
LOCAL HISTORIC DISTRICT: Dilworth

PROPERTY ADDRESS: 424-436 E. Park Avenue

SUMMARY OF REQUEST: Landscape and Site Features - Retaining Wall (Landscape timbers)

OWNER: D. Patterson Campbell

APPLICANT: Park Avenue Mews HOA

Details of Proposed Request

Existing Conditions

The existing structure is a contemporary condominium building constructed in 1981, predating the Dilworth Historic Local District. A new single family home was constructed on the right side. The condo building is approximately 2-3 feet lower than the adjacent property. The painted brick wall located along the side yard between the properties is over 6 feet in height.

Proposal

The proposal is the continuation of the brick wall along the side yard and the addition of landscape timbers acting as a retaining wall toward the front. The proposed height from existing grade is approx. 7-8".

Policy & Design Guidelines - Landscape and Site Features (page 60)

1. Inspiration for the design of these structures should be drawn from similar historic structures found in the Local Historic District.
2. Not all landscape structures are appropriate for every lot in the Local Historic District; a retaining wall is not suitable for a flat lot.
3. Historic precedents indicate appropriate materials such as stone, brick and concrete.
4. Historic site features are considered integral parts of Local Historic District properties, and cannot be removed without the review of the HDC or its Staff.
5. Walks and walkways in front and side yards or those that are substantially visible from the street should follow the historic design precedents of their environment.
6. Certain modern materials for landscape and site features are not allowed without the approval of the Historic District Commission.
 - Interlocking concrete block
 - Treated landscaping timbers
 - Railroad ties
 - Pre-fabricated lattice

Policy & Design Guidelines - Fences (page 56)

1. Front yard or front setback fencing is restricted to low picket style fencing. On such fences, the height of the support posts should not exceed thirty-six inches above grade, and the height of the pickets should not exceed

- thirty inches. All pickets must be separated by a visible spacing pattern. All front yard fencing on residential uses must enclose three sides of the front yard. Front yard privacy fences are not allowed.
2. Fencing should not obscure the front elevation of the primary structure on a property. Also, fencing should not substantially obscure side elevations of the primary structure.
 3. Fencing visible from any public street must be judged appropriate to the district. It must have texture resulting from an interplay of light and dark materials or solids and voids. Solid privacy fences that would be substantially visible from the street are not allowed.
 4. The structural members of any fence must face inward to the property being fenced. The HDC will consider approving fences where the structural members are an integral part of a overall design, and where both sides of the proposed fence are identical.
 6. No fencing may be over six feet in height, as measured from the outside at grade.
 7. Fencing materials and details must be appropriate to the architectural style of the building they enclose. Proper fencing for a Victorian home can differ substantially from that appropriate to a Craftsman bungalow.
 8. Fencing must avoid any style that presents a long unbroken expanse to adjacent properties or to public thoroughways.
 9. All sides must be appropriately finished.

Staff Analysis

The Commission shall determine if 1) An exception should be granted for the height exceeding 6 feet, and 2) An exception should be granted for landscape timbers.

Charlotte Historic District Commission - Case 2014-193

Historic District; Dilworth



012 June 2014

To: Mr. John Howard
Charlotte-Mecklenburg Planning Historic District
Mr. Benjamin D. Krise
Code Enforcement Manager

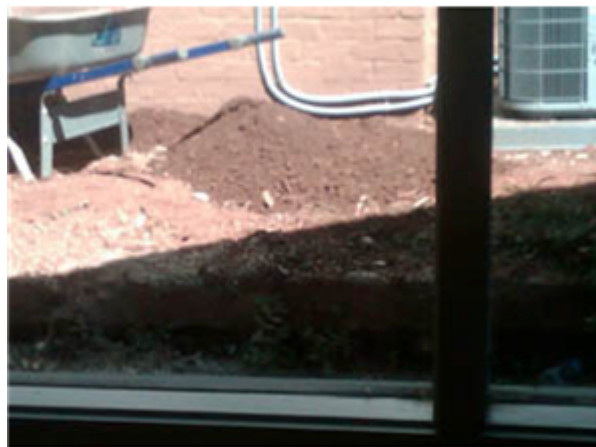
Reference: Additional COA violations - Significant Changes of Grade 420 East Park Avenue, Charlotte NC causes flooding to adjacent property

During yesterday rain event we experienced site, courtyard and interior flooding due to a change in rainwater runoff from the house under construction at 420 East Park Avenue. Early this week site grading took place and soil was added and/or relocated to raise the grade elevation to above the existing retaining wall between 420 and Park Avenue Mews condos 424-438. Prior to construction grade on 420 East Park Avenue sloped westward towards the center of the site away from the existing retaining wall between 420 and 424. In the eighteen years of living at Park Avenue Mews I have never experienced, seen or heard of flooding from a rain event. See photos below of new runoff pattern and flooding. As an owner of a slab on grade property at a lower elevation than 420 East Park Avenue, I am concerned that the non-compliance with the approved 2013-137 COA notes will be the cause of property damage and lowered property value.

