glass was not available in the rounded shape as contained in the old façade. Clearly, some change in the old façade would have been necessary to address the safety concerns presented by the cracked glass.

Mr. and Mrs. Gieck remain committed to historic preservation. They have demonstrated their commitment by investing in the acquisition, preservation and improvement of several historic buildings along the downtown mall. The allegation in paragraph numbered "21" of your Complaint demonstrates that Mr. and Mrs. Gieck seek to comply with zoning requirements when they are aware

TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.

Richard M. Harris, Deputy City Attorney
October 21, 2011
Page 3

of their application. It seems unjust, inequitable and unnecessary to exact a highly-punitive sanction against Mr. and Mrs. Gieck under the circumstances of this case.

Consequently, I am authorized to offer a contribution in the amount of \$10,000.00 by Mr. and Mrs. Gieck to the historic preservation fund in exchange for a complete release by the City against the Trust for all claims arising from the removal of the old façade. Mr. Gieck would like to avoid protracted litigation; however, he is prepared to defend against what he believes to be a misapplication of the sanction authorized under the zoning ordinance.

All statements and positions recited in this letter are made for the purposes of settlement only, and shall not be admissible as evidence of liability against the Trust, or Mr. and Mrs. Gieck.

If you have any questions or concerns with this information, please advise.

With regards, I am

Very truly yours,



Randall T. Perdue

RTP:pd

cc: Joe H. Gieck, Trustee, Joe H. Gieck Trust

219 West Main Street

219 West Main Street is the eastern part of a commercial building located at 219-221 West Main Street on Charlottesville's Downtown Pedestrian Mall. The building is a contributing structure in the Downtown Architectural Design Control (ADC) District, which district was put in place by City Council in 1985. ADC District regulations require review and approval by the Board of Architectural Review (BAR) of a certificate of appropriateness for any demolition, in whole or in part, under Sec. 34- 277 (a). Failure to obtain the permit shall subject the property owner the the civil penalty described in Sec. 86(c) i.e., twice the fair market value of the building or structure.

History of the Property

219-221 East Main Street is a 2-story, 5-bay Victorian style commercial duplex building built in 1921, replacing earlier structures. The subject property, 219 West Main Street (also commonly known as the Victory Shoe Store), is the width of the eastern two bays of the building. The property's Landmark Survey, written by Eugenia Bibb in 1979, states that the Victory Shoe Store "occupied the eastern half since 1922." The historic survey describes the now demolished storefront, ("The walls are faced with black tile, and display windows with rounded corners flank a deeply recessed entrance"), but incorrectly states that the storefront was "probably original." According to Ethel Crowe, whose grandparents opened the store in 1921, her grandparents put a new storefront on the building around 1947, and Victory Shoes operated in that location from 1921 until 1996. In recent years it has been occupied by retail stores, including O'Suzanna and, most recently, Elsie Garden.

The demolished storefront of black glass bulkhead with curved clear glass showcase windows actually dated to the 1947 renovation. There was probably just one storefront prior to that, the original 1921 storefront.

Demolition

The demolition of the curved glass storefront occurred on a Saturday morning, October 31, 2009, without a required certificate of appropriateness from the BAR, and without a required building permit, and was discovered when City staff came to work on the following Monday morning, November 2, 2009. The building was vacant, following the recent departure of Elsie Garden, a clothing store, to the Terraces on 1st Street South. The owner had removed the black glass bulkhead, the curved glass display windows with metal trim, the display window floor and rear walls.

The applicant had obtained a separate building permit for interior work to renovate the property for a restaurant use. Staff immediately placed a stop work on the exterior work, but was unable to stop the work on the interior, considered a separate permit under the building code.

The applicant was told he needed to apply for BAR approval for the demolition after the fact, in order to establish whether the demolition would have been permitted. Following a determination regarding the appropriateness of the demolition, and prior to any further exterior work, the applicant was told he must obtain BAR approval for a design to reconstruct the front of the building. The applicant submitted on November 24, 2009 (submittal deadline for December 15 BAR meeting) separate applications for demolition after the fact and reconstruction of a different design storefront from that demolished.

BAR determination

The Board of Architectural Review, at their regular monthly meeting on Tuesday December 15, 2009, unanimously (8-0) denied the application for demolition (after the fact) of the storefront at 219 West Main Street. This action confirmed that the demolition occurred illegally. Therefore, staff now requests that the City pursue the maximum civil penalties in order to reaffirm the importance of Charlottesville's historic buildings and districts, and to deter similar illegal demolitions from occurring in the future.

Documentation

Read Brodhead and I both have files, including photos and documentation of communications with the owner. I have the BAR staff report and related information.

There is evidence that the owner was aware that the building was subject to BAR review. The owner applied for a demolition permit previously for a cinderblock shed in the rear of this same property. The owner owns several properties on the downtown mall.

To illustrate the importance of historic buildings to the community, staff has received many forms of communication from the general public indicating that they were upset by the illegal demolition and the loss of the old Victory Shoe Store storefront.

To illustrate the need to deter future illegal activities, staff received a phone call from a resident of an ADC district asking why they should abide by the rules if this owner did not.

Jim Tolbert said that at least two City Councilors have asked about pursuing the civil penalties, and several BAR members have asked about it also.



