

VIEUX CARRÉ COMMISSION
CITY OF NEW ORLEANS

Minutes of the Vieux Carré Commission meeting of Wednesday, September 16, 2020 – 1:00 pm.

COMMISSIONERS PRESENT: Mamie Gasperecz, Chairperson
Priscilla Lawrence, Secretary (joined at approximately 1:12)
Rick Fifield
Angela King
Toni DiMaggio
Steven Bergeron
Keely Thibodeaux
Rodney Villarreal
Keely Thibodeaux

COMMISSIONERS ABSENT: Bill Keck

STAFF PRESENT: Bryan Block, Director; Renée Bourgogne, Senior Architectural Historian;
Nicholas Albrecht, Senior Building Plans Examiner; Erin Vogt, Senior Building
Plans Examiner Anthony Whitfield, Inspector; Melissa Quigley, VCC Legal
Representation

STAFF ABSENT: Marguerite Roberts, Inspector

OTHERS PRESENT: Brook Tesler, VCC Foundation; Erika Gates and Olin Kropoq, 921 Chartres;
James Rolf, VCPORA; John Williams and Irl R. Silverstein, 715 Bourbon; Nikki
Szalwinski, 1011 St. Philip, FQC; Calla Bardwell, 1005-09 St. Philip; Robert Kenny
and Lewis Robinson, 524 Esplanade; Bo Pennington, 1118 Burgundy

ROLL CALL Mr. Block called roll. Only Mr. Keck was absent.

REVIEW OF MINUTES Moved to the end of the meeting.

CHAIRPERSON'S REPORT Ms. Gasperecz thanked everyone for their patience with the process of online meetings during the pandemic. She acknowledged that it was a challenge to both staff and the Commission. She went on to say that staff was striving for a democratic process so that everyone could participate and that both staff and the Commission wanted the broadest reach possible. She then explained the two-minute comment period that everyone would be held to. She then thanked Renee Bourgogne and VCCF for hosting "Navigating the VCC," and she expressed her desire for more public outreach through the foundation.

DIRECTOR'S REPORT **Mr. Block explained the format for today's meeting. He stated that each plans examiner would read their respective reports and the floor would be opened for public comment prior to motions by the Commission. Any public comment received by email would be read into the record. He then read the following statement:**

Study of new guidelines for permits at multi-family, multi-tenant properties:

At the 9/10/2020 AC meeting, during the review of a proposal to install exterior AC equipment at a multi-family condominium property, managed by a home owner's association, Commissioner Fifield raised the concern that it might be more appropriate for such proposals to be introduced by an HOA instead of a single tenant or occupant. In this particular case there have been a series of proposals to add such equipment, one at the time in a rather *ad hoc* manner when it has been recommended by previous AC reviews to have an overall master plan provided that would indicate better an end game. This way the AC would be able to better approve equipment locations *in globo* instead of individually.

As such, a motion was approved that this concept be introduced to the full commission for discussion.

French Quarter lighting improvements:

Last year staff located 55 locations throughout the district where it was agreed that there was inadequate illumination of the street and sidewalk. This was presented to DPW and they are currently installing new lamp

posts at these locations. Staff is working with them to ensure that the precise individual locations of each lamp is appropriate.

OTHER BUSINESS

Review of policy when reviewing application from multi-owner properties.

Report of VCC 5G Subcommittee to the Commission from 07/30/2020 small cell infrastructure deployments community meeting hosted by the Mayor's Office of Utilities.

Vieux Carré Commission 5g Subcommittee Research on 5g in other historic areas.

Prepared by Renee Bourgoigne, VCC Senior Architectural Historian

Purpose: The Vieux Carré Commission and 5g Subcommittee asked at the August Commission hearing what other cities were doing to fight the infiltration of new 5g towers in historic neighborhoods. The following document contains recent updates, correspondence with grassroots organizations in Charleston, a timeline of activities in Charleston and various links for news articles for other cities and for historic preservation sites on the case. The majority of the information presented here deals with the City of Charleston, as the grassroots organizations there were the most open to responding. I reached out to the Charleston's Board of Architecture Review but did not hear back. Whether their lack of response is due to Covid-19, or their absence of involvement in the process is unclear.

VCC staff conclusion: After corresponding with Stop5g in Charleston and reading the numerous articles posted online regarding the installation for 5g in historic areas, I would report that New Orleans is ahead of the game in working closely with the Office of Utilities and a 3rd party engineer to come up with an acceptable design. **It is the goal of this sub-committee to comment on the design of the new poles as the recent decision of the 9th Circuit Court of Appeals holds that "cities may have some control over aesthetics with the provisos attached"** (see full decision below and in attached documents). VCC Staff has ascertained that it was not the historic district commissions in other cities that lead the efforts to stop 5g, but instead the cities as a whole with the backing of citizens and grassroots organizations. With the research presented here, staff believes the sub-committee should wait to view the prototype that will be installed later this month before making their final decision.

VCC subcommittee conclusion:

How did we get here?

