HISTORIC AND DESIGN REVIEW COMMISSION February 07, 2018

HDRC CASE NO:	2018-062
ADDRESS:	222 W GUENTHER ST
LEGAL DESCRIPTION:	NCB 2973 BLK 5 LOT 1
ZONING:	RM-4,HS
CITY COUNCIL DIST.:	1
DISTRICT:	Nathan Historic District
LANDMARK:	House
APPLICANT:	Robert Murray
OWNER:	Robert Murray
TYPE OF WORK:	Demolition of a rear accessory structure, Historic Tax Certification
APPLICATION RECEIVED:	January 11, 2018
60-DAY REVIEW:	March 12, 2018

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to:

- 1. Demolish the rear accessory structure at 222 W Guenther.
- 2. Receive Historic Tax Certification for the rehabilitation of the historic structure at 222 W Guenther.

APPLICABLE CITATIONS:

UDC Section 35-614. – Demolition

Demolition of a historic landmark constitutes an irreplaceable loss to the quality and character of the City of San Antonio. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city's historic districts and character while, at the same time, balancing these interests against the property rights of landowners.

(a)Applicability. The provisions of this section apply to any application for demolition of a historic landmark (including those previously designated as historic exceptional or historic significant) or a historic district.

(3)Property Located in Historic District and Contributing to District Although Not Designated a Landmark. No certificate shall be issued for property located in a historic district and contributing to the district although not designated a landmark unless the applicant demonstrates clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved. When an applicant fails to prove unreasonable economic hardship in such cases, the applicant may provide additional information regarding loss of significance as provided is subsection (c)(3) in order to receive a certificate for demolition of the property.

(b)Unreasonable Economic Hardship.

(1)Generally. The historic and design review commission shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular landmark or eligible landmark against the special merit of the proposed replacement project. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).

(2)Burden of Proof. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate). When a claim of unreasonable economic hardship is made, the owner must prove by a preponderance of the evidence that:

A. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

B. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and

C. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite

having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

(3)Criteria. The public benefits obtained from retaining the cultural resource must be analyzed and duly considered by the historic and design review commission.

As evidence that an unreasonable economic hardship exists, the owner may submit the following information to the historic and design review commission by affidavit:

A. For all structures and property:

i. The past and current use of the structures and property;

ii. The name and legal status (e.g., partnership, corporation) of the owners;

iii. The original purchase price of the structures and property;

iv. The assessed value of the structures and property according to the two (2) most recent tax assessments;

v. The amount of real estate taxes on the structures and property for the previous two (2) years;

vi. The date of purchase or other acquisition of the structures and property;

vii. Principal balance and interest rate on current mortgage and the annual debt service on the structures and property, if any, for the previous two (2) years;

viii. All appraisals obtained by the owner or applicant within the previous two (2) years in connection with the owner's purchase, financing or ownership of the structures and property;

ix. Any listing of the structures and property for sale or rent, price asked and offers received;

x. Any consideration given by the owner to profitable adaptive uses for the structures and property;

xi. Any replacement construction plans for proposed improvements on the site;

xii. Financial proof of the owner's ability to complete any replacement project on the site, which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and

xiii. The current fair market value of the structure and property as determined by a qualified appraiser.

xiv. Any property tax exemptions claimed in the past five (5) years.

B. For income producing structures and property:

i. Annual gross income from the structure and property for the previous two (2) years;

ii. Itemized operating and maintenance expenses for the previous two (2) years; and

iii. Annual cash flow, if any, for the previous two (2) years.

C. In the event that the historic and design review commission determines that any additional information described above is necessary in order to evaluate whether an unreasonable economic hardship exists, the historic and design review commission shall notify the owner. Failure by the owner to submit such information to the historic and design review commission within fifteen (15) days after receipt of such notice, which time may be extended by the historic and design review commission, may be grounds for denial of the owner's claim of unreasonable economic hardship.

When a low-income resident homeowner is unable to meet the requirements set forth in this section, then the historic and design review commission, at its own discretion, may waive some or all of the requested information and/or request substitute information that an indigent resident homeowner may obtain without incurring any costs. If the historic and design review commission cannot make a determination based on information submitted and an appraisal has not been provided, then the historic and design review commission may request that an appraisal be made by the city.

(d)Documentation and Strategy.

(1)Applicants that have received a recommendation for a certificate shall document buildings, objects, sites or structures which are intended to be demolished with 35mm slides or prints, preferably in black and white, and supply a set of slides or prints to the historic preservation officer.