1428 East High St.
Charlottesville, VA 22902
Ph (434) 293-9188
FAX (434) 977-4362

145 Commerce Dr.
Ruckersville, VA 22968
Ph (434) 985-1100
FAX (434) 985-9866

The Sunesta

Retractable Patio Awning



Custom Made Shade For Perfect Days

Your home is more than a house – it's your personal oasis. Sunesta Premium Class Retractable Awnings allow you to expand and enhance your home's outdoor living area by providing shade when you need it and sun when you want it. Either way, you create your perfect day.



The Perfect Day. Engineered Perfectly.™



Scala, Mary Joy

From: Kathleen Galvin [kathleen.m.galvin@gmail.com] on behalf of Kathleen M. Galvin [kg@galvinarchitects.com]
Sent: Friday, May 14, 2010 8:15 AM
To: Scala, Mary Joy
Cc: William Rice; Billy Rogers; Tim Painter; Joe & Sallie Gieck; acepitts@aol.com
Subject: Re: 219 W. Main St.-fabric for awning OK

Hello All,

The Sunesta #364-544 looks fine. It'll work.

Kathy

Scala, Mary Joy wrote:

>
> <http://www.sunesta.com/products/patiodeck-products/the-sunesta/fabrics/gray-tripes.aspx>

>
> Bill,

>
> The acrylic Sunesta fabric you submitted looks fine. They have a
> black/white stripe similar to what Kathy Galvin originally specified,
> #364-544.

>
> I'll wait to hear from Kathy Galvin if this is acceptable to her.

>
> Mary Joy

>
> ****Mary Joy Scala, AICP****

>
> Preservation and Design Planner

>
> City of Charlottesville

>
> Department of Neighborhood Development Services

>
> City Hall - 610 East Market Street

>
> P.O. Box 911

>
> Charlottesville, VA 22902

>
> Ph 434.970.3130 FAX 434.970.3359

>
> _scala@charlottesville.org

> -----
> --

>
> ***From:*** William Rice [mailto:wsrice@embarqmail.com]

> ***Sent:*** Thursday, May 13, 2010 4:17 PM

> ***To:*** Scala, Mary Joy

> ***Cc:*** Billy Rogers; Tim Painter; Kathy Galvin; Joe & Sallie Gieck;
> acepitts@aol.com

> ***Subject:*** Re: 219 W. Main St.

>
> I'm not involved or making any change to the exterior. Right now the
> only things left on my plate concerning anything on the outside are

June 30, 2011

1990- ord not in place?
contrib. to hist pres. fund. take seriously

make developer look good donation to fund.
not a whole building. their argument
torn down

ord. says - any exter. or change. 406 410 411 413.
not like replacing a pane of glass changed facades.
no one asked me.
ins co. said it had to be tempered.

Karen Page worth 35,000 more than prior facade
city assessment has not changed.

"we spent more than that" (\$75,000)
assessed value of historic building.

charter authority. mirrors state code

78
78
\$ 156,000

1. The Charlottesville community values historic resources.
 - a. Comp plan goal: Provide the fullest protection to the City of Charlottesville's historic resources.
2. Charlottesville's historic resources set the city apart as a place to live and visit – make it unusual and desirable.
3. Charlottesville's economy depends on tourism – historic resources are a major draw for tourists.
4. The Downtown Mall is the most important tourist and resident destination area in the City.
5. This site in particular, on the west end of the mall, has a lot of foot traffic, so is very visible.
6. The storefront was a rare, beautiful and significant example of a 1947 commercial storefront with curved glass and a black glass bulkhead. Site of Victory Shoes from 1922-1996.
7. 219 W Main is a contributing structure in the Charlottesville and Albemarle National Register district since 1982, and in the Downtown ADC district since 1985.
8. The City's preservation program depends on the cooperation of citizens.
9. The ordinance and penalty section anticipates that removal of historic resources will undermine the whole program.
10. Owner's intent:
 - a. Same property owner applied for and received a demolition permit from BAR in 2008 for a shed in the alley behind this same address because it was determined not significant.
 - b. No one asked the Preservation Planner if it was OK to remove the storefront.
 - c. The storefront was removed on a Saturday, without a COA from BAR.

SUMMARY APPRAISAL REPORT



Of
219-221 West Main Street
Charlottesville, Virginia 22902
Our File: C11-05-009

Prepared For:
Mr. Joe and Sallie Gieck
2124 Wentworth Farm
Charlottesville, VA 22902

Prepared By:
David G. Lane, SRA
Pape and Company, Inc.
1421 Sachem Place, Suite 1
Charlottesville, VA 22901

Effective Date of Appraisal:
July 3, 2010*
Date of Report:
June 3, 2011*

*This is a retrospective appraisal report based upon a pre-construction and post-construction estimate of value.

Pape & Company INC

Real Estate Appraisers and Consultants

June 3, 2011
Mr. Joe Gieck
2124 Wentworth Farm
Charlottesville, VA 22902

RE: Appraisal Report of 219-221 W. Main
Street. Charlottesville, VA 22902
Our File C11-05-009

Dear Mr. Gieck,

As you requested, we have made an inspection and valuation of the above-referenced property of the commercial property located on the Charlottesville Downtown Pedestrian Mall. The property address is 219-221 West Main Street which has retail store at the ground level and offices above. We have collected market data indicative of the subject property's highest and best use and present market value. This is a retrospective appraisal report since the assignment includes two estimated values: one value pre-construction before the façade renovation and one post-construction. The nearest date of completion of construction is June 1, 2010. This will be used as the effective date

This report has been prepared in accordance with sound appraisal practice, the Code of Professional Ethics and Standards of Professional Conduct of the Appraisal Institute, the Uniform Standards of Professional Appraisal Practice, and the applicable provisions of Title XI of the Financial Institutions Reform and Recovery Enforcement Act. Attached is a report containing the most pertinent of the data assembled, analysis of the subject property, applicable market information, and resulting conclusions.