In **September 2018** the FCC removed all regulatory barriers of 5g and implemented the "fast track plan" (see attached document and article dated 9/26/2020). Cities did not have time to respond to carrier requests and were held liable if delayed. Shortly thereafter the National Trust sued the FCC. It took some 11 months for the ruling, but the courts decided on **August 9, 2019**, that the Section 106 process must be adhered to instead of the "fast track" plan. (See attached declaratory ruling dated 08-09-2019 for more information.)

Around this time VCC staff, VCCF, VCPORA and other neighborhood groups alerted to the large number of incoming permits for small cell towers, met and began to discuss the visual impact these new towers would have on the tout ensemble of the French Quarter.

In **December 2019** VCCF talked to the lead attorney at the National Trust who informed the French Quarter advocates of the **February 10, 2020** case being heard before the 9th Circuit Court of appeals. The ruling on that case came just last month on **August 12, 2020**.

In March 2020, French Quarter advocates met with City Councilman Jason Williams in his capacity as the Chair for the City of New Orleans' Smart City Committee to discuss 5g in historic districts. The advocates asked for a comprehensive city plan for the rollout of 5g that included aesthetic requirements. Councilman Williams expressed his support of making New Orleans a smart city and that 5g was part of the endeavor.

Recent updates (provided by Brook Tesler, Executive Director of VCCF, to mailing list via email):

“On August 12th, a decision was made in the 5G/FCC court case that was heard in the 9th Circuit court of Appeals on Feb. 10, 2020. The Federal Communications Commission has defeated dozens of cities in court (including Portland, Oregon; San Francisco; New York City; Los Angeles; Boston; Chicago; Washington, DC; Las Vegas; Philadelphia; Austin, Texas; and others), with judges ruling that the FCC can preempt local fees and regulations imposed on wireless carriers deploying 5G networks.”

“Rather than give the FCC a complete victory, the judges' panel overturned the commission's preemption of certain aesthetic requirements that cities and towns impose on cellular installations. The FCC ruled that "aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance." This decision leads me to believe that the efforts I've undertaken on behalf of the VCC Foundation and alongside other French Quarter groups, to minimize the visual effects of 5G tower installation in the French Quarter, since September 2019 were appropriate and ahead of our peers.”

Go to <https://arstechnica.com/tech-policy/2020/08/fcc-beats-cities-in-court-helping-carriers-avoid-2-billion-in-local-5g-fees/> for more information on the breakdown. The August 12th decision for anyone that wants to read the legal language and more specific details as well as which cities and entities were involved in the suit.

“In addition, the Mayor's Office of Utilities is expecting a prototype 5G lamppost pole to be temporarily “installed” in mid-September. The prototype will be on wheels and will be placed in different locations throughout the French Quarter for scale and comment. I will circulate more information on the prototype and the location(s) as I receive it.”

*****UPDATE from VCC staff: As of September 9, 2020, we have been informed that the prototype will be available for view. It will also be on wheels so we can move it to different locations. More to come!!!**

From the Office of Utilities in response to questions posed at the last Commission hearing (received 9/15/2020):

- In order to limit the numbers of new or altered poles, vendors must attempt to co-locate equipment on single poles whenever possible. We always push for collocation, and the Franchisees actually have a "common use" provision in their agreement with the City that essentially says they have to make their best effort to collocate on another pole and/or to allow others to collocate on their poles. That said, we have to keep in mind that the more we collocate on one pole, the larger and taller that pole must be. There is an argument to be made that in the Quarter, it actually makes sense *not* to collocate because then we can have smaller, slimmer, stealth poles that actually mimic the existing lamp posts. If we collocate in the quarter, we will have poles 20'-40' tall and 18"-22" in diameter (the Crown poles we have now).
- Because the Commission has responsibility for the tout ensemble of the District, comprehensive proposal, indicating the number and locations of ALL 5G poles that are proposed ALONG WITH all additional poles to be proposed by all vendors must be presented for review in globo. Approval will only be given to comprehensive proposals including all 5G vendors.
- We have a map of proposed sites, but it is only a snapshot in time. More will likely be added in the future.
- Provide street scape images of possible visual impact of taller lamp posts indicating the change in light intensity, light out-put, effect on the streetscape and adjacent buildings.
- We have some of these images in the PowerPoint. We can ask the carriers to create more photo simulations. We are also going to put out a physical prototype for review and comment.
- I have not seen another historic district create as nice a pole as we have.
- Provide information on whether the system is designed only for users on the street (e.g. is this being designed to handle maximum loads during peak holiday events such as Mardi Gras). The proposal should be scaled back to have less visual impact on the district meeting more closely the everyday needs of locals as a more appropriate middle ground.
- Vendors, network engineers and installers should be present on a follow-up call and provide definitive proposals for the size, design, location or number of 5G towers.
- We have a map of proposed sites, but it is only a snapshot in time. More will likely be added in the future. We are planning to have a prototype viewing with the vendor soon.
- The idea of co-locating the 5G towers with lamp posts should be presented with engineering confirmation from the vendors for location, and number of design of towers.
- We have a map of proposed sites, but it is only a snapshot in time. More will likely be added in the future. We are planning to have a prototype viewing with the vendor soon.
- A physical mock-up of proposed adaptation of existing lamp posts must be prepared for Commission inspection and comment for both single vendor towers and towers supporting multiple vendor equipment
- We are planning to have a prototype viewing with the vendor soon.