Apparent Inconsistent Construction per the approved 2013-137 COA documents:



1. Finish grade along on the East property edge was raised to be higher than existing grade before construction started
2. CUM was used as lower foundation wall (not all brick as noted on drawings), the top of CUM was installed approximately 8-10 inches higher than previous grade and brick added above, earth was added to cover CUM. Plus top soil was added this week to further increase the grade elevation. Assuming increase of 12 inches along house at a 5-foot setback that is a 20% change in grade. This is where the mechanical units were placed, You can see the new slope towards 424 when they first placed pads
3. Grade took place earlier this week in front of the house raising the center of the site and forcing water to the east and into the courtyard at 424 and above the finished floor elevation of the slab on grade.
4. Per earlier letter dated 06 June 2014, Mechanical Unit location
5. Railing material at front steps – iron is noted on drawings wood is used – wood may be the preferred material for hand rails but not noted as such on COA documents
6. Non wood products appear to have been used in flat areas and trim of columns -
7. Since per the Historic District Commission Rules and Procedures, Section I. Enforcement, 1) Work is done that requires a Certificate of Appropriateness without a Certificate being issued and or 3) Work is approved by the Commission or its staff, and is then carried out in a manner inconsistent with the approval, as an adjacent property owner and a property owner in a Historic District, I expect nothing less than Enforcement as stated in the HDC rules and Procedures:



1. Commission staff shall make an effort to contact the property owner by mail, seeking voluntary compliance with the ordinance.

2. If the property owner contacts the HDC Staff and corrects the violation through established HDC procedures, no further action will be taken.

3. If compliance is not achieved by HDC Staff, the matter will be referred to the City of Charlotte Zoning Enforcement Staff. HDC Staff may consult with the Commission prior to this step if Staff feels the violation is unclear under current HDC policy.

