



Community & Economic Development
Office of the Director

Communication to Historic Landmark Commission

To: Historic Landmark Commission Members

From: Joel Paterson, Planning Manager

Date: July 27, 2012

Re: Policy Discussion Relating to Demolition of Contributing Accessory Structures

Recently an application was submitted to the Planning Division requesting a Certificate of Appropriateness to allow the demolition of a contributing accessory structure at 505 Third Avenue. During the review of this application, Staff raised concerns about the process and standards of review for such a request. The application for the demolition of the contributing accessory structure was tabled to allow the Commission and Staff to discuss key policy issues related to demolition requests of accessory structures rated contributing.

Because there is a pending application it is important to find a resolution so the property owners can have a reasonable expectation of when their request might be heard by the Historic Landmark Commission. For this reason, we are trying to establish a policy to guide decision making on this and potentially similar requests in a timely manner.

BACKGROUND

In the Administration of the Historic Preservation Overlay provisions of the Zoning Ordinance (21A.34.020), Staff relies on the use of historic surveys that have been conducted for our locally designated historic districts. Generally, these surveys are reconnaissance level surveys which, in part, provide a history of the area surveyed, photographs of each property and survey data sheets that provide basic information about each property surveyed. The survey data sheets include information regarding the contributing/non-contributing status, age, height, style and type of each principal building, and relevant comments regarding individual sites. The surveys include an inventory of accessory structures and make an initial determination of the contributing status.

The Zoning Ordinance includes provisions that require the issuance of a Certificate of Appropriateness (CoA) for any demolition (21A.34.020.E) and allow administrative approval of demolition of accessory structure and non-contributing structures (21A.34.020.F.1). This section of the Zoning Ordinance also requires Historic Landmark Commission approval for demolition of contributing sites (21A.34.020.F.2).

Typically, requests for demolition of accessory structures have been approved administratively following a determination that the accessory structure is a non-contributing structure. In the current case, the Avenues Historic District Reconnaissance Level Survey of 2007-2008 indicates that the accessory structure at 505 Third Avenue is a contributing structure.

The HLC can approve a demolition of a contributing structure only upon finding that the application meets six of the demolition standards. The Commission must deny the demolition request if the application meets only one or two standards. If a demolition request is denied, the applicant may pursue an economic hardship review to determine if the denial would constitute a regulatory taking of the property. A finding of economic hardship requires the property owner to demonstrate that the denial of the demolition request deprives the applicant of all reasonable economic use of the property. Reaching the economic hardship threshold for an accessory structure would be difficult to achieve. One would have to demonstrate that the denial of the demolition request would deprive the property owner of all reasonable economic use of the property even though a residential use would remain on the property.

Contributing accessory structures may be essential part of the historic interest associated with any historic district, based on the integrity of the building, its character and interpretation. However, there may be a few examples where their retention is a key consideration in maintaining the integrity of an historic district but in many cases, the loss of the outbuilding may not have a significant impact on the integrity of the historic site or district.

POLICY CONSIDERATION

Staff has identified the following issues for discussion with the Historic Landmark Commission:

1. The Avenues Survey identifies over a thousand accessory structures rated as contributing (based on age). The surveys for other residential historic districts in the City also rate the contributing status of accessory structures; however, the existing survey information on specific accessory structures is not comprehensive.
 - How accurate are the reconnaissance level surveys in making determination of contributing status for accessory structures?
 - Are the definitions and criteria sufficient to make determinations of the contributing status of accessory structures or should new definitions and criteria be established specifically for accessory structures?
 - Should the contributing status of accessory structures be further refined to allow a determination of levels of significance in an attempt to identify exceptional accessory structures that, if demolished, would have a negative impact on the integrity of the site or the local historic district?

- If the overall significance of an accessory structure is used to determine the demolition review process, standards or criteria would need to be developed to make the determination that the structure met the criteria of significance.
 - Should more survey work be conducted to identify accessory structures that are so significant that their demolition should be prohibited?
 - What type of information is needed to determine if an accessory structure is significant and should be preserved?
 - Additional survey information may be difficult to obtain because of the location of most accessory structures make access difficult to achieve.
2. The Preservation Philosophy Statement adopted by the City Council states that the City will take a reasonable approach to historic preservation, taking into account economic and technical feasibility. The Philosophy Statement also recognizes that change is part of the natural evolution of historic districts and that greater flexibility should be exercised in the review of alterations that have no negative effect on significant character-defining features of the site or the historic district.
 - If there is only room for one accessory structure on a lot and it is contributing, is it reasonable to determine that the property owner cannot have off-street parking for their property?
 - If a contributing accessory structure is located on a site but not readily visible from the public street, should greater flexibility be allowed when considering a demolition request? Would the loss of such a contributing accessory structure generally have a significant detrimental impact on the overall integrity of the historic district or Landmark Site?
 - Should contributing accessory structures on Landmark Sites be treated differently than those within local historic districts?
 3. The Zoning Ordinance includes demolition criteria for contributing structures. It does not differentiate between principal structures and accessory structures.
 - Should a different set of criteria be used to determine the contributing status of accessory structures and principal buildings?
 - If so, what criteria should be used for the review of demolition requests for accessory structures?
 4. The “safety valve” available for property owners following the demolition process is the economic hardship process. It is Staff’s opinion that it would be nearly impossible for a property owner to establish an economic hardship for an accessory structure that constituted a regulatory taking of the property. For this to happen, a property owner would have to prove that the denial of the demolition application would result in the loss of all reasonable economic use of the property. This would be extremely hard to prove when the property contains a viable residence.
 - Should a different safety valve be created for the demolition process of contributing accessory structures?
 - What criteria could be used to provide relief if a demolition request is denied?

