

# CHAPTER 6 DEMOLITION AND ECONOMIC HARDSHIP



## Demolition

The majority of structures throughout the Canal Place Preservation District are considered contributing structures to the overall district. The loss of any one of these structures could have an adverse effect upon the district and considerations for requests to demolish structures within the district will be carefully considered. Demolition of any structure, as a rule, is discouraged.

The HPC's review of an application involving demolition could take place over the course of two meetings, especially if the demolition involves new construction on the site.

### PROCEDURE FOR A DEMOLITION APPLICATION

The procedure for filing an application and receiving a Certificate of Appropriateness involving full or partial demolition of a building or structure within the Canal Place Preservation District is generally the same as outlined in Chapter 2 of these guidelines. However, **additional supplemental information is required for demolition projects involving contributing buildings**. Briefly, the applicant is required to do the following (refer to Chapter 2 for a full description):

1. Apply for all other relevant building permits prior to filing for a COA.
2. Complete a COA application, including all required supplemental information.
3. Submit one original and eleven copies of all supplemental documentation along with the complete COA application to the Preservation Coordinator in the Department of Community Development at City Hall.
4. Once the application is determined to be complete, the

application will be scheduled for discussion at the HPC's next regularly scheduled meeting.

5. The applicant is required to attend the meeting to discuss the project.

### REQUIRED SUPPLEMENTAL INFORMATION FOR A DEMOLITION APPLICATION

The following material will be required for all applications involving the full or partial demolition of a contributing structure. The following information should be included with the COA application (Steps 2 and 3 in the procedure for obtaining a COA):

- a. Form of ownership of the property.
- b. Cost of the proposed demolition or removal.
- c. The fair market value as determined in a professional appraisal.
- d. A report from a licensed engineer in the State of Maryland as to the structural soundness of the building and its feasibility for rehabilitation for the intended purpose of the project.
- e. An itemized breakdown from a professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure.
- f. Amount paid for the property, the date of purchase, and the party from whom it was purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased. Remaining balance on any mortgage or other financing secured by property and annual debt service, if any, for the previous two years.

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- g. If the property is income producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the past two years.
- h. Price asked and offers received, if any, within the previous two years.
- i. A list of alternatives (with costs involved, names of contractors and any bids submitted) that were considered and the reasons why those alternatives were rejected.
- j. Brief property history including a chain of title. Include building use over time, if known.
- k. The HPC or the Preservation Coordinator may request additional information specific to the project.

- e. If the structure has character, interest and value, contributing to the heritage of the City;
- f. If the structure reflects outstanding attention to detail, architectural design, materials or craftsmanship;
- g. If the structure demonstrates characteristics that make a recognizable entity in the district and whether the loss of this structure would have an adverse effect upon the greater surrounding streetscape;
- h. Whether the structure represents an established and familiar feature of the district due to factors such as its location or physical characteristics;
- i. Whether the structure provides certain historic or scenic value significant to the area.

## HISTORIC PRESERVATION COMMISSION REVIEW CRITERIA

In reviewing an application for the demolition of a contributing resource to the Canal Place Preservation District, the Historic Preservation Commission will take into consideration the following criteria:

- a. All factors contained in Section 11 (Historic Area Regulations) of the Cumberland Zoning Ordinance;
- b. If it is eligible for listing, or listed in the National Register of Historic Places;
- c. Its historic and cultural significance to the nation, county, or city;
- d. Any architectural and design significance and whether it represents features which are not duplicated elsewhere in the district;

## DOCUMENTATION REQUIREMENTS FOR AN APPROVED DEMOLITION APPLICATION

The following information must be provided to the Commission staff by the applicant prior to the commencement of demolition:

- a. A site plan drawn to scale showing the placement of the historic building(s) on the property.
- b. A series of digital photographs and 5" x 7" photographic prints on archival paper depicting all elevations and angles of the property (front, rear, sides), as well as the historic building or structure in relation to adjacent buildings or structures. All prints must be labeled and numbered.

## PARTIAL DEMOLITION

The same procedures, supplemental application information, and review criteria as listed above will be used by the Commission in their review of partial demolitions, including the course of action for contributing versus non-contributing structures or original versus later additions that are proposed for removal.