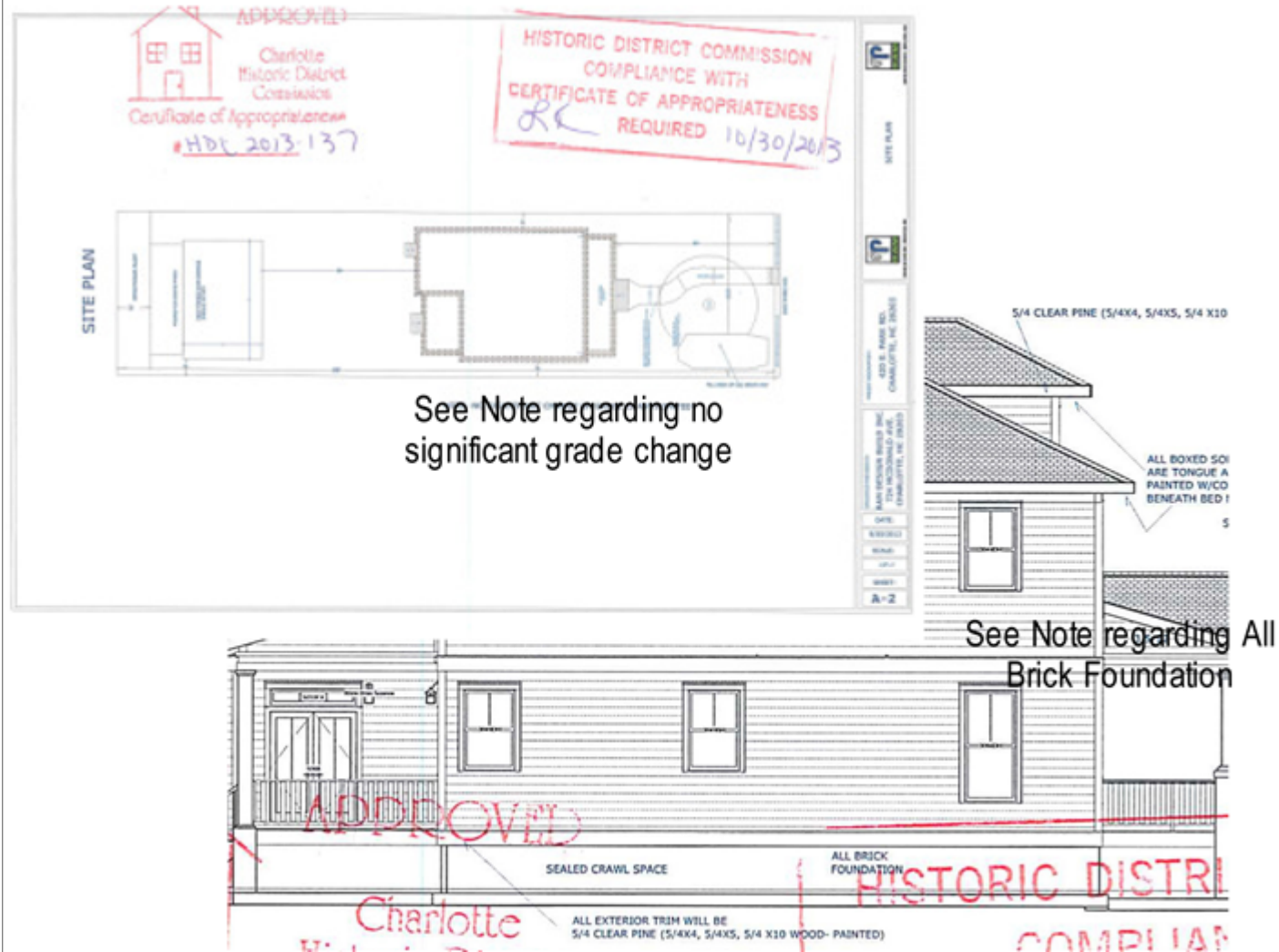
**page 1 of 4 Letter to Code Enforcement Manager and HDC
regarding flooding from 420 East Park Avenue**