- There are valid health concerns about this new technology and what are the potential effects of proximity to the human body, especially in the concentrations being proposed. Further information of the health effects must be provided.
- Under the law, carriers and vendors are responsible for assuring that their equipment meets the FCC guidelines for safety. Also under the law, the City expressly cannot regulate based on safety concerns.

Charleston Information

Messages from Alison at STOP5g Charleston:

Hello Renee,

It is great to hear from another beautiful, historic city that is going to fight back against 5G. Downtown Charleston already has ugly black towers going up in front of beautiful historic buildings. We have pictures on our website. 😞 You will find a lot of information we have shared on our website as far as initiatives we are taking to slow or stop the progress – but there are already towers downtown. The decision making power happens with the city council and mayor, utilities, school districts and private businesses who are paid by cell infrastructure companies.

Check out the Take Action section and the Local Updates section to learn about our situation in Charleston. Maybe that will help you understand where to start. <https://stop5gcharleston.com/>
We also have plugged in to a national group that has been very helpful from the legal options standpoint of citizens filing Americans with Disabilities Act letters with the local government, Notice of Liability for decision makers and schools, etc. You can ask to get on her mailing list and listen to informative calls every few weeks. Mandy Jacobs is the President and has been very successful at stopping 5G in her town in California. She sells the legal documents for a very nominal fee and then offers support via the calls. <http://unitedissuesreform.org/united-states/>

I hope you find this helpful. First step is to join together with others who are concerned. If you can educate a city council person and get a foot in the door there with someone who is willing to listen that can be very helpful. Local government will tell you their hands are tied, but other cities have done it if they are willing to stand up to the wireless industry. In the national updates section I put a story from Palm Beach, FL where the city had concerns about the aesthetic of 5G towers.... They decided to use fiber optic cabling instead. It's an easy solution if cities are willing to stand up for it!!!!

Best of luck to you!

Alison

Hi Renee,

It's so sad.

When I come across articles I post them on the website under National Updates.

You also may want to subscribe to Americans for Safe Technology. They share news from other cities. Charleston Preservation Society has not taken a stand. The city was concerned about aesthetic, but haven't gone as far as to block or deny permits at this time.

It's going to be a long haul. Unfortunately, it's like "whack a mole" and you may need to fight one permit at a time. Build a coalition of people to help, you will need it.

I wish you luck and I hope what I have gathered on the website is a good head start for you!!!! NOLA stay strong!

Alison

Charleston timeline of events (information taken from the Stop 5g Charleston page and other articles):

2018 - City of Charleston Sued for Stalling 5G Deployment

Click to view order on Crown Castle Fiber LLC's Motion for Summary Judgment in the [Crown Castle Fiber LLC v. City of Charleston litigation pending in US District Court](#) in the District of South Carolina, Charleston Division

Houston based 5G infrastructure installation company Crown Castle sued the City of Charleston for discouraging small cell infrastructure downtown. As a result, Charleston passed the current Small Cell Ordinance so the installation process could begin.

This ordinance is written in favor of the wireless industry and offers no protection Charleston residents.

To view go to: Charleston City Ordinance for Small Cell Wireless Facilities Permitting & Placement in Rights of Way

December 2019 - Residents Voice 5G Concerns to City Council

Charleston residents spoke at three city council meetings asking council members to send the unacceptable Small Cell Ordinance back to corporate counsel attorneys for revisions. Specifically, residents wanted the ordinance to

restrict the installation of small cell towers and antennas to a minimum of 300 feet from schools, day cares, and homes.

January 2020 - City Council Votes in Favor of Resident's 5G Concerns

Charleston City Council voted in favor of sending the Small Cell Ordinance back to the city attorneys for revision to include the restriction limiting installation of towers/antennas at least 300 feet away from schools, day cares and homes.

In addition, City Council also passed a resolution to go to the State Senate opposing the passing of any legislation to further restrict local governments in the deployment of 5G. Third, City Council passed a resolution to go to the U.S. Congress asking for a review of FCC regulations and urging new studies on the health risks of 5G technology, since none currently exist.

February/March 2020 - South Carolina Senate Subcommittee Meetings for SC Bill H4262

South Carolina Senate subcommittee meetings began on Bill H4262. Concerned citizens from all over the state of South Carolina attended and spoke opposing H4262, which restricts local governments decision making power in regards to 5G deployment, giving more power to the wireless industry.

At the last subcommittee meeting, which occurred on March 5, 2020, concerned citizens opposing the bill were told by the subcommittee that the Charleston attorneys only came to statehouse with 5G cell tower aesthetic concerns. They claimed to have not been presented with the Charleston City Council resolution opposing H4262.