(2)Applicants shall also prepare for the historic preservation officer a salvage strategy for reuse of building materials deemed valuable by the historic preservation officer for other preservation and restoration activities.

(3)Applicants that have received an approval of a certificate regarding demolition shall be permitted to receive a demolition permit without additional commission action on demolition, following the commission's recommendation of a certificate for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of section 35-609, new construction, are met, and the property owner provides financial proof of his ability to complete the project.

(4)When the commission recommends approval of a certificate for buildings, objects, sites, structures designated as landmarks, or structures in historic districts, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Permits for parking lots shall not be issued, nor shall an applicant be allowed to operate a parking lot on such property, unless such parking lot plan was approved as a replacement element for the demolished object or structure.

(e)Issuance of Permit. When the commission recommends approval of a certificate regarding demolition of buildings, objects, sites, or structures in historic districts or historic landmarks, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Once the replacement plans are approved a fee shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the historic preservation officer for the benefit, rehabilitation or acquisition of local historic resources. Fees shall be as follows and are in addition to any fees charged by planning and development services:

0—2,500 square feet = \$2,000.00 2,501—10,000 square feet = \$5,000.00 10,001—25,000 square feet = \$10,000.00 25,001—50,000 square feet = \$20,000.00 Over 50,000 square feet = \$30,000.00

Historic Design Guidelines, Chapter 2, Guidelines for Exterior Maintenance and Repair

9. Outbuildings, Including Garages

A. MAINTENANCE (PRESERVATION)

i. Existing outbuildings—Preserve existing historic outbuildings where they remain.

ii. Materials—Repair outbuildings and their distinctive features in-kind. When new materials are needed, they should match existing materials in color, durability, and texture. Refer to maintenance and alteration of applicable materials above, for additional guidelines.

B. ALTERATIONS (REHABILITATION, RESTORATION, AND RECONSTRUCTION)

i. Garage doors—Ensure that replacement garage doors are compatible with those found on historic garages in the district (e.g., wood paneled) as well as with the principal structure. When not visible from the public right-of-way, modern paneled garage doors may be acceptable.

ii. Replacement—Replace historic outbuildings only if they are beyond repair. In-kind replacement is preferred; however, when it is not possible, ensure that they are reconstructed in the same location using similar scale, proportion, color, and materials as the original historic structure.

iii. Reconstruction—Reconstruct outbuildings based on accurate evidence of the original, such as photographs. If no such evidence exists, the design should be based on the architectural style of the primary building and historic patterns in the district. Add permanent foundations to existing outbuildings where foundations did not historically exist only as a last resort.

UDC Section 35-618. Tax Exemption Qualifications:

(a) Assessed Valuation. In accordance with the provisions of this article, a building, site, or structure which meets the definition of a historically significant site in need of tax relief to encourage preservation and which is substantially rehabilitated and/or restored as certified by the historic and design review commission and approved by the city tax assessor-collector, shall have an assessed value for ad valorem taxation as follows regardless of ownership during the granted time period:

(1) A residential property shall have the assessed value for ad valorem taxation for a period of ten (10) tax years equal to the assessed value prior to preservation.

(b) Applicability. This exemption shall begin on the first day of the first tax year after verification of completion of the preservation required for certification; provided the building shall comply with the applicable zoning regulations for its use and location.

(c) Application. Application for a historic structure preservation tax exemption pursuant to this division is to be filed

with the office of historic preservation. The historic preservation officer shall be the agent of the city for the purposes of administering this division provided that the historic preservation officer request a recommendation from the historic and design review commission. Each application shall be signed and sworn to by the owner of the property and shall:

(1) State the legal description of the property proposed for certification;

(2) Include an affidavit by the owner describing the historic significance of the structure in need of tax relief;

(3) Include a final complete set of plans for the historic structure's restoration or rehabilitation;

(4) Include a statement of costs for the restoration or rehabilitation work;

(5) Include a projection of the estimated construction, time and predicted completion date of the historic restoration or rehabilitation;

(6) Authorize the members of the historic and design review commission, the city tax assessor-collector and city officials to visit and inspect the property proposed for certification and the records and books of the owners as necessary to certify that the property in question is in substantial need of restoration or rehabilitation;

(7) Include a detailed statement of the proposed use for the property; and

(8) Provide any additional information to the historic and design review commission which the owner deems relevant or useful such as the history of the structure or access to the structure by the public.