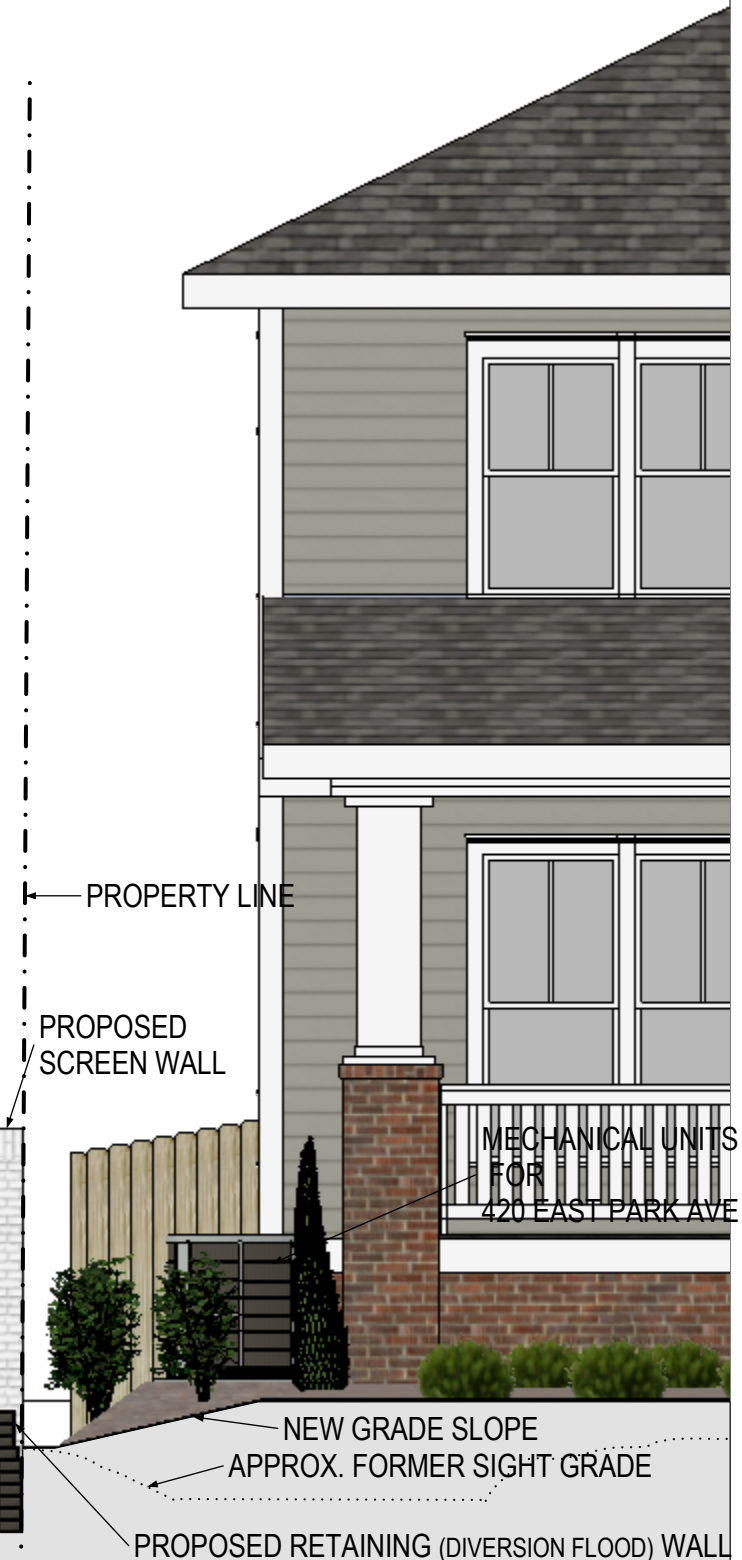
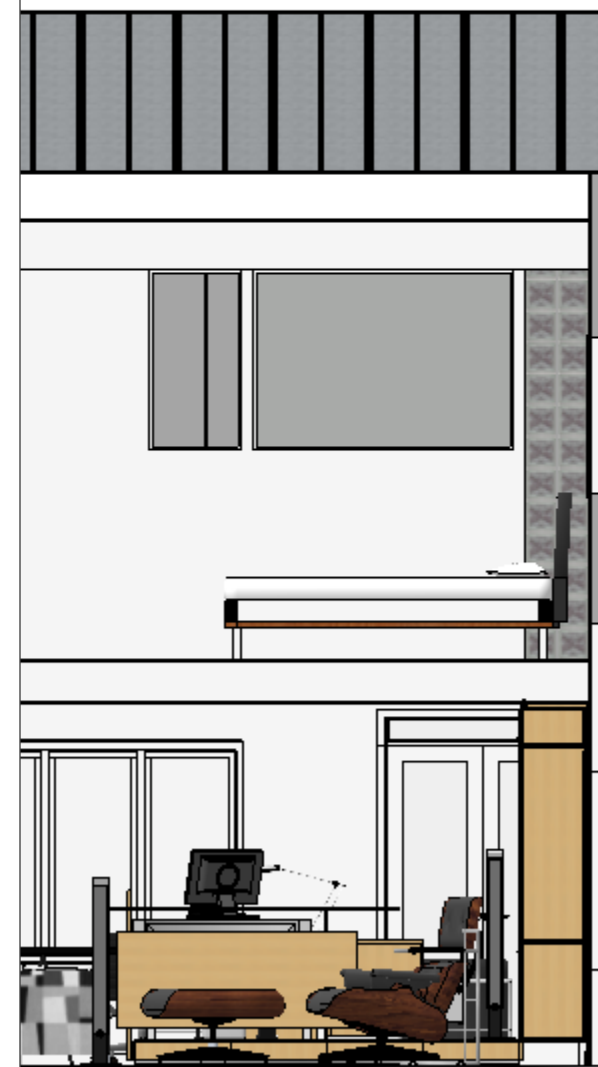


4. HDC Staff will provide to the relevant Zoning Enforcement Supervisor the violation to be cited, and the address and owner of the property where the violation has occurred.
5. Zoning Enforcement staff will then pursue the violation through the processes outlined in Chapter 8 of the Charlotte Zoning Ordinance.
6. Should the violation be corrected through established HDC procedures, HDC Staff will notify the relevant Zoning Enforcement Supervisor to suspend or end their enforcement process on the violation in question.