It is our opinion, subject to the Contingent and Limiting Conditions set forth herein, that the subject property had the following Market Value, as defined, as of July 3, 2010:

Before Façade Renovation:	\$1,113,000
After Façade Renovation:	\$1,196,000
Difference in value based upon Total Renovation:	\$83,000

Estimated Difference in Storefront Change By Sales Comparison:	\$35,000*
---	-----------

*This estimated attributable to the storefront window without including the other renovation to the interior.

**This is a retrospective appraisal report based upon a pre-construction and post-construction estimate of value as of the effective date of value July 3, 2010.

***This appraisal is based upon the hypothetical condition that the only difference in the subject property is the change in the storefront window and its associated entry area when considering the value differences, if any, pre-construction vs. post-construction. We assume that all other factors are similar other than the storefront change.

If we can be of further assistance, please advise.

Sincerely,



David G. Lane, SRA
VA Certified General Appraiser #4001 011838
Expiration 08/31/2011



TABLE OF CONTENTS

Executive Summary	5
Contingent and Limiting Conditions	7
Restrictions on Disclosure and Use	9
Extraordinary Assumptions and Hypothetical Conditions	10
Appraiser's Certification	11
Property Identification, Ownership, and History	13
Purpose; Definition of Market Value; Intended Use and Users	14
Property Rights Appraised; Exposure Time; Key Dates	15
Scope of Work	17
Regional Analysis	20
Neighborhood Data	29
Property Description and Analysis	30
Improvements; Assessment and Taxes; Zoning	36
Highest and Best Use	54
Valuation	56
Cost Approach	N/A
Sales Comparison Approach	57
Income Approach	85
Final Reconciliation	106
Appraisers' Qualifications	108

EXECUTIVE SUMMARY

Property Identification: Charlottesville Tax Map 33 Parcel 272

Location: 219-221 W. Main Street, Charlottesville, VA 22902
This is located on the Charlottesville Downtown Pedestrian Mall near the west end between 2nd Street and Old Preston Avenue. It is among other downtown properties that are typically mixed-use with retail at the ground level and offices or residences at the upper levels.

Owner of Record: Joe H. Gieck Trust

Site Data: The subject property consists of a two-tenant commercial property use with retail store at the ground level and offices above. It is a two story building constructed in 1920 according to the city assessor's office. The building includes 6,154 square feet of commercial space. There is no on-site parking area. The site is 0.126 acre or approximately 5,474 square feet. It is completely covered by building. The building does not appear to be in a flood zone area according to FEMA Flood Insurance Rate Map 51003C0288D dated February 4, 2005.

**Current Assessment
(Year 2010):**

TM	Land	Improvement	Total
33-272	\$340,200	\$608,300	\$948,500

**Year 2010 Real Estate
Taxes:**

\$9,010.75

**Current Contracts:
Sales, last 5 years:**

None known
None

**Purpose of Appraisal/
Interest Appraised:**

The purpose of this appraisal is to estimate the market value of the property's leased fee simple estate immediately before and immediately after completion of renovation of building façade. The date of completion of this façade change is near July 3, 2010 which we will use as the effective date of value.

**Intended Use of
Appraisal:**

This appraisal will be used to show value differences concerning a dispute between the City of Charlottesville and the property owner over the façade construction directly related to the Architectural

Review Board that governs the historical character of the downtown mall buildings.

Intended User of Appraisal:

The client, Mr. Joe Gieck, is the only intended user of this report.

Exposure Time:

Twelve + months

Effective Date of Appraisal:

July 3, 2010

Date of Inspection:

May 31, 2011

Date of Report:

June 3, 2011

Zoning and Other

Land Use Controls:

The property is zoned DH, Downtown Corridor with a Historic overlay

Highest and Best Use:

The highest and best use of the property is for a commercial mixed-use property including retail use associated with upper level offices.

Extraordinary Assumptions:

The effective date of value is July 3, 2010; the estimated date of the completion of the façade construction. This value is based upon the extraordinary assumption that the condition pre-construction and the condition post-construction are as identified and communicated to the appraiser. We assume that all other factors are similar other than the storefront change.

Hypothetical Conditions:

This appraisal is based upon the hypothetical condition that the only difference in the subject property is the change in the storefront window and its associated entry area when considering the value differences, if any, pre-construction vs. post-construction.

Approaches to Value:

Sales Comparison; Income Approach

Before Façade Renovation:	\$1,113,000
After Façade Renovation:	\$1,196,000
Difference in value based upon Total Renovation:	\$83,000
Estimated Difference in Storefront Change By Sales Comparison:	\$35,000*



*This estimated attributable to the storefront window without including the other renovation to the interior.

