

CITY OF CHARLOTTESVILLE
"A World Class City"

Department of Neighborhood Development Services

City Hall • P.O. Box 911
Charlottesville, Virginia 22902
Telephone 434-970-3182
Fax 434-970-3359
www.charlottesville.org



September 10, 2013

**NOTICE: DETERMINATION OF BLIGHTED
PROPERTY PER CITY CODE §54-193**

Dewberry Capital
Attention: Sally Brakebill
One Peachtree Pointe
1545 Peachtree Street, Suite 250
Atlanta, GA 30309

RE: 201 East Water Street - TMP 28-31 – NOTICE of Preliminary blight determination

Dear Ms. Brakebill:

Our records show that you represent Dewberry Capital, of the above referenced property. Pursuant to the authority granted to me within the Charlottesville City Code, Chapter 5, Article 5, Division 54, the purpose of this letter is to notify Dewberry Capital that I have preliminarily determined that this property constitutes a *blighted property*, as defined within §5-192(a) of the City Code.

This determination is based on the following factors and circumstances. The property has been vacant for many years. It appears to be in a deteriorating condition and continues to be an eyesore on our historic downtown mall. The security fence around the site is often breached and individuals are able to enter the property, which due to its state of incomplete construction, presents unsafe and unsanitary conditions, including lack of light and sanitary facilities for the persons who are entering and using the premises. There is graffiti painted on inside and outside walls. By reason of the building's dilapidation and deleterious land use, the property has become detrimental to the safety, health and welfare of the community.

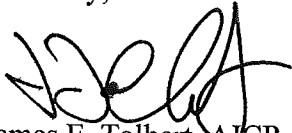
PLEASE TAKE NOTICE that you have at least thirty (30) days from this Notice to contact us and to respond with a plan of action that will cure the blight. At a minimum, the plan must address the following: compliance with applicable provisions of the Virginia Uniform Statewide Building Code, including its Building Maintenance requirements; a detailed plan and time frame in which construction of the building will be completed; and a report on the structural integrity of the building, prepared by licensed professional. Any repair or security plan is subject to review by the Board of Architectural Review.

Dewberry Capital
RE: 201 East Water Street

If you fail to respond to us on or before October 15, 2013 with an acceptable plan to cure the blight, then this matter will be referred to the Charlottesville Planning Commission for a public hearing and for the Planning Commission to make findings and recommendations concerning the repair or other disposition of the property. Attached is a copy of the City Code provisions (Spot Blight Abatement) under which a disposition may be achieved.

It is important that you immediately contact me at 434-970-3182 or Patricia Carrington, the Property Maintenance Official for the City of Charlottesville at 434-970-3081.

Sincerely,



James E. Tolbert, AICP

Director, City of Charlottesville Department of Neighborhood Development Services

JET:sdp

Attachment

cc: Lisa Robertson, Chief Deputy City Attorney
Mary Joy Scala, Preservation and Design Planner
Patricia Carrington, Property Maintenance Official

Scala, Mary Joy

From: Fred Wolf [fw@wolf-ackerman.com]
Sent: Wednesday, March 31, 2010 11:42 AM
To: Scala, Mary Joy
Cc: Elliott, Tom; Tolbert, Jim
Subject: Re: wall @ hotel

Mary Joy,

I see no problem with allowing the demolition of the brick portion of the wall for safety concerns. I assume the granite is still being protected. Fred

On Mar 31, 2010, at 10:23 AM, Scala, Mary Joy wrote:

I have not heard back yet from Fred Wolf on his memory of the brick wall, but I inspected it yesterday and it looks like a large part of it has been removed haphazardly, including cutting through one of the stone window sills.

It's not clear in my mind whether or not the original demolition of the bank building was intended to include this wall. The approved hotel design showed a very similar one-story brick wall in this location; however, the hotel design included floor to ceiling windows and decorative banding, which is not the current condition.

I will say the black granite portion is the more important part to be protected at this point.

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: Elliott, Tom
Sent: Tuesday, March 30, 2010 4:13 PM
To: Tolbert, Jim
Cc: Scala, Mary Joy
Subject: wall @ hotel

Jim: I looked at the (yellow) brick wall you described. The main concern from Barton Malow's safety person is the unsupported "corner" (toward Water St.) of brick above the window openings. They were concerned that this could collapse in a high wind. It is a legitimate concern because there is a 10'+ section of wall that is unsupported by a roof structure to keep it in place. There were no cracks etc in the wall showing that there is an immediate danger of falling. My suggestions before the street is opened to pedestrians:

- 1) If wall was scheduled to be removed, at least remove the top unsupported section above the window openings. I can supply more detailed info.
- 2) If wall has to stay per BAR, support topmost section described above similar to how the lower area is supported (wood temp bracing at window openings). I can supply more detailed info.