I included the other inconsistencies with the COA documents to demonstrate an apparent trend to not follow the Approved COA documents on this new construction project. This past Tuesday, 10 June 2014, during the site work the subs were digging by hand a trench to place the drain for the footings. They were off the 420 property and onto the Park Avenue property to avoid the existing curved concrete retain wall at the sidewalk. The General contractor had on representative on site at the time, the sub said he didn't know where the property lines were, even though we at Park Avenue Mews has marked that area/line with stakes and yellow caution tape. They then said they would have to break up the concrete retain wall and go through it to dump onto the sidewalk. I mentioned I think that the wall was considered a contributing historic feature, was on the COA documents to remain and they should not destroy the wall. I didn't even know they were in a Historic District or anything about COA documents.



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regarding flooding from 420 East Park Avenue



1 Perspective from East Park Avenue
A3



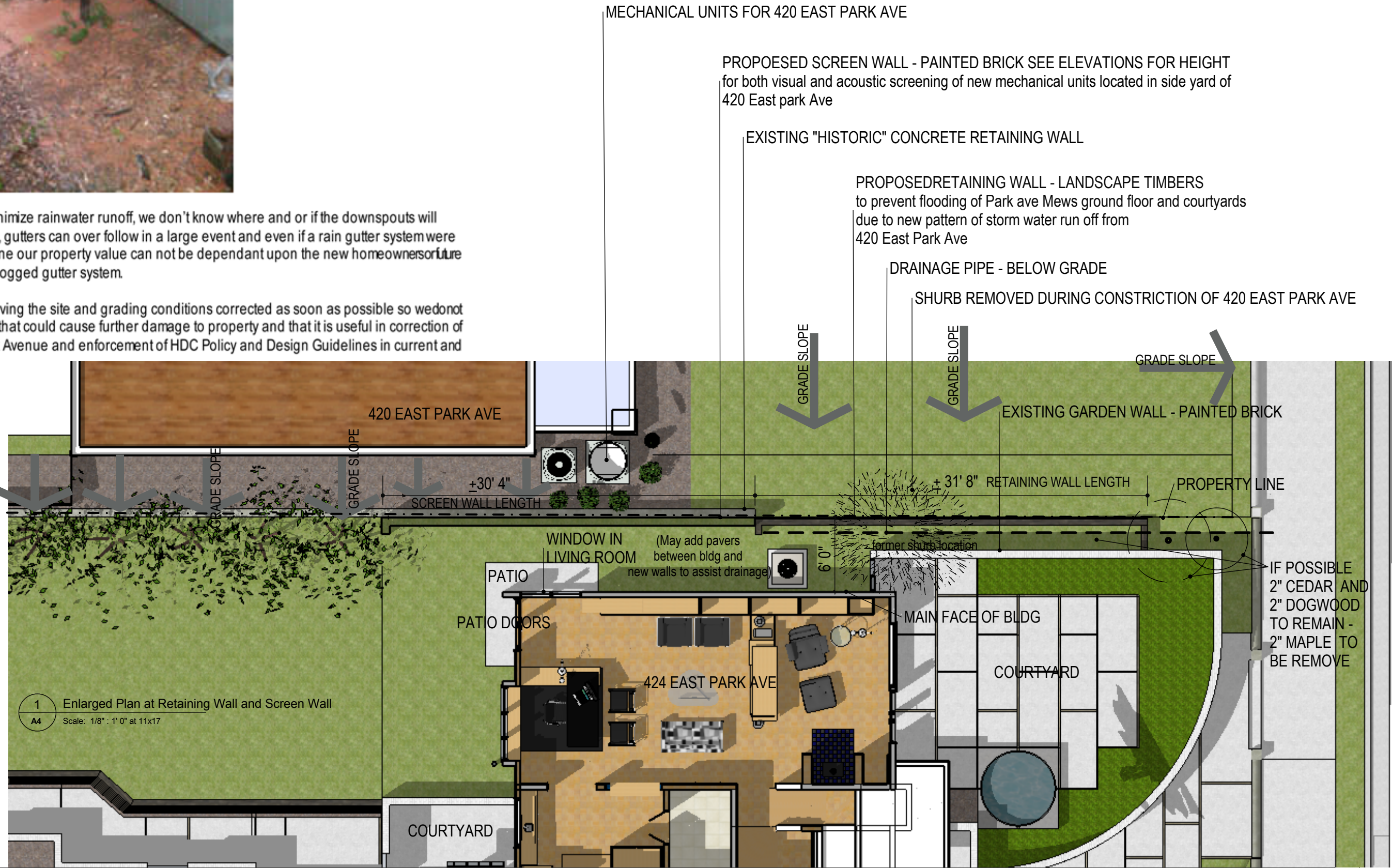
Although I realize rain gutters may minimize rainwater runoff, we don't know where and or if the downspouts will discharge to an underground system, gutters can over follow in a large event and even if a rain gutter system were designed and installed to work day one our property value can not be dependant upon the new homeowners or future homeowners to maintain a clean unclogged gutter system.