- What types of incentives are available to encourage property owners to maintain existing contributing accessory structures?
5. The State Historic Preservation Office has indicated that accessory structures are not eligible to receive tax credits unless an accessory structure contained a residence. This situation is not common but would usually be found in a carriage house or other fairly significant accessory structure. The demolition of an accessory structure (whether contributing or not) would not typically affect the contributing status of the principal building on the site.

PROPOSED CRITERIA FOR DETERMINATION OF SIGNIFICANCE

Significant Accessory Structures: Significant accessory structures are of exceptional importance to the city, state, region or nation and impart high architectural, historic or cultural values. A significant accessory structure clearly conveys a sense of time and place and enables the public to interpret the historic character of the site and generally meets at least three (3) of the following criteria:

1. The contributing accessory structure was designed by an architect significant in the history of the city, region, state or nation.
2. The contributing accessory structure was designed by the architect of the principal building on the site and includes exceptional examples of distinctive design elements, materials or craftsmanship which are also found on the principal building.
3. The contributing accessory structure includes the use of exceptional characteristics of a type, period or method of construction or the work of a craftsman significant in the history of the city, region, state or nation.
4. The contributing accessory structure exhibits a unique design or function that clearly demonstrates the evolving settlement patterns of the site or district.
5. The contributing accessory structure retains its physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the National Register of Historic Places; and
6. The age of the contributing accessory structure can be confirmed to date back to the historically significant period of the historic district or Landmark Site.

PROPOSED CRITERIA FOR DEMOLITION OF A SIGNIFICANT ACCESSORY STRUCTURE

Standards for Certificate of Appropriateness for Demolition of a Significant Accessory Structure In An H Historic Preservation Overlay District: In considering an application for a certificate of appropriateness for demolition of a significant accessory structure, the Historic Landmark Commission shall determine whether the project substantially complies with the following standards:

1. The physical integrity of the significant accessory structure in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the National Register of Historic Places is no longer evident;

2. The streetscape within the context of the H historic preservation overlay district would not be negatively affected;
3. The demolition would not adversely affect the H historic preservation overlay district;
4. The significant accessory structure has not suffered from the failure of the property owner to perform normal maintenance and repairs, nor has the property owner engaged in willful or negligent acts that advance the deterioration of the significant accessory structure;
5. The size of the site eliminates the possibility of constructing an additional accessory structure;
6. The significant accessory structure is not readily visible from the public street;
7. The significant accessory structure is shown to be structurally unsound by a report from a licensed engineer or architect.
8. The cost of renovation of the significant accessory structure is shown to be unreasonable by comparing the cost of renovating the significant accessory structure to a minimum standard and the cost of constructing a similarly sized and detailed accessory structure;

POTENTIAL REVIEW PROCESS

The process described below illustrates how the Staff and the HLC could review demolition applications for accessory structures.

Administrative Review: Once an application for the demolition of an accessory structure is submitted, Staff would review the application and the historic district survey to determine the contributing status of the accessory structure.

- If the survey ranked the accessory structure as non-contributing and Staff concurred with the ranking, Staff would process the application administratively and approve the demolition if no protests were received during the noticing period challenging the non-contributing determination made by Staff.
- If the survey ranked the accessory structure as contributing and Staff concurred with the ranking, Staff would forward the application to the HLC for consideration.
- If the survey ranked the accessory structure as contributing and Staff disagreed with the ranking, the application would be forwarded to the HLC to determine the contributing status of the accessory structure (unless Staff had specific facts to dispute the ranking, such as a building permit that clearly demonstrates that the accessory structure was constructed outside of the historic period).

HLC Review: Once an application for demolition of an accessory structure is forwarded to the HLC, the Commission would be asked to make a determination of the contributing status or to make a determination of the significance of the accessory structure to the overall integrity of the historic district or Landmark Site.

- **HLC Determination of Contributing Status.** The HLC would be asked to make a determination of the contributing status of the accessory structure in the following instances:
 - If the property owner requested the HLC to reconsider the contributing status, or
 - if Staff disagreed with the survey ranking of the contributing status

- HLC Determination of Significance. If it is confirmed that the accessory structure is a contributing structure, the Commission would be asked to make a determination regarding the significance of the accessory structure to the overall integrity of the historic district or Landmark Site.
 - If the HLC determines that the contributing accessory structure is not significant, the Commission could approve the demolition but require that the building be documented for future reference.
 - If the HLC determines that the contributing accessory structure is significant, the Commission would schedule the application for a public hearing to consider whether the application meets the new demolition criteria for accessory structures. If the criteria were met, the Commission would approve the demolition. If the criteria were not met, then the Commission would deny the demolition.