3/31/2010

- 3) There are a few loose bricks at top that need to be removed before pedestrians are allowed to walk under it if #2 is solution.

Tom Elliott, Building Code Official
610 East Market Street, POB 911
Charlottesville, VA 22902
elliottt@charlottesville.org
Phone (434) 970- 3318
Fax (434) 970-3359



October 21, 2013

The Honorable Satyendra Huja, Mayor of Charlottesville
1502 Holly Road
Charlottesville, Virginia 22901

Council Members
City Hall
P.O. Box 911
Charlottesville, Virginia 22902

Re: 201 East Water Street

Dear Mayor Huja, Council Members, and other distinguished public servants,

We have not had the privilege of meeting but certainly hope to do so in the near future.

I visited Dewberry Capital's Charlottesville hotel property on both the morning and late evening of October 11th and between 5-6:30am on October 12th. The property is secured with a padlock and there is no evidence of physical breach of the eight (8) foot fence surrounding the site.

I am certain, if one is desirous, one can scale the wooden wall and climb onto the property. Just as I am certain, if one is desirous, one can enter each of your homes. Also, I am certain many have been the victim of what is known as "rolling a yard." This is when you wake up Saturday morning to a front yard draped in toilet paper.

I can never remember a property owner being held responsible for these acts of trespassing and vandalism. The perpetrator of these petty crimes is sought, not the owner of the property.

I can no more control a graffiti artist from climbing the fence at my property than you can a bunch of teenagers head strong to "roll" your home, trees, and yard. As one of Charlottesville's finest told me as I stood in the rain last week, "Mr. Dewberry, the 8' fence is padlocked. That says stay out! You have done your job."

I can suggest one solution we have used to deter birds from soiling our class A office buildings, "pigeon wire". This could be installed on top of the fence. We have attached a picture for your convenience. Once again, birds are not strong enough to pull this down but a graffiti artist is certainly capable.

Furthermore, while I was buying coffee for three of Charlottesville's disadvantaged on the walking mall at 5:30 in the morning, I queried them on whom the best local graffiti artists were. None of them knew who I was or why I was asking, but were quick to say they were not, and were also quick to point out that the city has provided a wall for them under the bridge by the train station. That seems odd to me. Charlottesville provides a graffiti wall for graffiti artists but wants to prosecute me for graffiti trespassers? Hmmm.

Folks, I am much more frustrated than you. None of you have spent \$7mm (and climbing) on this asset. When I purchased this property, I said I would not develop it until I begin construction of The Dewberry Hotel in Charleston, S.C. The financing for the Charleston hotel has not come through yet, and therefore, we have not started that project yet. I am told a loan proposal is forthcoming and hope to begin construction in Charleston by February 1, 2014. Once we do, we will begin design on Charlottesville.

Respectfully,



John K. Dewberry

Cc: Kristin Szakos, Vice Mayor of Charlottesville

Kathy Galvin, City Council Member of Charlottesville

Dave Norris, City Council Member of Charlottesville

Dede Smith, City Council Member of Charlottesville

James Tolbert,

Director, Department of Neighborhood Development Services

Lisa Robertson, Chief Deputy City Attorney

Mary Joy Scala, Preservation and Design Planner

Patricia Carrington, Property Maintenance Official

Robert Highsmith, Holland & Knight Executive Partner

Charlottesville, Virginia, Code of Ordinances >> - CODE >> Chapter 5 - BUILDING REGULATIONS;
PROPERTY MAINTENANCE >> ARTICLE V. - BLIGHTED PROPERTY >> DIVISION 5. SPOT BLIGHT
ABATEMENT >>

DIVISION 5. SPOT BLIGHT ABATEMENT

Sec. 5-191. Purpose.

Sec. 5-192. Definition(s).

Sec. 5-193. Administrative determination of blight.

Sec. 5-194. Planning commission hearing.

Sec. 5-195. Report of planning commission.

Sec. 5-196. City council hearing.

Sec. 5-197. Recovery of costs.

Sec. 5-198. Alternate remedies available to city.

Sec. 5-191. Purpose.

The purpose of this division is to set forth the powers of the city and procedures for the acquisition or repair of blighted property, as defined herein, which are located within the city.

