



City of San Antonio

Legislation Details (With Text)

File #: 18-1038
Type: Zoning Case
In control: Board of Adjustment
On agenda: 12/18/2017
Title: A-18-021: A request by Tobias Stapleton for an appeal of the Historic Preservation Officer's decision to deny a request for demolition of a structure, located at 205 Ostrom Drive. Staff recommends Denial. (Council District 1)
Sponsors:
Indexes:
Code sections:
Attachments: 1. A-18-021 Attachments

| Date | Ver. | Action By | Action | Result |
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Case Number: A-18-021
Applicant: Tobias Stapleton
Owner: Tobias Stapleton
Council District: 1
Location: 205 Ostrom Drive
Legal: Lots 1 and 2, NCB 69389
Description:
Zoning: "R-4 CD H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District with Conditional Use for Two Dwelling Units
Case Manager: Cory Edwards

Request

An appeal of the Historic Preservation Officer's decision to deny a request for demolition of a structure.

Applicable Code References

(a) UDC 35-451.a. Certificate of Appropriateness. Applications proposing work or changes to the exterior of a landmark, in a historic district or in a river improvement overlay district, shall require review for appropriateness with the provisions of this article, and any adopted design guidelines. In addition, the demolition or relocation of any structure designated historic shall also require review for appropriateness in the same manner.

(b) UDC 35-614. Demolition. 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 as provided in subsection (c) in order to receive a historic and design review commission recommendation for a certificate for demolition.

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 provide sufficient evidence to support a finding by the commission 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.

Issuance of a 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.

(c) UDC 35-451 and 35-481. Appeals to the Board of Adjustment. The Board of Adjustment is empowered to consider an appeal of a decision by an administrative official, in this case, the Historic Preservation Officer (HPO). The appeal must be submitted by a person aggrieved by the decision. The appeal must include details regarding the incorrect interpretation made by the administrative official. In determining whether or not to grant the appeal, the board of adjustment shall consider the same factors as the commission and the report of the commission.

Background and Interpretation

The house located at 205 Ostrom was constructed circa 1935 and is located within the River Road Historic District. The structure features architectural elements that are indicative of the Minimal Traditional Style that is characteristic of the district. The house features many of its original materials including wood siding and wood windows. Modifications to the form of the historic structure include the enclosure of the front porch and other additions. The house is a contributing resource within the River Road Historic District due to its construction date and architectural style.

The initial request of the applicant to demolish the historic house at 205 Ostrom was received and determined complete by OHP staff on April 27, 2017. The proposed demolition was properly noticed and reviewed for a minimum of 60-days in accordance with the UDC.

The demolition request was thoroughly reviewed by the HDRC at multiple subcommittee meetings, site visits, and public hearings prior to formal action by the Commission:

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| February 21, 2017 | Design Review Subcommittee |
| March 22, 2017 | Design Review Subcommittee (Site Visit) |
| April 25, 2017 | Design Review Subcommittee |
| May 17, 2017 | 1 st HDRC Hearing - Withdrawn by Applicant at Hearing |
| June 28, 2017 | Design Review Subcommittee (Site Visit) |
| July 25, 2017 | Design Review Subcommittee |
| August 2, 2017 | 2 nd HDRC Hearing - Withdrawn by Applicant at Hearing |
| September 12, 2017 | Design Review Subcommittee |
| September 20, 2017 | 3 rd HDRC Hearing - Withdrawn by Applicant at Hearing |
| October 25, 2017 | Design Review Subcommittee |
| November 1, 2017 | 4 th HDRC Hearing - Recommendation for Denial |

The loss of a contributing structure is an irreplaceable loss to the quality and character of San Antonio. In accordance with the UDC, demolition of any contributing buildings should only occur after every attempt has been made, within reason, to successfully reuse the structure. Clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved must be presented by the applicant in order for demolition to be considered. The criteria for establishing unreasonable economic hardship are listed in UDC Section 35-614 (b)(3):

- 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.*

In his application, the applicant provided information that summarizes his financial losses should demolition not be approved. However, these losses are circumstantial of the purchase property by the applicant and do not address the criteria established by the UDC. Most notably, the applicant has not provided staff with information noting the active marketing of this property to potential purchasers. The applicant has owned this property for approximately one year. Criterion C listed above requires attempts to sell the property for a minimum of two years. This provision is intended to prevent the new purchase of a historic property with the intent to demolish.

At the public hearing on November 1, 2017, the HDRC concurred with staff's findings that the requirements for demonstrating an unreasonable economic hardship had not been met by the applicant, nor had a loss of significance occurred which would warrant the proposed demolition. Based on these findings, the HDRC recommended denial of the request to demolish the historic house at 205 Ostrom. This decision is outlined in the Commission Action letter issued by the Historic Preservation Officer.

This decision is consistent with past recommendations. In 2011, a demolition request for a house located at 112 Lindell in the River Road Historic District was also recommended for denial by the HDRC.

On December 20, the HDRC will consider an alternative request by the applicant to construct a detached accessory building on the property with the intent to rehabilitate the historic house in place. Should the Board of Adjustment deny the appeal, the applicant would still be able to pursue this alternative.

Staff Recommendation

Staff recommends that the Board of Adjustment uphold the Commission Action letter dated November 1, 2017, by the Historic Preservation Officer to deny the demolition of 205 Ostrom.