I hope this information is helpful in having the site and grading conditions corrected as soon as possible so we donot to have to endure another rain even that could cause further damage to property and that it is useful in correction of other COA violations at 420 East Park Avenue and enforcement of HDC Policy and Design Guidelines in current and future work at 420 East Park Avenue.

Sincerely,
D. Patterson Campbell

Cc:
Mr. Chris Flouhouse
Mr. John Fryday
Mr. John Phares
Park Avenue Mews HOA

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Code Enforcement
Manager and HDC
regarding flooding from
420 East Park Avenue



1 Enlarged Plan at Retaining Wall and Screen Wall
A4 Scale: 1/8" = 1' 0" at 11x17

06 June 2014

To: Mr. John Howard
Charlotte-Mecklenburg Planning Historic District

Reference: 420 East Park Avenue, Charlotte NC – COA violations

This letter is regarding the installed location of two mechanical units at 420 East Park Avenue in Dilworth. Per the approved 2013-137 COA, the location and installation of the two mechanical units is inconsistent with the Certificate of Appropriateness. The two units are inconsistent in that:

1. No mechanical units were shown on the COA site plan or elevations or were referenced in the notes
2. The two mechanical units have not been located in the rear yard, which per page 55 of the HDC Policy and Design Guidelines is the only location that can be approved through an administrative process. Therefore, if the two units had been located in the rear yard, it may not have been necessarily required to be shown on the COA site plan
3. The two mechanical units have been installed between the main face of the house (thermal face) and the public street, and on the East side front porch and are clearly visible from both the street and adjacent property, including from the ground floor interior of the adjacent property/townhouse
4. Since this installed location can not be approved through an administrative process and it was not shown and approved on the COA, these two mechanical units would be either considered a change to the approved plan or considered new construction, either way as per the HDC Policy and Design Guidelines, page 12, 2. Referral to full HDC, as states and required by law, as an adjacent property owner, I have not received a notice regarding this new work or change to approved plans being on the agenda of the HDC meeting. Therefore per page 13 of the HDC Policies and Design Guidelines, Application Review Process, Comments by Other Interested Parties, I have not been given the opportunity to comment on the location and required screening of these two mechanical units.
5. Since per the Historic District Commission Rules and Procedures, Section I. Enforcement, 1) Work is done that requires a Certificate of Appropriateness without a Certificate being issued and or 3) Work is approved by the Commission or its staff, and is then carried out in a manner inconsistent with the approval, as an adjacent property owner and a property owner in a Historic District, I expect nothing less than Enforcement as stated in the HDC rules and Procedures:

1. Commission staff shall make an effort to contact the property owner by mail, seeking voluntary compliance with the ordinance.
2. If the property owner contacts the HDC Staff and corrects the violation through established HDC procedures, no further action will be taken.
3. If compliance is not achieved by HDC Staff, the matter will be referred to the City of Charlotte Zoning Enforcement Staff. HDC Staff may consult with the Commission prior to this step if Staff feels the violation is unclear under current HDC policy.
4. HDC Staff will provide to the relevant Zoning Enforcement Supervisor the violation to be cited, and the address and owner of the property where the violation has occurred.
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page 1 of 4 Letter to HDC
regarding HVAC unit location at 420 East Park Avenue



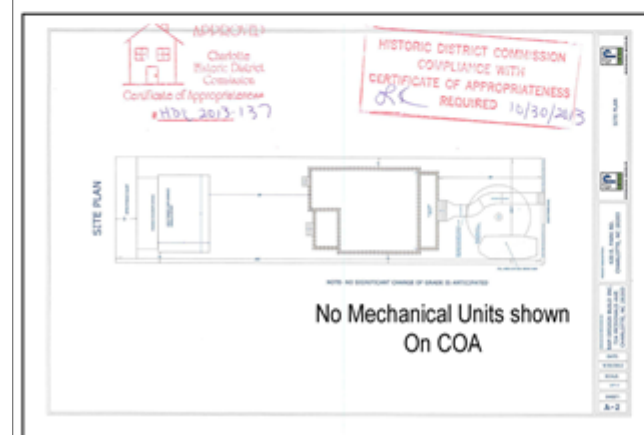
6. In addition to the enforcement listed above, given the property owners of 420 East Park Avenue misunderstanding and non-compliance with the HDC Policies and Procedures and since the COA plans and elevations did not include elements such as "Fence and Wall Heights or Major Shrubbery" as required on the site plan per page 20 of the HDC Policy and Guidelines, I would respectfully request that the HDC remind the property owners that any future additions and or changes to the approved COA plans and elevations must follow the proper HDC process.

