



# City of San Antonio

## Agenda Memorandum

**File Number:**17-1578

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**Agenda Item Number:** 5.

**Agenda Date:** 2/8/2017

**In Control:** Governance Committee

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**DEPARTMENT:** Office of Historic Preservation; Development Services Department

**DEPARTMENT HEAD:** Shanon Miller, Director; Michael Shannon, Interim Director

**COUNCIL DISTRICTS IMPACTED:** All

### **SUBJECT:**

Potential amendments to the Unified Development Code relating to penalties for demolition without a permit.

### **SUMMARY:**

District 1 Councilman Roberto Treviño has submitted a City Council Resolution to establish additional penalties for illegal demolition of historic properties and properties located within Neighborhood Conservation Districts. These changes will require an amendment to Article 4, Procedures, and possible changes to Article VI, Historic Preservation and Urban Design, of the Unified Development Code (UDC).

### **BACKGROUND INFORMATION:**

The UDC outlines a demolition review process for all properties within city limits. As part of the current process, the Office of Historic Preservation reviews each permit application and determines whether the property has a historic designation or is eligible for historic designation. Demolition of a designated historic property requires HDRC approval with proof of an economic hardship or loss of historic significance. For eligible properties that do not currently have a historic designation, the Historic Preservation Officer may forward the property to the HDRC for a Finding of Historic Significance at his / her discretion. This process allows for proper notification and public input regarding demolition requests that impact significant properties and neighborhoods.

Under the UDC, the City may impose penalties for the illegal demolition of historic properties as authorized by state law. Civil penalties for an illegal demolition of a historic property include a requirement to reconstruct the demolished building, denial of all future permits on the property for a 5-year period, and revocation of the contractor's license for a 5-year period. The City may also pursue criminal penalties which could result in a fine

of \$2,000 per day, per offence.

Neighborhood Conservation Districts (NCD's) are a zoning overlay tool used by neighborhoods to provide design standards for building alterations and infill construction. Unlike properties with a historic designation, the NCD overlay does not establish HDRC oversight of a demolition request, and special penalties for illegal demolition are not applied. Currently, an illegal demolition would be considered work without a permit and offenders would only be subject to a standard, doubled permit application fee. Councilman Treviño has requested that additional penalties be explored for NCD's and other properties that are considered eligible for historic designation.

## **ISSUE:**

NCD's are distinctive neighborhoods with associations that actively participate in the development review process. They typically have an older building stock, and NCD's such as Beacon Hill, Alta Vista, Westfort, and Mahncke Park are considered eligible for historic designation. Like historic districts, they are often the target of infill housing due to the desirability, convenience, and resale value of the neighborhoods. Property owners or investors who expect to be denied a demolition permit due to the property's eligibility for historic designation may choose to illegally demolish the building with little repercussion. Similarly, a property owner may choose to perform irreversible damage or alterations, which do not require a demolition permit, that may affect the property's eligibility status at any point during the current demolition review process.

A demolition may also occur very quickly through the use of heavy machinery. An illegal or even accidental demolition can harm the quality and character of an older neighborhood. Likewise, irreversible damage could be done before the City even receives notice of a potential violation. A slower process for the demolition of older buildings will aide to ensure that eligible properties receive adequate protection.

While there is desire to implement additional penalties for illegal demolition of these eligible properties, state law does not enable municipalities to distinguish NCD's the same way that it does with historic properties. Therefore, any additional penalties must be applied citywide.

To address these issues, staff proposes UDC Amendments which strengthen civil penalties for citywide demolitions and closes loopholes for potentially-eligible properties that are under review. Staff proposes a fine of \$2,000 and other penalties including a five-year hold on permit requests and revocation of the contractor's license, similar to historic properties. As part of the historic assessment performed by OHP, staff proposes a written notification of historic eligibility to the property owner which establishes a period of time under which the property would be subject to the same review requirements as a historic property. This would allow for proper notification and public input and place temporary design review controls for actions affecting the exterior of the property.

To slow down demolition activities, staff will explore and provide recommendations for a citywide "dismantling ordinance" which establishes a local salvaging and materials reclamation program for older buildings with a recommendation from this committee. Similar programs have been successful in eliminating landfill waste, creating jobs, and promoting sustainability goals.

## **ALTERNATIVES:**

As an alternative, no UDC amendments would be made to provide disincentives for illegal demolition. Properties that are eligible for historic designation would continue to have little protection and demolition could

occur with little or no public notice.

No changes would be made to the current method for demolition of older buildings, and valuable construction materials would continue to contribute to landfill waste.

### **FISCAL IMPACT:**

Costs associated with UDC amendments include legally-required notifications and publications. These costs are currently budgeted.

The implementation of a new fine for illegal demolition would result in additional revenue when applied.

The creation of citywide dismantling program would likely have costs associated with the development of the program, its promotion, and contractor certification process. With direction to move forward, a detailed fiscal impact assessment for this item would be provided at a future committee meeting.

### **RECOMMENDATION:**

Staff concurs that additional penalties for illegal demolition are necessary to safeguard the quality and character of our historic, aging, and diverse neighborhoods and recommends that proposed UDC Amendments be presented to the Neighborhoods and Livability Committee.

Staff also recommends that a “dismantling ordinance” be further explored. Additional recommendations and options would be provided to the Neighborhoods and Livability Committee.