Each application shall contain sufficient documentation confirming or supporting the information submitted therein.

(e) Verification of Completion. Upon completion of the restoration and rehabilitation, together with a fee as specified in Appendix "C" of this chapter, the owner, who may not be the same as at the time of application, shall submit a sworn statement of completion acknowledging that the historically significant site in need of tax relief to encourage preservation has been substantially rehabilitated or restored as certified by the historic and design review commission. The historic and design review commission, upon receipt of the sworn statement of completion, but no later than thirty (30) days thereafter, shall make an investigation of the property and shall recommend either approval or disapproval of the fact that the property has been substantially completed as required for certification. If the historic and design review commission recommends that it has not been substantially completed as so required, then the certified applicant may be required by the historic preservation officer to complete the restoration or rehabilitation in order to secure the tax exemption provided herein. If the verification of completion is favorable, the historic and design review commission shall recommend approval and the historic preservation office may notify the tax assessor-collector in writing of compliance. Thereafter, the tax assessor-collector shall provide the property with the historic tax exemption.

(f) Historic Preservation Tax Exemptions.

(1) Historic Preservation Tax Exemption for Residences in Need of Substantial Repair. In accordance with the provisions of this chapter, a historically significant residential building, which meets both the definitions of a historically significant site in need of tax relief to encourage preservation and of a residential property in Appendix "A" of this chapter, and is either individually designated or is located within the boundaries of a locally designated historic district which is substantially rehabilitated and is approved by the chief appraiser of the Bexar County Appraisal District, shall have an assessed value for ad valorem taxation as follows:

A. A residential property shall have no assessed value for ad valorem taxation for a period of five (5) tax years after verification, as defined in Appendix "A" to this chapter. Thereafter, the exempt property shall be reappraised at current market value and assessed at a fifty (50) percent rate for an additional consecutive five-year period.

B. This exemption shall begin on the first day of the first tax year after verification of completion of the substantial rehabilitation by the historic and design review commission, provided compliance with subsection (b) of this section.
(g) Eligibility.

(1) The tax exemption options outlined in subsection (f), above, will remain in effect unless terminated by designation status being removed pursuant to subsection 35-606(g) of this article.

FINDINGS:

- a. The historic structure at 222 W Guenther was constructed in the Craftsman style and features to protruding gabled front porch roofs, a side gabled roof, a brick chimney and a rear accessory structure. At this time, the applicant has proposed to demolish the rear accessory structure and has also requested Historic Tax Certification for the primary historic structure on the property.
- b. DEMOLITION The applicant is requesting approval for the demolition of the rear accessory structure only. There are not replacement plans proposed at this time. In general, accessory structures contribute to the character of historic properties and the historical development pattern within a historic district.
- c. CONTRIBUTING STATUS- In January 2018, the applicant submitted an application for non-contributing status for the rear accessory structure. The structure was determined to be contributing. The structure appears on the

1951 Sanborn Map; however, the structure features a narrower footprint than that which currently exists. While several original materials are intact, many elements have experienced deterioration; however, staff finds the structure is still contributing to the district.

- d. UNREASONABLE ECONOMIC HARDSHIP In accordance with UDC Section 35-614, no certificate shall be issued for demolition of a historic landmark unless the applicant provides sufficient evidence to support a finding by the commission of unreasonable economic hardship on the applicant. In the case of a historic landmark, if an applicant fails to prove unreasonable economic hardship, the applicant may provide to the historic and design review commission additional information regarding loss of significance. In order for unreasonable economic hardship to be met, the owner must provide sufficient evidence for the HDRC to support a finding in favor of demolition. In the submitted application, the applicant has indicated that the structure no longer serves a purpose and poses a safety and health hazard due to structural shifts, deteriorated elements and inappropriate electrical wiring. The applicant has provided a second report from a contractor noting that the repair of the existing structure would be cost prohibitive. Staff finds that evidence for UDC Section 35-614(b) has been met based on the documentation provided.
- e. LOSS OF SIGNIFICANCE –In accordance with UDC Section 35-614(c), demolition may be recommended if the owner has provided sufficient evidence to support a finding that the structure has undergone significant and irreversible changes which have caused it to lose the historic, cultural, architectural or archaeological significance, qualities or features which qualified the structure or property for such designation. Staff finds that a loss of significance may have occurred due to the substantial deterioration of original materials.
- f. HISTORIC TAX CERTIFICATION At the November 15, 2017, Historic and Design Review Commission hearing, the applicant received approval to install new roofing, perform foundation repair, repair damaged wood siding and painting. The applicant has also noted interior improvements which include installation of new drywall, electrical upgrades, plumbing upgrades, repair of wood interior elements and the installation of new insulation. Other exterior rehabilitative scopes include window repair. The requirements for Historic Tax Certification outlined in UDC Section 25-618 have been met and the applicant has provided evidence to that effect to the Historic Preservation Officer including photographs and an itemized list of costs.