Stop 5g Charleston later learned the **Charleston city attorneys were contacted by "someone from the other side" and offered a deal if Charleston decided it would not oppose H4262.** The details of this agreement have not been disclosed, but the result on the other side was Charleston's support of H4262. Because of this agreement at the state level, Charleston City Council's opposition to H4262 had been **intercepted and buried.**

March 2020 - Mayor Tecklenburg's Current Stance

Mayor Tecklenburg had said "he feels it is unlikely that the current Small Cell Ordinance will be revised to meet Stop 5g Charleston's requests to restrict the placement of small cell antennas at least 300 feet from schools, day cares, and homes. He said the reason is because of the FCC 2018 Order and now the pending State H4262 bill which restrict local government power in such decisions.

*****Update, now with state Bill H4262 vote postponed because of COVID, the City of Charleston has more time to make changes to its Small Cell Ordinance before the state bill potentially goes into effect and Charleston still has local decision making power.***

April 2020 - COVID Lockdown

Despite schools and businesses being closed, small cell infrastructure companies continue to install towers and antennas as they have been deemed "essential services" during the crisis. Stop 5G Charleston contacted Mayor Tecklenburg and the Charleston city attorney/corporate counsel to question the installation of infrastructure for a 5G service (that won't be operational for many months if not years) as an "essential" service during the crisis. Stop 5g Charleston was told if the installation companies have been classified as "essential" by the governor, then there is nothing that can be done. The 5G infrastructure installation companies have been granted permission to continue work in Charleston.

Other relevant websites:

<https://stop5gflorida.com/>

<https://stop5gcharleston.com/>

<https://www.baltimoresun.com/politics/bs-md-pol-small-cell-towers-20191107-kpzpdakqfzabneutzcv2rlguq-story.html>

<https://www.severnaparkvoice.com/stories/the-great-small-cell-debate,29850>

<http://mdcoalition4safeneighborhoods.blogspot.com/2018/03/the-annapolis-hearing-on-5g-small-cells.html>

<https://www.palmbeachdailynews.com/news/20170503/official-palm-beach-exempt-from-5g-wireless-law>

NTHP forum thread: [https://forum.savingplaces.org/connect/community-home/digestviewer/viewthread?MessageKey=c13137f9-befd-416f-840b-](https://forum.savingplaces.org/connect/community-home/digestviewer/viewthread?MessageKey=c13137f9-befd-416f-840b-8c04ee1b3e06&CommunityKey=d701af53-86f6-40a0-888d-ab43303f575a&tab=digestviewer)

[8c04ee1b3e06&CommunityKey=d701af53-86f6-40a0-888d-ab43303f575a&tab=digestviewer](https://forum.savingplaces.org/connect/community-home/digestviewer/viewthread?MessageKey=c13137f9-befd-416f-840b-8c04ee1b3e06&CommunityKey=d701af53-86f6-40a0-888d-ab43303f575a&tab=digestviewer)

https://ohp.parks.ca.gov/?page_id=28034

OLD BUSINESS

1005-09 St. Philip Street: 18-01001-VCGEN; Nikki Szalwinski, appellant; C Williams John, applicant; Balentine Carbondale Holdings LLC, owner; Update on current status of proposal to renovate courtyard and install fountain, following 30-day Commission deferral on 08/19/2020.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=744603>

Ms. Vogt read the staff report with Ms. Szalwinski present on behalf of the appeal and Mr. Williams, Ms. Bardwell and Ms. Balentine present on behalf of the property. Ms. Szalwinski noted that the fountain seat was taller than what was allowed by the CZO. She stated that she appealed the previous proposal with the Board of Zoning Adjustments and that it would be rescheduled due to the hurricane, but she was not sure of the date yet. She objected to the fountain still being attached to the fence and stated that she found any fruit tree to be inappropriate in this location.

Ms. Gasperecz thanked Ms. Szalwinski and asked the architect if he had any comments. Mr. Williams stated that the Committee found the design appropriate and conceptually approved the proposal. He added that they had documentation from Zoning stating that the previous design was approvable and that at this point they simply wanted to move forward. Ms. Gasperecz asked the Commission if they had any other questions or comments. Mr. Villarreal stated that he was unsure what design had been approved or was being appealed. Mr. Block stated that the Committee conceptually approved the updated design and Ms. Szalwinski was appealing the previous proposal with the BZA. He went on to clarify that this proposal submitted by the architect in an effort to address the concerns of both parties, per the Commission's request at the last meeting. With no more questions or comments, Ms. Gasperecz moved to the next agenda item.