APPRAISER'S CERTIFICATION

The undersigned does hereby certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions or conclusions in, or the use of, this report.
5. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with, the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute as well as the Uniform Standards of Professional Appraisal Practice of The Appraisal Foundation.
6. No one provided significant professional assistance to the person(s) signing this report. However, other members of the staff of Pape and Company, Incorporated, may have assisted in obtaining and processing portions of the data used.
7. As of the date of this report, the undersigned designated appraiser has completed the requirements under the continuing education program of the Appraisal Institute.
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. David Lane made a personal inspection of the interior and exterior of the subject property on May 31, 2011. This is a retrospective appraisal based upon the criteria of value pre-construction and post-construction of the façade renovation. To the best of the appraiser's knowledge, the date of completion of this construction was July 3, 2010.
10. This appraisal was not conditioned upon it producing a requested minimum valuation, a specific value, a value within a given range or an amount which would result in approval of a loan.

11. The estimate of value contained in this report is:


Before Façade Renovation:	\$1,113,000
After Façade Renovation:	\$1,196,000
Difference in value based upon	
Total Renovation:	\$83,000

Estimated Difference in Storefront Change	
By Sales Comparison:	\$35,000*

*This estimated attributable to the storefront window without including the other renovation to the interior.

**This appraisal is based upon the hypothetical condition that the only difference in the subject property is the change in the storefront window and its associated entry area when considering the value differences, if any, pre-construction vs. post-construction. We assume that all other factors are similar other than the storefront change.

12 The undersigned appraiser, David Lane, has not provided valuation services with regard to the property within the last three years.



David G. Lane, SRA
VA Certified General Appraiser
Cert. #4001011838 VA
Expiration 08/31/2017
CERTIFIED GENERAL
REAL ESTATE APPRAISER

IDENTIFICATION, OWNERSHIP, AND HISTORY

Brief Description and Location:	The subject property is a multi-tenant commercial building with retail at the ground level and offices above. It is a walk-up building located on the Charlottesville Downtown Pedestrian Mall among similar buildings between Old Preston Avenue and 2 nd Street.
Tax Map:	TM 33-272
Address:	219-221 West Main Street, Charlottesville, VA 22902
Current Owner:	Joe H. Gieck, Trust.
Grantor:	This property has been owned by the same entity since November 2, 2001 when it was purchased from George Gilliam Trustee for the Central City Trust.
Consideration:	None within the last 5 years.
Reference:	Deed Book 826, page 936.
Legal Descriptions:	Deed Book 826, page 936.
Square Footage:	Total GBA is 6,154 square feet.
Land Size:	0.126 acre or approximately 5,474 square feet.
Other Recent Sales:	None
Current Contracts, Listings and Options:	None known
Taxes:	Taxes are paid by the Tenant by pro-rata share in addition of the lease rate.
Insurance:	Landlord pays for building insurance on building.
Landlord's Responsibilities:	Landlord shall maintain property in good condition.

PURPOSE; DEFINITION OF MARKET VALUE; INTENDED USE AND USERS

Type of Value Estimated

This appraisal estimates the Market Value of the subject real property's leased fee estate.

Definition of Market Value

The "market value" estimated in this appraisal report is best defined in The Appraisal of Real Estate, 12th Edition as: "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."

Market value is also defined as "The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- 1) buyer and seller are typically motivated;
- 2) both parties are well informed or well advised, and each acting in what they consider their best interests;
- 3) a reasonable time is allowed for exposure in the open market;
- 4) payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
- 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

By definition, market value excludes sales made by the careless or uninstructed buyer who pays a price greater than one which is supportable and reasonable. It also excludes those transfers made under conditions which do not appear to be arm's length.

For the purpose of this appraisal report, the estimate of value is in terms of financial arrangements equivalent to cash.

**Intended Use of
Appraisal:**

This appraisal will be used to show value differences concerning a dispute between the City of Charlottesville and the property owner over the façade construction directly related to the Architectural Review Board that governs the historical character of the downtown mall buildings.

**Intended User of
Appraisal:**

The client, Mr. Joe Gieck, is the only intended user of this report.

PROPERTY RIGHTS APPRAISED; EXPOSURE TIME; KEY DATES

Property Rights Appraised

A market value appraisal always values specified rights in a property rather than the physical entity of the real estate. The specified property rights can be the fee simple estate, the as-leased or as-mortgaged estate, or some other interest in the real estate.

The leased fee estate is appraised in this report. The following definitions¹ are provided to explain the subject property interest and to differentiate it from some other important property rights:

Fee Simple Estate: Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. Real property ownership is sometimes compared to a bundle of sticks, with each stick representing a separate right—the right to sell an interest, the right to lease an interest, and so on. Fee simple ownership is the entire bundle of rights.

Life Estate: Total rights of use, occupancy, and control of a specified property limited to the lifetime of a designated party. The designated party is generally known as the “life tenant” and is obligated to maintain the property in good condition and pay all applicable taxes during the term of the life estate. Two interests are created when a life estate is created, and both may need to be valued by an appraiser. The first interest is that of the life tenant; the second interest is that of the remainderman, who acquires the possessory interest in the property upon the death of the life tenant.

Lease Interests: When a fee simple interest is divided by a lease, the lessor (landlord) and the lessee (tenant) each obtain partial interests, which are defined in a contract and are governed by contract law. The divided interests are the “leased fee” (landlord’s) and the “leasehold” (tenant’s) interests. While leases vary, the leased fee generally provides the lessor with the right to rent, the

¹ See *The Appraisal of Real Estate* (Appraisal Institute, 12th Edition)

right to repossession at the termination of the lease, and the right of disposition, including the rights to sell, mortgage, or bequeath the property, subject to the lessee's rights, during the lease period. The leasehold interest generally gives the tenant the right to occupy the property for the lease period, and may give the lessee the right to sublease the property. A sublease creates a "sandwich" lease, in which the lessee is sandwiched between the lessor and the sublessee.