(7-16-01(1), § 2)

Sec. 5-192. Definition(s).

For the purposes of this division the following terms shall have the meanings ascribed below:

- (a) *Blighted property* shall mean and refer to any property with buildings or improvements which, by reason of dilapidation, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these or other factors, are detrimental to the safety, health, or welfare of the community.
- (b) *Director* shall mean and refer to the director of neighborhood development services and his designee(s).

(7-16-01(1), § 2)

Sec. 5-193. Administrative determination of blight.

The director shall make a preliminary determination that a property is a blighted property. Upon making such a preliminary determination, the director shall notify the owner of the blighted property, specifying in writing the reasons why the property is considered blighted. A property owner shall have thirty (30) days from the director's written notice of the preliminary determination to respond with a plan to cure the blight within a reasonable time. If the owner fails to respond within the thirty-day period with a plan that is acceptable to the director, then the director may request the planning commission to conduct a public hearing and make findings and recommendations concerning the repair or other disposition of the property in question.

(7-16-01(1), § 2)

Sec. 5-194. Planning commission hearing.

- (a) In the event a public hearing is scheduled by the planning commission:
 - (1) The director shall prepare a plan for the repair or other disposition of the subject property. The director's plan shall include any aspect(s) of a plan submitted by the property owner which the director deems to be reasonable.
 - (2) Notice of the public hearing, including the director's plan for the intended repair or other disposition of the property, and including the time and place of the hearing at which persons affected may appear and present their views, shall be given by the planning commission as follows:
 - (i) By regular and also by certified mail, to the following: (i) the owner of the blighted property, or the agent designated by the owner for receipt of service of notices concerning the payment of real estate taxes within the city; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area, and
 - (ii) By publication, at least twice, with not less than six (6) days elapsing between the first and second publications, in a newspaper published or having general circulation in the city, and
 - (iii) By posting on the property itself.
- (b) The public hearing shall take place not less than six (6) days nor more than twenty-one (21) days after the second newspaper publication.

(7-16-01(1), § 2)

Sec. 5-195. Report of planning commission.

- (a) Following a public hearing, the planning commission shall make specific findings as to whether:
 - (1) The property is a blighted property, as defined within City Code section 5-192
 - (2) The owner has failed to cure the blight or to present a reasonable plan to do so;
 - (3) The property is occupied for personal residential purposes,
 - (4) The property has been condemned for human habitation for more than one (1) year;
 - (5) The director's plan for the repair or other disposition of the property is reasonable and in accordance with the city's adopted comprehensive plan, zoning ordinances, and other applicable land use regulations;
 - (6) The property is located within an area listed on the National Register of Historic Places. In the event of such a determination, then the planning commission shall consult with the board of architectural review regarding the director's proposed plan for repair or other disposition of the property.
- (b) The planning commission shall report its findings and recommendations concerning the repair or other disposition of the blighted property to the city council.

(7-16-01(1), § 2)

Sec. 5-196. City council hearing.

Upon receipt of findings and recommendations from the planning commission, the city council may, after an advertised public hearing, affirm, modify or reject the planning commission's

findings and recommendations. If the repair or other disposition of the property is approved, the city may carry out the approved plan in accordance with the approved plan and applicable law.

(7-16-01(1), § 2)

Sec. 5-197. Recovery of costs.

The city shall have a lien on all property repaired or acquired under an approved plan, to cover the cost of improvements made by the city to bring the blighted property into compliance with applicable building codes and the cost of disposal, if any. The director shall prepare an affidavit certifying the amount of such costs. The lien shall be filed in the circuit court and shall be subordinate to any prior liens of record. The city may recover its costs of repair from the owner of record of the property when the repairs were made, at such time as the property is sold or disposed of by such owner. If the property is acquired by the city through eminent domain, the cost of repair may be recovered when the city council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any sale of the property.

(7-16-01(1), § 2)

Sec. 5-198. Alternate remedies available to city.