NEW BUSINESS

524 Esplanade Ave: 20-34343-VCGEN; Lewis Robinson, applicant; Robert T Kenny, owner;

Conceptual review of the proposed removal of the existing masonry sidewalls at front entry steps and the installation of a new metal railing [with details to return to the Architecture Committee], per application & materials received 07/13/2020 & 08/20/2020, respectively.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=850034>

Mr. Albrecht read the staff report with Mr. Robinson and Dr. Kenny present on behalf of the application. Ms. Gasperecz asked the applicant and owner if they had any comments or questions for staff or the Commission. Dr. Kenny asked the Commission why the concrete walls were considered as something of value to be saved. Ms. DiMaggio stated that for her when you look at preservation guidelines with regards to changes that are 50 plus years, they might be considered historic in and of themselves. She went on to state that removal of something existing to install a railing that was never there might give a false sense of history. Dr. Kenny stated that they had tried to please staff and the Committee, and the rail was not safe. Ms. DiMaggio stated that while she understood the safety concerns, she questioned whether a new handrail could be mounted on the existing walls. She went on to say that the Committee requested a plan. Ms. Bourgoigne clarified that the application was forwarded to the Commission not to work out details but to decide the fundamental question of if the walls could even be removed. Mr. Block went on to say that staff was not saying the walls had architectural merit but that they had been there for 80 plus years so staff did not want to add more details that change the history. He went on to say that there were ways to address safety without confusing the architectural history. Ms. Gasperecz asked if there were any other questions or comments. Mr. Robinson stated that at the last Committee meeting the measurements inside the concrete rails were discussed. Mr. Fifield questioned the dimension between the brick buttresses. He went on to say that a rail could be installed inside the existing walls. He asked the Commission to consider the craftsmanship in the French Quarter and that this aspect should be considered. Mr. Fifield continued that he believed in this case it would be worth discussing the removal in favor of maintaining a craft tradition. Ms. Lawrence asked what the height of the existing cement rail was. Mr. Robinson stated that he would have to look that dimension up. Ms. Lawrence stated that the current condition looked unsafe and she had no problem with the removal. Mr. Robinson stated that the current walls were 2' 9 1/2". Ms. Lawrence stated that she could see how coming down the steps would be very unsafe. Mr. Robinson responded yes and that the rail would have to be on top, so very visible. Satisfied, Ms. Gasperecz moved on to the next agenda item.

APPEALS AND VIOLATIONS

921 Chartres St: 20-21350-VCGEN; Olin Kropoq, applicant; French Quarter Properties, Epossumandas, Mitchel L Brashier, Mijuskovic Family Trust, V & S Louisiana Properties LLC, Harley T Flynn, Darrinton R Smith, John A Gregory, Dexter J Guillory, Fadden David S Mc, Doyle J Smith III Family Trust, Carla Martin, Krobar LLC, Kim T Johnson, Richard A Rooth, Joseph Hernandez, Robert W Hinson, John A Gregory, Larrieu Earl Lee, Jr, John A Gregory, owner;

Appeal of Architecture Committee denial of proposed retention of gutters and downspouts, Z style shutters, balcony balustrades and glass mechanical door, per application & materials received 06/09/2020 & 09/09/2020, respectively.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=832075>

Mr. Albrecht read the staff report with Ms. Gates and Mr. Kropoq present on behalf of the application. Ms. Gates clarified that they were only asking to retain items so as not to waste the materials but also to allow the condo association more time to raise the necessary funds. She went on to say that they had applied for copper as the roofing material above was slate, but would be ok with painted galvanized or aluminum and that they were having some problems with contractors at the present time. She went on to say that they would also be ok with replacing the rail over time in portions. With no other comments or questions, Ms. Gasperecz moved on to the next agenda item.

1118 Burgundy St: 20-32851-VCGEN; 1118 Burgundy St: Bradley Shaffer, applicant; Kent G Nicaud, owner; Appeal to retain outdoor kitchen constructed without benefit of VCC review and approval, per application & materials received 08/18/2020. **[STOP WORK ORDERS posted 06/19/2020, 08/05/2020, 08/12/2020 & 08/13/2020]**

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=848367>

Ms. Vogt read the staff report with Mr. Pennington present on behalf of the application. Mr. Pennington stated that he was very sorry for beginning work without permit and that it was his first time working in the VCC. He went on to say that he had learned his lesson and that he was here to answer any questions. Ms. Gasperecz turned the floor over to the commissioners for questions and or comments. Mr. Fifield stated that their concern was over the size and location of the outdoor kitchen and that the Committee would have required changes to the design if reviewed prior to installation. Mr. Pennington stated that he now understood the process and that he wanted to finish the pool and then allow the Commission to see how the kitchen fit within the design. Ms. Gasperecz expressed concern over the risk of fire and how quickly that could spread, emphasizing how important it is for the VCC to be involved in discussion with applicants before design decisions are made. Mr. Pennington agreed and stated again that he had learned his lesson. With no other comments, Ms. Gasperecz moved to the next agenda item.