I notified the Charlotte-Mecklenburg Planning Historic District Office by both email and phone regarding these COA violations when pads were being placed and preparations were being made to install the two mechanical units at the front of the house twelve days before the units were finally placed on the pads. Yet the units were still placed without regard to HDC Policies and Guidelines or Policy and Procedures. Due to the fact that my emails and phone calls were not returned and as a result of and comments made to me from the general contractor on site representative, my perception is that Charlotte-Mecklenburg Planning Historic District Office either does not understand its own Policies and Procedures or lacks the adequate staff to enforce and/or conduct their policies and procedures. I am also very concerned that public perception and perception from Contractors, Architects, Developers and Homeowners is that once a COA is obtained and the building permit is acquired, as long as general zoning regulations are met, there is no need to adhere to the COA plans and/or the HDC Policies and Design Guidelines.

I am someone who designs buildings every day; and other than a new homeowner not wanting a mechanical unit adjacent to their patio in their backyard, in this particular case I cannot understand or see any technical reason why the two mechanical units are required to be located where they have been placed. I was actually told by the general contractor's on-site representative that the homeowner did not want them in their back yard and directed the contractor to move them to the front. If this is acceptable this would seem to imply that the private backyard patio has become more important than the HDC Policies and Design Guidelines. If the HDC does not agree with me on this issue per page 55 Mechanical Units, section 3, I question what is "adequate screening" from the street and adjoining property when two mechanical units are placed directly beside an existing floor to ceiling living room window, where the units are located 3 feet from the property line, and the top of one of the units is 5'4" above the finish floor of the floor to ceiling window and nine feet away from the adjacent property owners' back patio glass doors. What design criteria are used to determine "adequate screening" when it is this adjacency. Is this a visual screen only? Is it and noise reducing screen? Is it landscaping only, possibly taking years to mature enough to reach the height of the mechanical units? I am not sure how this location, if deemed by the HDC to be an appropriate location for the mechanical units, is per the HDC Statement of Philosophy, "ensuring compatibility with the character of the district." To me this location states: My back yard patio is more important than the front porch, the front yard, adjacent properties, the sidewalk, the street, and the historic district. This is a mentality one expects to find in cul de sac suburban neighborhoods, not a protected historic neighborhood such as Dilworth.

Below are a few photographs and timeline of significant dates from my notification of application for COA for 420 East Park Avenue to installation of mechanical units

Fall 2013: I received a letter of notification of the 420 East Park Ave application for Certificate of Appropriateness. I called Ms. Wanda Birmingham for a copy of submitted documents and she directed me to the documents posted online. I personally reviewed drawings posted online for our Home Owners Association as our main concern was the location of the mechanical units and the large tree in the front yard. No mechanical units were shown on drawings or notes referring to mechanical unit locations – adhering to the HDC Policy and Design Guidelines page 55 Mechanical units: 1). Rear yards are the preferred location for mechanical units. Such locations are eligible for administrative approval. We had no concerns as the mechanical units could only be located in the rear yard since special placement was not being requested or shown on the application.



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VIEW FROM INTERIOR OF 424 EAST PARK AVE WITH LANDSCAPE SCREENING



VIEW FROM INTERIOR OF 424 EAST PARK AVE WITH PROPOSED WALL

Late Fall 2013 - Except for one large oak tree in front the site is cleared of all tress and shrubs including several trees and significant shrubs that were adjacent or on our shared property line.

Early Construction of House - During early framing, I asked RAM Design Build Field Supervisor Mr. Kevin Hayes about the location of mechanical unit locations. He told me that they were going to be located at the rear of the house. This again supported page 55, Mechanical Units, 1.