Exposure Time

Exposure time is defined as "the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal."² Exposure time differs for various types of real estate and value ranges and under various market conditions. The estimated exposure time for this property is twelve months.

Marketing time

"Reasonable marketing time is an estimate of the amount of time it might take to sell an interest in real property at its estimated market value during the period immediately after the effective date of the appraisal; the anticipated time required to expose the property to a pool of prospective purchasers and to allow appropriate time for negotiation, the exercise of due diligence, and the consummation of a sale at a price supportable by concurrent market conditions"³ Marketing time differs for various types of real estate and value ranges and under various market conditions. The estimated marketing time for this property is twelve months or less.

Date of Report; Date of Inspection; Effective Date of Opinion of Value

Effective Date of

Appraisal: July 3, 2010

Date of Inspection: May 31, 2011

Date of Report: June 3, 2011

² *The Dictionary of Real Estate Appraisal* (Appraisal Institute, 4th Ed.)

³ *The Dictionary of Real Estate Appraisal* (Appraisal Institute, 4th Ed.)

IMPROVEMENTS; ASSESSMENT AND TAXES; ZONING

Improvements

Overview

The subject property is a multi-tenant commercial building , 2-stories in height, located on the north boundary of the Charlottesville Downtown Pedestrian Mall. There are two retail tenants on the first floor, and offices on the 2nd floor. The 2nd floor is joined with adjacent building to create larger amount of office space for a variety of tenants with common hallway and stairs to the ground floor. Although these buildings were joined together there are still two distinct sides.

Square Footage/Dimensions

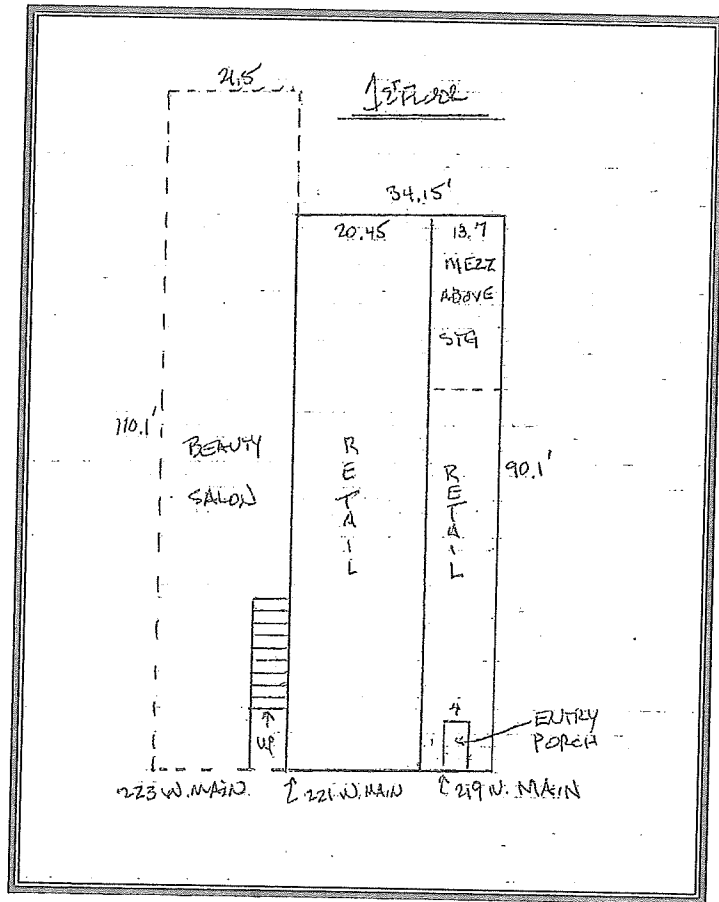
219-221 West Main Street has 34.2 feet of frontage with a depth of 89.95 feet. This creates 3,077 square feet of area on each floor for a total of 6,154 square feet. There was a detached concrete block garage/storage building at the rear of the site with 797 square feet. It has been removed from the property.

Improvement Age: 1920 according to assessor records.

Building Construction and Exterior Features

- Construction:** Brick exterior with a brick/masonry foundation and partial wood framing. The garage is concrete block exterior walls.
- Roof Cover:** The roof is flat with a composition roof membrane. Its age and condition are unknown, but there was no evidence of roof leak at the time of the property viewing.
- Windows:** Wooden double hung windows facing West Main Street on the 2nd floor. There are plate glass storefront windows at the ground level for each retail space. These are large display-type storefront windows at both of the entrances on the mall frontage.
- Access and Doors:** Two ground floor retail units have direct storefront doors leading to the pedestrian mall. There is an interior stairway from an adjacent building leading to the 2nd floor offices that have been combined with the adjacent property. There is a rear door to the back of the site where the garage is located.

Floorplan Design 1st Floor



Interior Detail:
General Layout:

The retail store has 12' +/- high acoustical tile ceilings. The 219 West Main space has an open room about 12 feet in width long and narrow that is used for an ice cream service counter with dining space in front by the entry door. There is a storeroom behind the counter and a restroom off of a hallway.

Floor Covering:

The retail space has hardwood floors in the front portion mixed with ceramic tile floor at the dining area near the front door.