715-19 Bourbon St.: John Williams Architects, applicant; 715-17-19 Bourbon Street LLC;

Appeal of Architecture Committee denial of proposal to demolish existing stoops and lower door sills by 18", per application & materials received 10/08/19 & 09/10/2020, respectively.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=850727>

Mr. Albrecht read the staff report with Mr. Williams and Mr. Silversteen present on behalf of the application. Mr. Williams stated that they were applying to lower the business so there would be no need for a 40' ramp but would instead have an 18' ramp. He went on to say that the windows had already been lowered and that the existing condition was very difficult for people to climb to access the store. Mr. Williams stated that the stoops posed a hazard and contributed to the crime in the area and that this was a hardship. Mr. Silversteen stated that there was a long history on Bourbon Street of lowering buildings for access. He presented the following information:

- Gates survey
- Report from NOPD
- Photos
- Safety concerns

Ms. Gasperecz stopped Mr. Silversteen as he went over the two minutes time limit. She addressed the Commission and told them to focus on design not crime issues. Mr. Bergeron asked staff if they had any response to 615 and 440 Bourbon being lowered. Ms. Vogt stated that there was a similar situation at 626 Bourbon, but it was yellow rated. She went on to say that staff usually did not find this to be successful and that staff would not recommend this at other locations.

Mr. Bergeron asked if there were other options for hostile architecture? Mr. Albrecht stated that any proposal would have to come from the applicant but that they could consider bumps or similar installations on the stoops to make them uncomfortable. Ms. Bourgogne suggested planters. With no other comments or questions the Commission went to 30-minute recess.

At approximately 2:25pm Mr. Fifield moved to recess the meeting for 30-minutes for public comment. Ms. Lawrence seconded the motion. Mr. Fifield announced that the meeting would be reconvened at 2:56pm.

At approximately 2:56pm Mr. Block called the roll. Ms. Gasperecz, Mr. Fifield, Ms. Lawrence, Mr. Villarreal, Ms. DiMaggio and Mr. Bergeron were present. Ms. King returned to the meeting at approximately 2:59pm. Ms. Thibodeaux also rejoined the meeting (time unknown).

Ms. King made the motion to accept the August 2020 minutes as distributed by staff prior to the hearing. Ms. DiMaggio seconded the motion and the motion passed unanimously.

Mr. Fifield moved to **defer** the small cell infrastructure until the prototype could be viewed and a map of proposed locations submitted. Mr. Villarreal seconded the motion, which passed unanimously.

OLD BUSINESS

1005-09 St. Philip Street: 18-01001-VCGEN; Nikki Szalwinski, appellant; C Williams John, applicant; Balentine Carbondale Holdings LLC, owner; Update on current status of proposal to renovate courtyard and install fountain, following 30-day Commission deferral on 08/19/2020.

Public Comment:

Terrence Jacobs

While better than the outdoor shower proposed in 2018 I am concerned that water intrusion not only from the fountain itself leaking but also from CMU trapping/transmitting moisture between it and the common fence. Setting the fountain off and DISCONNECTED from the historic brick fence will mitigate moisture issues and preserve the older fence and allow necessary maintenance to it and the adjacent buildings. I reiterate that this fence runs into and becomes a part of my green-rated building next door. Also CZO 21.6.GG.2 states: water features are limited to a maximum depth of 18" so this will require a variance and should not be approved until obtained.

Any fruit tree has invasive roots which in a location of less than four feet will quickly outgrow and infringe upon and damage both the proposed fountain and adjacent buildings on both lots.

Rather than force an overly large, grand and overwhelming design for a two bay Victorian and 20 foot wide kitchen building perhaps a pedestal fountain away from the wall and different plantings are a better solution. While fruit trees are lovely planting one next to two balconies brings rats which will affect all surrounding properties. It is unclear whether they will also move the trellises off the wall more but as shown in the plans the jasmine will trap moisture against the existing historic brick fence as well as make their garden maintenance my job.

The VCC required privacy screen is still absent from plans will further contain and shade this space.

While the VCC staff has noted that the distance is under the BZA purview I have noted on numerous occasions that Mr. Williams uses this venue to gain traction with the BZA, BBSA, city council etc. and well as to test the limits of the design guidelines and CZO. Please do not approve until BZA hears the issues.

In this case simply rethinking the type of fountain and plantings to locate away from historic structures and make the scale more appropriate for the space is a much simpler and streamlined solution.

Terrence Jacobs, USN ret

Nikki Szalwinski, FQC:

This design is in conflict with article 21.6.GG.2: Water features are limited to a maximum depth of eighteen (18) inches. The VCC should not grant approval when a variance is needed for any proposal. Additionally a BZA appeal is in process on the zoning interpretation which has implications far beyond water features.

We remain concerned about courtyard design which only further conceals and endangers the remaining historic elements at this address as well as the adjacent historic building and fence. It is hard to see how adding CMU will

mitigate moisture intrusion since a fountain which will eventually leak is still located immediately next to historic structures and masonry is still attached to brick where water can wick more than 20 feet. We also question adding a non-historic material attached to a 70 year old fence rather than simply moving the fountain so that the fence is able to be maintained and rain water and ground water have space to evaporate. We are very concerned about planting any fruit trees so close to two buildings and the fence since it will need extensive root structure to thrive according to local experts. We ask that the applicant consider locating any fruit tree and the trellises with jasmine away farther from the fence and buildings to allow room for growth and evaporation, or consider different plantings that can easily be removed if there are any issues. We note Mr. Fifield's comment today regarding learning from past failures on other proposals. Homeowners throughout not just the district but also the city have experience water intrusion and other issues due to leaking and/poorly maintained fountains. These concerns were addressed within the CZO with setbacks. While the distance may be an issue for the BZA this design is one for the VCC. From past failures we know water intrusion from fountains is an issue. We know tree root structures cause foundation problems. Owners, architects and developers should not be allowed to propose elements we all know cause problems when it suits their desires at one address while opposing the same elements elsewhere where it doesn't. Why allow planting this tree here while allowing the removal of a much older magnolia on Governor Nicholls because the roots were "damaging the building"? There are other solutions that can be beautiful and in keeping with the property.