- (a) In lieu of the acquisition of a blighted property by the exercise of the city's powers of eminent domain, and in lieu of the exercise of other powers listed in this division, the city council may, by ordinance, make findings that a property constitutes a blighted property, as defined within City Code section 5-192, declare such blighted property a nuisance and thereupon abate the nuisance.
- (b) Such ordinance shall be adopted only after written notice by certified mail to the owner(s) of the property, at the last known address of such owner(s) as shown on the current real estate tax assessment books or current real estate tax assessment records. The notice shall advise the property owner that if corrective action is not taken by the property owner of the date(s) on which the ordinance will be considered by council, and a copy of the proposed ordinance shall be attached to the notice. A copy of such notice and proposed ordinance shall also be sent by certified mail to any lienholder(s) of record. Copies of certified mail receipt(s) shall be sufficient evidence of mailing.
- (c) The abatement process shall be as follows:
 - (1) If the property owner fails to abate the blight prior to the date on which an ordinance is adopted by council, the director shall give a final notice to the owner and shall also send a copy of the final notice to any lienholder(s) of record. A copy of the ordinance adopted by council shall be attached to the final notice. The final notice shall state that, no fewer than fifteen (15) days from the mailing thereof, the city will commence to abate the blight, taking any corrective action the city deems appropriate, including, without limitation, removal of the building or other structure so as to abate the blight on the property. In the event the director determines that a removal of a building or structure is necessary to abate the blight on the property, the final notice shall give the owner and any lienholder of record at least thirty (30) days in which to abate the blight. The property owner shall have the right, upon reasonable notice to the city, to seek equitable relief, and the city shall initiate no corrective action while a proper petition is pending before a court of competent jurisdiction.
- (d) The final notice shall be given to the owner and any lienholder(s) of record, as follows:
 - (1)

To an individual who can be found within the city, by hand-delivering a copy of the notice to such person. Where hand-delivery is utilized the director shall prepare an affidavit certifying the hand-delivery. If the person named in the notice cannot be found after a diligent search, then notice shall be sent by certified mail, return receipt requested, to the last known address of such person and a copy of the notice shall also be posted in a conspicuous place on the premises; this latter procedure shall be deemed the equivalent of personal notice. Copies of certified mail receipt(s) shall be sufficient evidence of mailing; an affidavit of the director shall be sufficient evidence of hand-delivery.

- (2) To an individual under the age of eighteen (18) years ("infant"), or who is otherwise legally incompetent, then notice shall be provided by hand-delivering a copy thereof to such person's parent, guardian or committee. If such parent, guardian or committee cannot be found after a diligent search, the notice shall be sent by certified mail, return receipt requested, to the last known address of such parent, guardian or committee and a copy of the notice shall also be posted in a conspicuous place on the premises. If there be no guardian or committee, notice shall be given by delivering a copy thereof to any person found at the infant's or incompetent's usual place of abode who is a member of his or her family and who is sixteen (16) years of age or older. If such infant or incompetent resides at a residential or other treatment facility, adult care facility or nursing home, notice shall be given by delivering a copy to the officer or official who is in charge of such facility. If a family member or an officer or official cannot be located after reasonable efforts to do so, then a copy of the notice shall be posted at the front door of the infant's or incompetent's usual abode and a copy of the notice shall also be posted in a conspicuous place on the unsafe premises. Compliance with the procedure(s) set forth in this paragraph shall be deemed the equivalent of personal notice. Copies of certified mail receipt(s) shall be sufficient evidence of mailing; an affidavit of the director shall be sufficient evidence of hand-delivery.
- (3) To a corporation, bank, trust company, or other corporate or business entity, then notice shall be provided by hand-delivering a copy thereof to its president or other officer, director, manager, managing partner or agent thereof who is located in the city; or, if an individual cannot be found at the regular office or place of business in the city, by hand-delivering a copy to any employee thereof found at such office or place of business; or, if no such employee is found at such office or place of business, by leaving a copy of the notice posted at the front door of such office or place of business and sent by certified mail, return receipt requested, to the last known address of the corporate or business entity. A copy of the notice shall also be posted in a conspicuous place on the unsafe premises. Compliance with the procedure(s) set forth in this paragraph shall be deemed the equivalent of personal notice. Copies of certified mail receipt(s) shall be sufficient evidence of mailing; an affidavit of the director shall be sufficient evidence of hand-delivery.
- (4) To a person whose identity is unknown or who has no place of abode, office or place of business in the city, and if, after reasonable efforts, the city cannot locate a last known address for such person, notice shall be given by publishing a copy of the notice in a newspaper of general circulation in the city, once per week, for two (2) successive weeks, in a newspaper having general circulation within the city. A certificate of publication provided by the newspaper shall be sufficient evidence of the required publication.
- (5)

Where the final notice is sent by certified mail, or notice of publication is utilized, no action shall be taken by the city to remove any building or structure for at least thirty (30) days following the later of the return of a certified mailing receipt or newspaper publication.

(7-16-01(1), § 2)