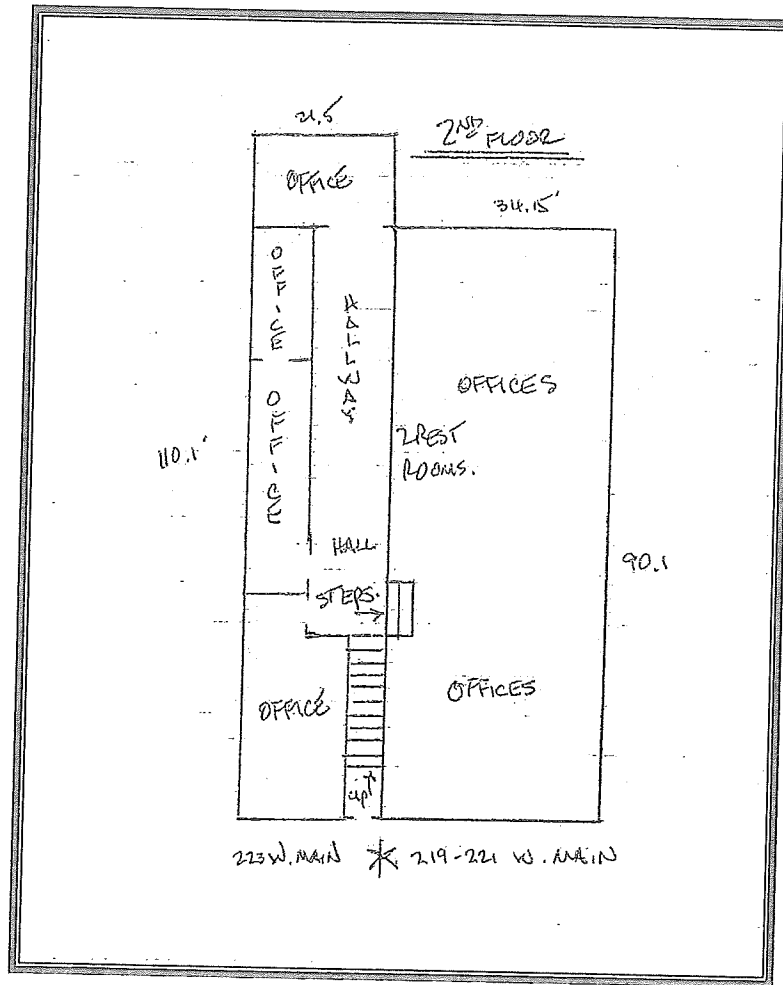
Walls:

Walls are plaster/drywall with painted finish.

Ceilings and Lighting:

First floor ceilings are approximately 12' in height and are suspended acoustical tile with aluminum framing. There are florescent tube lights in the ceiling.

Floorplan Design 2nd Floor



219-221 W. Main Street:

Gross Building Area:

Pre-Construction:	34.15' x 90.1' x 2 story =	6,153.83
	Minus Covered Porch =	(59.00)
		6,094.83 square feet)

Post-Construction:	34.15' x 90.1' x 2 story =	6,153.83
	Minus Covered Porch =	(22.00)
		6,131.83 square feet)

Service Counter:

The service counter separates the dining from the food preparation. It is a wood cabinet with plastic laminated countertop. There is safety glass protecting the food from the customers.

Kitchenette:

Behind a partition wall, there is a kitchen area for food preparation.

Restrooms: There is one restroom for the 219 W. Main retail space and one for the 221 W Main retail space. There are restrooms upstairs available in the hallways for the office occupants.

Parking: There is some space behind the building for on-site parking between the detached garage and the back of the main building. There are an estimated 6 on-site parking spaces. This property is within reasonable proximity (4-5 blocks) to the Market Street parking garage.

Mechanical Features

Heating and Cooling: Each unit has a separate HVAC system that is adequate and has been well maintained and repaired when needed.

Utilities: Each unit has separate water and sewer connections, separate electrical and gas supply.

Electrical Service: Electrical service appears to be ample for each unit.

Fire Sprinklers: No sprinkler system noted.