FQ citizens

Discussion and Motion:

Ms. Gasperecz noted that the updated design was being presented to the Commission at their request from the August meeting and no motion was required. Mr. Villarreal asked Ms. Quigley to provide more information regarding the 18" height limit. Ms. Quigley stated that any deviations from the CZO must be appealed to BZA. Ms. Vogt stated that she was unsure if the updated design, including the proposed height, had been reviewed by Zoning, but that staff would ask the applicant to revise the proposal to meet the CZO. Mr. Block stated that the VCC will not approve work in deviation from the CZO. Ms. Vogt stated that the appellant had not notified staff of a request to appeal this design and no motion was required at this time. Ms. Gasperecz moved on to the next item on the agenda.

NEW BUSINESS

524 Esplanade Ave: 20-34343-VCGEN; Lewis Robinson, applicant; Robert T Kenny, owner;

Conceptual review of the proposed removal of the existing masonry sidewalls at front entry steps and the installation of a new metal railing [with details to return to the Architecture Committee], per application & materials received 07/13/2020 & 08/20/2020, respectively.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=850034>

No Public Comment

Discussion and Motion

Ms. Lawrence moved to allow the existing masonry railing to be removed with the new railing details to be reviewed by the Architecture Committee and the full Commission. Mr. Fifield seconded the motion and the motion passed unanimously.

APPEALS AND VIOLATIONS

921 Chartres St: 20-21350-VCGEN; Olin Kropoq, applicant; French Quarter Properties, Epossumandas, Mitchel L Brashier, Mijuskovic Family Trust, V & S Louisiana Properties LLC, Harley T Flynn, Darrinton R Smith, John A Gregory, Dexter J Guillory, Fadden David S Mc, Doyle J Smith III Family Trust, Carla Martin, Krobar LLC, Kim T Johnson, Richard A Rooth, Joseph Hernandez, Robert W Hinson, John A Gregory, Larriou Earl Lee, Jr, John A Gregory, owner;

Appeal of Architecture Committee denial of proposed retention of gutters and downspouts, Z style shutters, balcony balustrades and glass mechanical door, per application & materials received 06/09/2020 & 09/09/2020, respectively.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=832075>

Olin Kropog:

921 Chartres Condominium Association is a small HOA, less than 15 owners, that has spent well over \$300,000 in the past five years on new roofs, new crosswalk, extensive brickwork, extensive painting and infrastructure. Now the VCC is requiring that we spend in excess of \$130,000 to replace railings and gutters, installed post Katrina due to hurricane damage, that are in excellent condition and completely NOT visible to any tourist or individuals from the street. This is in addition to the anticipated \$50,000 that we expect to spend completing our Gallery Ironwork, Painting and woodwork which are in progress now.

I think we should be provided time to complete our current projects and replace the railings and gutter system when they require replacement and not at this time. We have done and spent so much money in the past five years at great costs to the owners. This would not only be a hardship on all owners but have no impact on functionality or esthetics. Please consider our position as it pertains to these working systems and financial impact.

Olin Kropog
President/CEO
TAT Enterprises Group LLC
Encryption Protocol Algorithm - SkyNet

Discussion and Motion:

Mr. Fifield commented that some of the railings had been installed on historic portions of the buildings and the priority would be to correct these items on the historic portions.

Mr. Fifield moved to deny the application with the property to return to the Architecture Committee to develop a reasonable plan to correct all violations. Ms. King seconded the motion, which passed unanimously.

1118 Burgundy St: 20-32851-VCGEN; 1118 Burgundy St: Bradley Shaffer, applicant; Kent G Nicaud, owner; Appeal to retain outdoor kitchen constructed without benefit of VCC review and approval, per application & materials received 08/18/2020. **[STOP WORK ORDERS posted 06/19/2020, 08/05/2020, 08/12/2020 & 08/13/2020]**

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=848367>

Public Comment:**Terrence Jacobs**

This property owner had done extensive work without permit including a pool. The VCC should not approve this pool started WITHOUT permit when a page of egregious violations exist, including the enormous outdoor kitchen attached to a common wall, oddly placed HVAC rack, architectural changes and pool itself. Allowing the pool to go forward will only reward bad behavior and encourage other property owners to do the same. Please deny the pool and retention of the oversize outdoor kitchen and other elements. Instead insist that this property owner follow the rules others are expected to abide by. Allowing the pool to move forward without correcting the other violations will set a terrible precedent for the entire district.