## STANDARDS FOR THE TREATMENT OF CLEARED LOTS

The following guidelines must be adhered to for the treatment of cleared lots following demolition within the district:

- a. *Grading and Filling Vacant Lot:* The top 6 inches of a recently cleared lot must be brought up to the grade of the adjacent sidewalk with clean topsoil showing no stones above the surface. As a rule, vacant lots may not be used for parking, unless the owner can certify to the Historic Preservation Commission that new construction on the lot will occur within a reasonable period of time deemed agreeable to both parties. Requests for the use of vacant lots for parking will be reviewed on a case-by-case basis. The applicant will be required to show why the parking is needed on that site and can not be accommodated by alternate means, especially since the majority of the Preservation District is within the B-CBD zoned district – a district in which parking is not required to be provided by the property owner on site.
- b. *Screening of Vacant Lots:* If the vacant lot is to remain undeveloped, the entire lot should be seeded. If the Commission approves the location of parking on a vacant lot, the owner will be required to visually screen the lot to minimize its appearance through the use of landscaping or fencing that has been approved by the Commission. If used for parking, the lot, along with the strip of land between the edge and the sidewalk, should be seeded.

## Demolition by Neglect

The definition and following procedures for a property involving *demolition by neglect* is from the Cumberland Zoning Code Section 11 Historic Area Regulations, part 11.03(6) and 11.08.

Demolition by neglect shall mean any willful neglect in the maintenance and repair of an individually designated landmark, site or structure, or a site or structure within a designated preservation district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmarks, sites, structures, and which results in any of the following conditions:

- a. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
- b. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

## PROCEDURE

1. In the event of a case of demolition by neglect, the Commission may request the Department of Community Development to notify, in writing, the property owner(s) of record, any person(s) having a right, title, or interest therein, and the occupants or other person(s) responsible for the maintenance of the property, of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration.

2. Prior to the issuance of a written notice, the Commission may request the Department of Community Development to establish a record of demolition by neglect. Such a record may include dated materials such as photographs and/or written reports of the condition of the property so as to record and/or measure the deterioration.

3. The notice shall provide that corrective action shall commence within thirty (30) days of receipt of said notice and be completed within a time defined by the Commission in consultation with the property owner. The notice shall state that the owner(s) of record of the property, or any person(s) of record with any right, title or interest therein, may, within ten (10) days after the receipt of the said notice, request a hearing on the necessity of the items and conditions contained in said notice. In the event a public hearing is requested, it shall be held by the Commission upon thirty (30) day's written notice being mailed to all persons of record with any right, title or interest in the property and to all citizens and organizations which the Commission determines may have an interest in the proceedings.

4. If, after the public hearing, the Commission determines that the corrective actions remain necessary, the Commission may request the Department of Community Development to issue a Final Notice to be mailed to the owner(s) of record and all parties of record with any right, title or interest in the subject property, advising them of the items of repair and maintenance necessary to correct or prevent further deterioration. The owner(s) shall institute corrective action to comply with the Final Notice within thirty (30) days of receipt of the revised notice.

5. Upon failure, neglect, or refusal of the property owner(s) or other responsible person(s), duly notified, to take the corrective action(s) specified in the Final Notice, within the time allotted, the Commission may request that the Department of Community

Development institute any of the remedies and penalties provided by law for said violations.

## Economic Hardship

The following explanation is from the Cumberland Zoning Ordinance Section 11 Historic Area Regulations, part 11.07.05.

In acting upon an application for a certificate of economic hardship, the Historic Preservation Commission is required to determine whether the economic impact of the historic preservation law, as applied to the property owner, has risen to the level of economic hardship. An applicant seeking a COA may apply for a "Certificate of Economic Hardship" **only after the HPC has denied his or her request to alter or demolish a historic property** protected under the preservation ordinance. In support of an application for relief on economic hardship grounds, the applicant must submit evidence sufficient to enable the HPC to render a decision. The burden of proof is on the applicant.

Economic hardship is defined as consistent with the legal standard for an unconstitutional regulatory taking, which requires a property owner to establish that he or she has been denied all reasonable beneficial use or return on the property as a result of the commission's denial of a permit for alteration or demolition.

Refer to part 11.07.05 of the Cumberland Zoning Ordinance for the required documentation and the review criteria to be used by the Historic Preservation Commission in reviewing such an application.