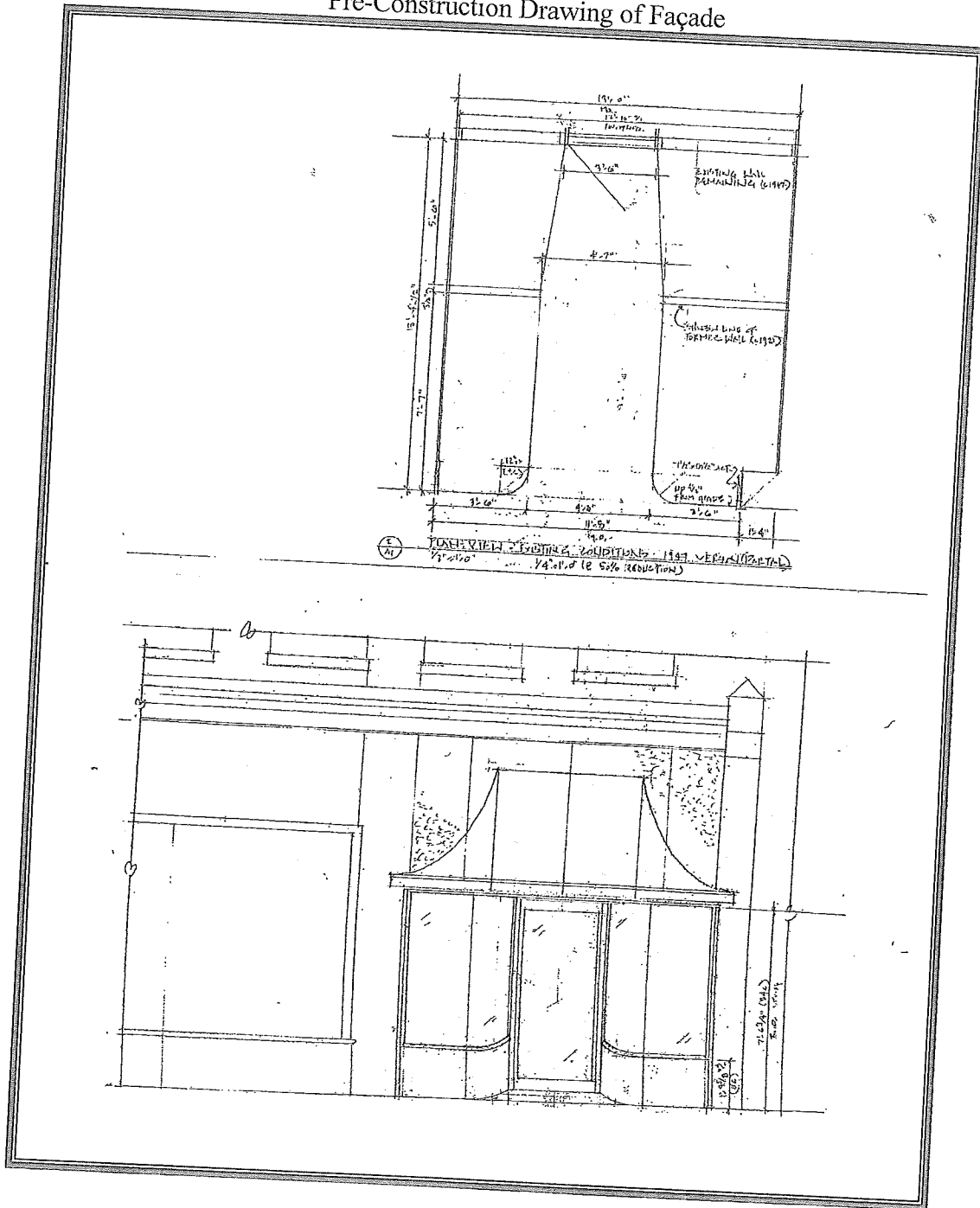
Security: The unit has a security system installed by the tenant

Overall Quality and Utility:

The ground floor retail spaces are in good condition and there is evidence of updating through the years. There is no evidence of deferred maintenance noted.

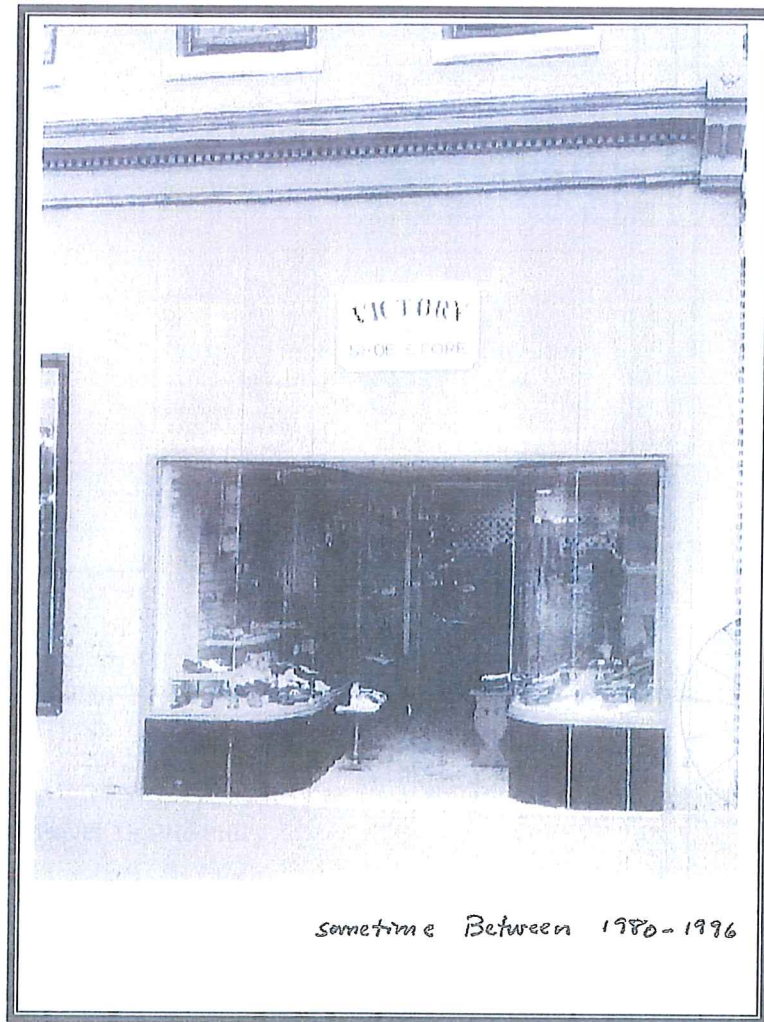
Pre-Construction vs. Post-Construction Building Data

Pre-Construction Drawing of Façade



This pre-construction drawing (previous storefront window), shows 59 square feet of covered porch area and 113 square feet of inside space at the front which includes the storefront windows.