Terrence Jacobs, USN ret

Nikki Szalwinski**FQ Citizens**

FQ Citizens is gravely concerned about the amount of exterior work being done without permit at this address. The contractors on this job are well-aware that they should have had permits to commence work since they have worked on other projects in the city as shown on one-stop. The owners are also likely aware.

The HVAC rack attached to the historic brick wall and outdoor kitchen attached to the same and to the service building raise concern that all the surrounding structures' integrity may be compromised and potential for future water intrusion. The outdoor kitchen attached to a common fence leaves much concern as far as fire safety. As we are all aware fires can be devastating to numerous properties in our tight neighborhood.

Please defer approval on the pool until some efforts are made to correct the numerous violations. Deny retention of this kitchen and insist on demolition of what has been built. All property owners should be subject to the same rules and allowing these issues to stand at this property will set a bad precedent.

Discussion and Motion:

After reading the public comment into the record, Mr. Block clarified that the pool was not being considered by the Commission, as it had already been approved and permitted. Mr. Pennington stated that a freestanding grill would likely be placed in the same location, and that he hoped that some compromise could be reached. Mr. Fifield stated that he would be more willing to find middle ground on the kitchen if other violations were being addressed, particularly to preserve historic fabric. Mr. Villarreal agreed, adding that he did not see how the Commission could approve the appeal as it would set a bad precedent, and the violations are the responsibility of the owner.

Ms. Gasperecz asked what the options would be if denied; Mr. Block answered that the applicant could either demolish the kitchen or appeal to City Council. Mr. Villarreal stated that he agreed with the Committee's decision. Mr. Block added that, if the Commission was comfortable with the concept of a kitchen in this location, they could return the proposal to the Committee to consider further. However, if they were not convinced the location, size, construction methods, etc. would be acceptable, even if modified, they could deny the appeal. Mr. Villarreal asked if the Commission denied the appeal, would the applicant be able to propose any alternatives? Ms. Quigley stated that the applicant could appeal to Council or demolish the kitchen and submit a new proposal.

Mr. Villarreal moved to **deny** the appeal to retain the exterior kitchen, upholding the Architectural Committee's decision. Mr. Bergeron seconded the motion, which passed unanimously. Mr. Block stated that staff would inform the applicant of protocol for submitting a Council appeal, if they wish to pursue.

715-19 Bourbon St.: John Williams Architects, applicant; 715-17-19 Bourbon Street LLC; Appeal of Architecture Committee denial of proposal to demolish existing stoops and lower door sills by 18", per application & materials received 10/08/19 & 09/10/2020, respectively.

<https://onestopapp.nola.gov/Documents.aspx?ObjLabel=Permit&ID=850727>

Public Comment:

Andres Braud

To Whom It May Concern:

During my time at 717 Bourbon Street, there were a number of problems experienced that were only exacerbated by the city's lack of effective policing, and insignificant and cumbersome architectural features of our building, namely the steps protruding into the middle of the sidewalk. This made it nearly impossible for disabled people to get in and out of the building, much less traverse the sidewalk.

Another big problem experienced was the vagrants and drug dealers sitting on the steps of the building. This blocks the sidewalk, the entrance to the business, and made a great place for people to urinate, defecate, and vomit on. The vagrants would not move unless the police forced them to and then they would always come back a short while later. The drug dealers were always combative and threatening. This was not good for the businesses, or the city as a whole.

Allowing this building to be modified while still preserving its architectural uniqueness is possible. The preservation of architecturally significant buildings is important, but progress for the greater good of the general public, ADA compliance, is more important and is the ethical thing to do.

Please work with the property owners on this matter as it will help make the French Quarter a better place for everyone.

Terry Jacobs, Resident

Please deny this request to alter this building. This property had had the same owner for a very long time. He knows what he bought. The building shouldn't be changed to suit a future use.

Niki Szalwinski

French Quarter Citizens

French Quarter Citizens opposes the proposed application for the many reasons noted in the staff report. We note that both of these buildings have already had window alterations under the long-time current ownership and this proposal would completely change what previously existed. This change is similar to those at 626 Bourbon which has resulted in a building that bears little to no resemblance to the original structure. While other buildings have been altered in the past this does not mean others should as well.

We refer to the comments a few months ago by Commissioners Lawrence and Gasperecz on a different project proposal in which they noted a building should not be changed to suit a use but rather use should follow what exists. We agree. We request that the committee deny any further changes and loss to this structure.

Discussion and Motion:

Mr. Villareal moved for the denial of the proposal. Mr. Fifield seconded the motion and the motion passed with 8 members in favor and one member opposed. Ms. Thibodeaux stood in opposition.

3:55 Mr. Fifield left the meeting.

Ms. DiMaggio moved to **ratify** the Architectural Committee and Staff actions since the Wednesday, June 17, 2020 VCC meeting. Ms. Lawrence seconded the motion, which passed unanimously.

With no other business to discuss, Mr. Villareal moved to adjourn the meeting. Ms. King seconded the motion, which passed unanimously. The meeting was adjourned at approximately 3:57pm.