RECOMMENDATION:

Staff recommends approval of item #1, the demolition of the rear accessory structure with the stipulation that materials from the historic accessory structure including salvageable wood siding, wood doors and wood windows be salvaged for use on site in future construction.

Staff recommends approval of item #2, Historic Tax Certification based on finding f.

CASE MANAGER:

Edward Hall

222 West Guenther Street

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ATS Consulting Engineers, Inspectors & Surveyors

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12.12.17



PROPERTY CONDITION INSPECTION: 222 W. Guenther San Antonio, Texas 78204

Bob Murray 222 W. Guenther San Antonio, TX 78204





Mr. Bob Murray 222 W. Guenther San Antonio, TX 78204

December 12, 2017

Introduction

The property condition inspection of 222 W. Guenther, San Antonio, Texas, was performed at the request of Mr. Bob Murray. A representative of ATS Engineers conducted the site inspection on December 5, 2017.

The purpose of the inspection was to assess the current condition of the structural, mechanical, electrical and plumbing aspects of the property with consideration to the 2015 *International Existing Building Code* (IEBC) adopted by the City of San Antonio, Texas. Specifically, ATS Engineers has been engaged to provide its opinion as to whether the structure has become so out of repair as to be *dangerous*, *unsafe*, unsanitary, or otherwise unfit for human habitation or occupancy.

The *IEBC* offers the following definitions:

DANGEROUS. Any building, structure or portion thereof that meets any of the conditions described below shall be deemed *dangerous*:

1. The building or structure has collapsed, partially collapsed, moved off its foundation or lacks the support of ground necessary to support it.

2. There exists a significant risk of collapse, detachment or dislodgment of any portion, member, appurtenance or ornamentation of the building or structure under service loads.

UNSAFE. Buildings, structures or equipment that are unsanitary, or that are deficient due to inadequate means of egress facilities, inadequate light and ventilation, or that constitute a fire hazard, or in which the structure or individual structural members meet the definition of *"Dangerous,"* or that are otherwise *dangerous* to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance shall be deemed unsafe. A vacant structure that is not secured against entry shall be deemed unsafe.

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Report Limitations

Limited visual, non-intrusive examinations were performed as described in this report. No property condition inspection can wholly eliminate the uncertainty regarding the presence of physical deficiencies and the performance of a subject property's building systems. There are no representations of a warranty or guarantee, expressed or implied, concerning the kind of building materials used, or the future performance of the structure or its systems.

No mold or air quality testing was performed by ATS Engineers. No water quality testing was performed. No life safety inspections were performed. No hazardous material testing was completed. No environmental testing was completed by ATS Engineers. Samples of materials were not taken for laboratory testing. The following observations, opinions, and recommendations, are based entirely upon our visual examination.

This report describes visual observations made by ATS Engineers and does not include general recommendations for remedial actions. No detailed structural analysis of existing members has been performed, and no rehabilitation designs are provided in this report. ATS Engineers makes no warranties or guarantees, either expressed or implied, that all items of a deficient nature and/or improper construction techniques, etc. have been discovered and commented upon in this report. This report has been prepared to identify current deficiencies observed on the date of inspection and should not be considered an exhaustive description of every item that may require remedial attention. In some cases, additional examinations may be warranted to fully evaluate the deficiencies noted. Portions of the items inspected were covered, inaccessible or unavailable, therefore, unable to be thoroughly inspected.

This report has been prepared solely for the client's use and has been prepared in consideration of verbal and written information exchanged between client and engineer. Reliance upon this report by anyone other than the client is not authorized by engineer and shall be at the third party's sole risk. No warranty or guarantee is offered to any third party.

Building Observations

This section describes ATS Engineers' opinions of *dangerous* and *unsafe* conditions as defined by the 2015 International Existing Building Code.