Morning of Thursday May 22, 2014 - AIRTRON begins placing pads for mechanical units in the front east corner of the house, in front of the main face of the house, beside the front porch. Kevin Hayes was on site at the time and I asked him what was going on. He said that the owners told him that they did not want the mechanical units in the back of the house and they directed him to relocate them to the front. I then said I was going to contact the Historic District Commission, as this location was not shown on the COA documents posted online.



11:05 Thursday May 22, 2014 - I spoke with Ms. Wanda Birmingham on the phone. She requested I email her photos - we spoke for 7 minutes.

11:35 Thursday May 22, 2014 - I sent five images of the mechanical pad locations for 420 East Park Avenue

11:36 Thursday May 22nd - Ms. Birmingham and I spoke for a second time, this time viewing the images emailed, She said "we would never approve this location" then she said "John is walking by let me ask him", then she stated that he was waiting for a drawing on the mechanical unit location for 420 East Park Ave and that he had never received a drawing and that the location where the pads were being placed per my photos emailed had not been approved. We spoke for a total 1:17

12:03 Friday May 23, 2014 - I emailed Ms. Wanda Birmingham to see if there was any resolution to the mechanical units relocation at 420 East Park Avenue, and requested she either email or call me per the provided number - I received no email reply or phone call

Friday May 23, 2014 through Wednesday 28, 2014 - no visible new site work on placing mechanical units

Early Morning Thursday May 29, 2014 - relocation of mechanical units resumes, coolant lines pulled, electrical connections being placed

1:50 pm Thursday May 29, 2014 - I called HDC and left a message for Ms. Wanda Birmingham - no returned call

2:07 pm Thursday May 29, 2014 - I left a voice mail for Mr. John Howard - no returned call

2:12 pm Thursday May 29, 2014 - I spoke with Ms. Linda Keich inquiring the process for reporting and monitoring HDC violations - the call lasted 14:36. Linda said that I was doing the right thing and that they relied on the public to notify them of violations, but all they could do is sent out a zoning inspector

9:47 am Friday May 30, 2014 - I left a voice mail for Mr. John Howard - no returned call

10:54 am Friday May 30, 2014 - I was told Mr. John Howard was not available, I asked for Ms. Linda Keich, she asked me "to allow Mr. John Howard some time to do his job"

2:45 Friday May 30, 2014 - I called Mr. John Phares of Preserve Historic Dilworth to discuss 420 East Park Avenue and share my concerns and discuss other actions. He encouraged me to document my experiences and observations related to 420 East Park Avenue and to share these in a letter to Mr. John Howard

Tuesday June 3, 2014 - Mechanical units set, connected to power and units charged with coolant



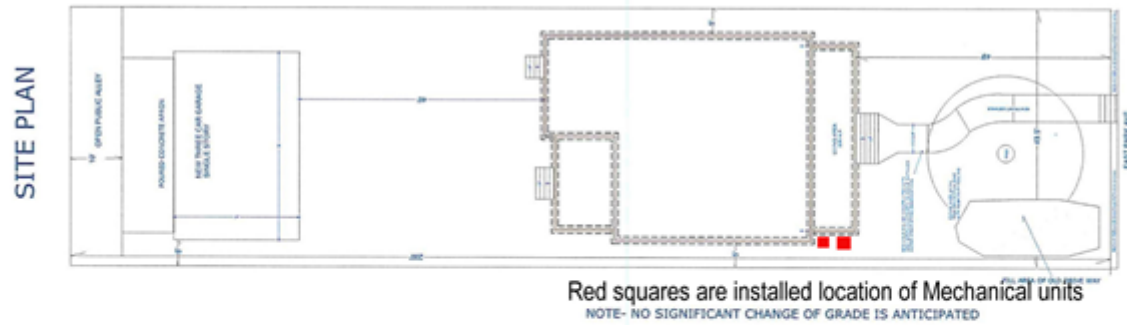
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VIEW FROM PATIO DOORS OF 424 EAST PARK AVE WITH LANDSCAPE SCREENING



VIEW FROM PATIO DOORS OF 424 EAST PARK AVE WITH PROPOSED WALL



I hope this information is helpful in having the violations at 420 East Park Avenue corrected and is it is useful in the enforcement of HDC Policy and Design Guidelines in current and future work at 420 East Park Avenue and in other projects under HDC control.

Sincerely,

D. Patterson Campbell

Cc:

Mr. John Phares
Mr. John Fryday
Mr. Chris Flouhouse

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