

Historic Architectural Review Commission
Staff Report for Item 18

To: Chairman Haven Burkee and Historic Architectural Review
Commission Members

From: Enid Torregrosa-Silva, MSHP
Historic Preservation Planner

Meeting Date: February 27, 2024

Description of Work

Proposed text amendments to Sec. 122 Article II of the Land Development Regulations.

During the past months city staff from the building department have proposed text amendments to the Nonconformities Section of the Land Development Regulations. A first reading of the proposed ordinance, which is part of the file, was approved by City Commission on January 11, 2024, with conditions that staff worked together for consensus with other city's staff. Meetings are still ongoing between planning, building and legal departments.

HARC staff has always been conscious of how the Nonconformities section of the LDR does not promote the preservation of historic buildings, but rather opens the possibilities of destruction of historic fabric to build back a new structure with new materials, challenging the purpose of preservation. The current ordinance establishes only one regulation specific to the historic district under Replacement or reconstruction:

(f) Historic district. Notwithstanding any other subsection contained in this section, if a noncomplying building or structure is a contributing building or structure according to the historic architectural review commission (HARC) and it is involuntarily destroyed, such building or structure may be reconstructed or replaced without a variance so long as it is to be rebuilt in the three-dimensional footprint of the original building and built in the historic vernacular as approved by the historic architectural review commission.

Staff finds this redundant as at the beginning of the Section involuntarily replacement or reconstruction is treated the same way either for dwelling units (residential) or properties without dwelling units:

(b) Dwelling units (residential). Residential dwelling units may be replaced at their existing nonconforming density, location and three-dimensional building envelope. Dwelling units involuntarily destroyed do not require variances to be reconstructed or replaced. If a voluntary reconstruction or replacement occurs and if the dwelling units exist or existed in a noncomplying building or structure, the reconstruction or replacement that increases the nonconformity of the

building or structure shall require a variance granted by the planning board. In a voluntary reconstruction of a structure on a corner lot, the property owner must apply to the planning board for all necessary setback variances.

(d) Properties without dwelling units. For a proposed reconstruction or replacement of a property without dwelling units, where that property is either a nonconforming use or a noncomplying building or structure, (i) if the property is involuntarily destroyed, reconstruction or replacement does not require a variance; and (ii) if voluntarily destroyed to the extent that reconstruction or replacement would exceed 50 percent of the property's appraised or assessed value, the applicant must apply to the planning board for a variance.

Both regulations apply to the historic district whether the reconstruction or replacement is for voluntarily or involuntarily demolition.

The main concern of staff is that there is truly no provision under the nonconformities section that contains language for the protection of contributing, altered contributing or buildings deemed historic by the City Commission. **Reconstruction is the opposite of preservation**, and it is a treatment that shall not be used, but just under specific circumstances and as a last option. There are four basic standards for treatment of historic properties established by the US. Secretary of the Interiors, preservation, rehabilitation, restoration, and reconstruction. The Secretary of the Interior's established the following statement:

*“**Reconstruction** is different from the other treatments in that it is undertaken when there are often no visible historic materials extant or only a foundation remains. Whereas the treatment Restoration provides guidance on restoring historic building features, the Standards for Reconstruction and Guidelines for Reconstructing Historic Buildings should be followed when it is necessary to recreate a non-surviving building using new material. But, like restoration, reconstruction also involves recreating a historic building which appears as it did at a particular—and at its most significant—time in its history. Because of the potential for historical error in the absence of sound physical evidence, **this treatment can be justified only rarely and, thus, is the least frequently undertaken of the four treatments.** Reconstructing a historic building should only be considered when there is accurate documentation on which to base it. When only the appearance of the exterior of the building can be documented, it may be appropriate to reconstruct the exterior while designing a very simple, plain interior that does not attempt to appear historic or historically accurate. Signage and interpretative aids should make it clear to visitors that only the exterior of the building is a true reconstruction. Extant historic surface and subsurface materials should also be preserved. **Finally, the reconstructed building must be clearly identified as a contemporary recreation.**”*

The Land Development Regulations and the Comprehensive Plan provide policies for the preservation of historic resources. For the City, there is a reason why the Historic Architectural Review Commission was created by Charter.

After consulting with planning staff the following text amendments are proposed by HARC staff specifically to the Nonconforming section of the LDR's.

Sec. 122-32. – Historic District.

(A) Purpose.

The general purpose of these regulations is to protect and encourage the restoration, rehabilitation and preservation of sites and districts within the city having special historic, architectural, or archeological value to the public. This general purpose is reflected in the following specific goals:

(1) The identification of historic sites and districts;

(2) The protection of such historic sites and districts to combat urban blight, promote tourism, foster civic pride, and maintain physical evidence of the city's heritage;

(3) The encouragement and promotion of restoration, preservation, rehabilitation and reuse of historic sites and districts by providing technical assistance, investment incentives, and facilitating the development review process;

(4) The promotion of excellence in urban design by assuring the compatibility of restored, rehabilitated, or reused buildings or structures within designated historic districts; and

(5) The protection of all contributing, contributing altered buildings and structures in the city's designated historic zoning districts or on designated historic sites from unlawful demolition, demolition by neglect and the failure of property owners to maintain and preserve the structures.

(B) Reconstruction. Reconstruction is a treatment that is contrary to historic preservation, and it is discouraged for replacing historic buildings that can be restored, repaired, or retrofitted. Voluntary demolition or partial demolition of a non-conforming contributing, alter contributing or a historic building or structure declared by the city commission shall be approved by the historic architectural review commission, prior to the issuance of a building permit, as stipulated under Chapter 102, unless deemed unsafe by the chief building officer, as per Chapters 14 and 102.

(C) Demolition Policies.

The loss of contributing, contributing altered or any building or structure declared historic by the city commission shall be prevented. It is hereby declared by the city commission that the preservation and conservation of properties of historical, architectural, and archeological merit in the city is a public policy of the city and is in the interest of the city's future prosperity.

(D) General. Alterations to structures located within the Historic District shall be governed by Chapter 102 (Historic Preservation) and the Historic Architectural Guidelines. This shall include, but not be limited to:

(1) Ordinary repairs and maintenance.

(2) Expansions- Additions, Alterations, and Demolition.

(3) Relocation.

(4) Termination – Abandonment or Discontinuance by Demolition or Removal.

(5) Damage or Destruction.

(6) Amortization.