Pre-Construction Photo from Neighborhood Development Office-City of Charlottesville



Façade shows a storefront window design that curves from either end into a covered porch entry. These curved windows act as display areas for retail goods inside the store. Solid wainscot base under the glass shows of some sort of stone panels. No canopy shown in this photo.

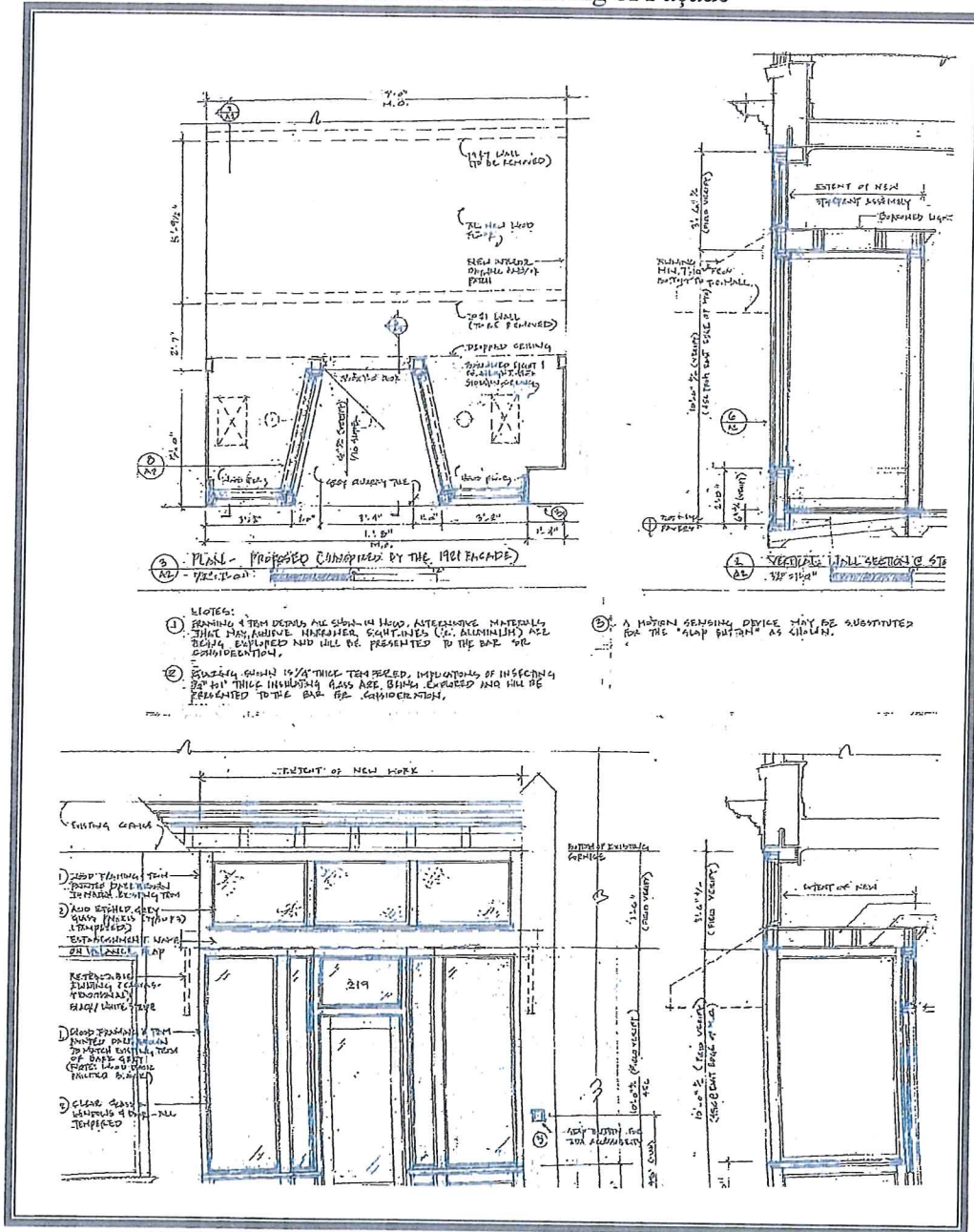
Pre-Construction Photo from Neighborhood Development Office-City of Charlottesville



Storefront shows same curved glass with stone base showing window displays for retail goods. Fabric canopy is fixed over façade entry.

Post-Construction Building Data

Post-Construction Drawing of Façade



New façade added overhead fixed transom windows. It maintained a storefront glass entry with a smaller covered porch area not as deep as the previous façade. The previous window displays were altered to add more floor space vs. built-up display platforms. This added approximately 37 square

feet of inside space totaling 150 square feet vs. 113 square feet from before. Covered porch area is now about 22 square feet.

Post-Construction Photo from property viewing



Façade shows a storefront window design that is angled with wainscot base used from wood materials and wood framing. There is a fixed transom window above also framed in wood. Fabric canopy changed.

Post-Construction Photo from property viewing



Built-up display platforms were replaced with ceramic tile floors for added floor space. There is a fixed transom over the entry door that leads to the interior retail space. To do this, the subfloor was reworked and the reinforcing concrete was added. Actual costs were not obtained, however, the owner informed with the added concrete work, that the overall cost to perform the change was over \$100,000.

Examples of Storefronts Along the Downtown Pedestrian Mall



Example Storefronts on the Downtown Pedestrian Mall