- 1. Portions of the existing roof decking are deteriorated and decayed. The roof is no longer effective at preventing rain from entering the structure. Roof leaks are evidenced by damaged and/or deteriorated roof framing and wall components (Photos #5 and #6). This creates a "dangerous" condition as defined by the *IEBC*.
- 2. Many portions of the roof, fascia and wall wood-framing members are decayed, deteriorated and/or inadequately designed to support the service loads required by the adopted code. The wood siding is decayed and unable to properly support the shed doors (Photos #6 and #11). This creates a "dangerous" condition as defined by the *IEBC*.
- 3. There are exposed, nonmetallic wiring "NM" wiring connections that are improperly made and/or are not secured within a listed enclosure as required by the *National Electrical Code* (NEC) (Photo #10). This constitutes an *"unsafe"* condition as defined by the *IEBC.*
- 4. The structure is defected approximately 4-inches out of plane (Photo #1). It is ATS Engineers' opinion that the structure is not sufficiently laterally supported to resist the service loads described in the adopted code This constitutes an "unsafe" condition as defined by the IEBC.
- 5. The shed is not sealed to prevent the entrance of rodents (Photos #7 and #9). This creates an unsanitary condition. This constitutes an *"unsafe"* condition as defined by the *IEBC*.
- 6. The adjacent shed is not adequately secured against entry as the doors can be pulled open (Photo #9). This constitutes an *"unsafe"* condition as defined by the *IEBC.*
- 7. As evidenced by these deficiencies, the structure has been inadequately maintained. This constitutes an *"unsafe"* condition as defined by the *IEBC*.
- 8. It is ATS Engineers' opinion that the building creates a fire hazard. This constitutes an *"unsafe"* condition as defined by the *IEBC*.

Summary Conclusion

The International Existing Building Code, Section 117 "Demolition" states the following:

117.1 General

"The code official shall order the owner of any premises upon which is located any structure that in the code official's judgment is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure."

It is ATS Engineers' opinion, that the structure contains *unsafe* and *dangerous* conditions as defined by the *IEBC*. It is ATS Engineers' opinion that the structure is not fit for human occupancy and that it is unreasonable that the building be made safe by repair. It is ATS Engineers' opinion that the structure be demolished and removed.

Please contact me if you have questions,

Rick Roberts, P.E. Professional Engineer Firm #2487



4



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10











1315 Basse Rd. San Antonio, Texas 78212-1009 (210)821-6000 Fax (210)826-2221 dwr@dunn-wright.net

Mr. Bob Murray 423 Blue Star St. #5204 San Antonio, TX 78204

December 27, 2017

Mr. Murray;

Mr. Murray – As per your request, I inspected the property at 222/224 W. Gunther and the out building and found the following:

Photo 1: Shows front of garage, facing the side street. Doors are T-111, <u>not</u> board and batton. Also the front walls and roof were extended approximately 2' at some point (see seam at roof). The roof also has a "coating" applied. Not original roof.

Photo 2: Shows side of extended wall and roof which is failing.

Photo 3 & 4: Because the structure has no slab or foundation, it sits on the ground and is lower than the surrounding yard. The bottom is completely rotted on sides and back.

Photo 5: The right side shows failure at the 18" extension scabbed on to the original structure causing separation from the original structure.

Photo 6, 7, & 8: Because the structure has no foundation, the walls, siding, etc. are sinking into the ground causing major separation in the roof and walls which is causing leaks and rot at framing members.

Photo 9, 10, & 11: Because the building is so out of square and separated, the original standing seam roof is separated in several areas.

Photo 12 & 13: Because of lack of a foundation, the walls have sunk disproportionately. The back wall is approximately 6" out of level.

Photo 14 & 15: The center door is impossible to properly open and close.

Photo 16: Because the structure sits on the ground, the framing members are rotted and has caused termites to invade.

Photo 18 & 19: Because water has infiltrated the structure from the roof, walls and bottom of siding, several attempts to add flashing at bottom of siding have been made which trapped more water and failed.

Furthermore, the building is approximately 7'-5" behind the duplex on the property and 6'-6" from back "shot gun" house. The building code/building inspectors require out buildings to be 10' or more from back of home.

Therefore, it is my opinion that to 'repair" this structure would be impossible and cost prohibitive as the walls/framing will continue to sink and cause further damage. It could never be guaranteed that it would not leak.

It would be more productive to remove the building and start over, with a slab foundation. The board and batton siding and the standing seam roof would be easily matched to the original structure.

If you have any questions please do not hesitate to contact me.

Thank you

Jeff Stief General Manager



































