

May 18, 2017 HAHC Meeting Transcript

Matthew Kriegl: The applicant requests approval to demolish a one story contributing residence under unusual and compelling circumstances. The HAHC denied a COA for the demolition of the existing residence in November of 2014 under the criteria for both unreasonable economic hardship and unusual and compelling circumstances. In 2010, the previous owner received a Certificate of Appropriateness for an addition that was never constructed, though interior demolition began in 2011 without permits. The current owner acquired the property in as-is condition and knew of the most visible deficiencies, including the missing floor, the missing plumbing, electrical, etc. upon purchase in 2014. In 2014, upon application for demolition the first time, structural and termite reports were obtained by the owner and submitted to the HAHC identifying not only obvious issues, but more technical concerns. Under the current owner, the residence has remained vacant, and the house has further deteriorated. All of the windows have been removed by vandals and termite issues have yet to be remedied. The house was only recently boarded up by the owner to prevent further damage and vandalism. In the previous HAHC meeting, it was discussed that the termite and other structural damage might constitute an unusual and compelling circumstance. However, no evidence was observed by staff or provided in the application materials to suggest that the historical material is so damaged that it is not repairable. Based on the submitted structural reports in conjunction with staff observations, the house was not built to existing modern code, as is the case for all of our historic buildings in all of our historic districts, and had some of its structural components removed. This is not a case for demolishing the house, since the code issues are mostly grandfathered and can be remedied by reinforcing existing materials. Missing components can be replaced or reinstalled to meet current code. The owner also peeled away portions of the two outer layers of siding to reveal original wood siding. The historic material on the exterior of the building our staff was able to observe is in relatively sound condition. Staff observed some termite damage, but that was most severe in locations of past leaking pipes. The request for demolition was denied in 2014, saying there was not an unreasonable economic hardship, based on the four criteria. The HAHC also denied the project under the 3 criteria for unusual and compelling circumstances. Although new information has been submitted for staff to review, none of that material substantiates that there is an unusual and compelling circumstance, based on the criteria. Any change in the condition of the property, including further deterioration, loss of historic material, and unmitigated termite issues, has occurred under the current ownership since 2014. And at the very least, the applicant should take immediate action to halt and prevent further deterioration from neglect and vandalism. See enclosed application materials and detailed project description on page 6-27 for further details. See attachments A, B, C, D, and E for more detail. And, staff received five public comments, 3 in support, and 2 in opposition, and we are recommending denial.

Chair Minnette Boesel: Thank you, we have several people here as speakers. The first is Mr. Ryan Strickland, to be followed by Mr. Andres Melgoza. And you are the owner of the property, is that correct?

Ryan Strickland: Yes ma'am, good afternoon. I did buy the property back in 2014. At the time, the previous owners that had the property relayed to me their plans, they showed me the plans that they had had approved. They had the addition on the back that was approximately 500 square feet. I bought it and they told me that it should be a fairly easy remodel, but it was too big of a scope for them because

they were a little bit older. So, I took the project on. This is to be my personal home. We went right away and met with architects and engineers at the site about 4-6 weeks after I closed on it. At that time, the engineers made it apparent that this is not something they think can be saved – not reasonably. And that being that they thought that there was so much replacement there, that when we were done we could be looking at anywhere between 80-90% by the time it was all taken into consideration. I do realize that these are balloon framed houses, they're different than framing styles now. There are differences, and there are certain things that got by with code then that don't now. That stuff doesn't always have to be changed and I do understand that. However, in this house, the previous owner had stripped off all of the inside ship lapping, the only ship lapping that remains is on the center interior walls. Some of them are so eaten by termites that you can literally see through the ship lap into the next room. Staff has made a lot of comments on here that I'm not really sure why. Somethings are very inaccurate, like when I bought the property, there were trees growing into the house. I removed all the branches, so that nothing would touch the roof of the house or the side of the house, and I've kept that maintained. I've kept the yards maintained and I removed the bushes that were growing into the front porch, which is very rotted and deteriorated. I kept the house locked, and after a series of people kicking in the front door and breaking several windows to get into the house, I had decided to board the entire house up. We had vagrants living in there, I had the police come and remove them several times. It kept happening, and there are people who live near me with small children. They were concerned and I understand their concern. I didn't want them there either, it's a liability for me as well. I boarded it up, I even used screws that use the star bits, it's not a standard bit, so that somebody couldn't just come and remove it off. Even after doing all this, somebody then afterwards – they said I just recently did it in their notes, I didn't even discuss when I did it. I have pictures showing I put it up December 23rd, 2015, so it's been on there ever since. Shortly thereafter, within a span of the next 6-7 weeks, somebody ripped the boards off the back of my house, went inside, removed all the shiplap from the ceilings, removed the remaining flooring, and all the windows, and they're gone. When it was done, I don't know. But it's only made this even worse, and I am where I am today.

Minnette Boesel: Thank you. I guess there's value in historic materials in buildings. People want the value of your historic materials, that's why they took it. Are there any questions for our applicant? Thank you. We now have Andres Melgoza. Thank you for being here.

Andres Melgoza: Thank you for having me. I'm the engineer who most recently made an assessment of the property. I'm a licensed professional engineer in Texas, and I'd have to say this is one of the worst ones I've seen. As far as percentages go, to what was still there, the external sheathing, I would say probably the lower 40-50% of it was rotted to some extent. It was covered with vinyl, but as some parts were pulled away, you could see some external damage. As far as the sills go, the foundation supporting the walls, many of them are rotted away, eaten by termites and some form of deficiency. Ceilings there were joist cut in areas that should not have been cut, I think by the previous owners trying to install stairs or make the attic space some sort of habitable area. Numerous places had structural deficiencies, even with it being old growth wood, you can't get around some of the cuts that were made. A lot of sagging material, once again it's old growth wood, but there's only so much sagging and deflection that these members can take and still be functional. The outside deck was rotted away, it was pretty bad. As far as the flooring and the interior go, the inspector came by to take a look, but only managed to come into the front area a few feet, he didn't feel safe with the flooring missing. The way everything was situated so back to the point of damaged beyond repair, you can add a lot of structure to help shore up,

but at some point, the volume of new material is going to far exceed the volume of material that's presently there.

Minnette Boesel: Thank you, any questions? Anna Weinzapfel.

Anna Weinzapfel: Good afternoon, my name is Anna Weinzapfel and I live pretty much right next to Ryan's structure right now. I am a stay at home mom with 2 kids under 4. We like to play outside and share a back alley with him and every time we go back there I'm so scared of what's going to come out from there. The house is right next to a bus stop and I don't know what kind of creatures live there. I've actually seen a few homeless people living there, and like Ryan said he can't be there to check on that. Since my kids were born we've been scared of that whole area. We moved for 2009 for the historic charm of the area. We've been involved in the historic part of it, and we've always thought something better's going to come about, but ever since 2009, that's what we see. We were shocked when it was turned down the first time because we thought something else would be replaced. It's not fair for potential builders and it's a shame for neighbors to have to see that. I've spent hundreds, maybe even a thousand dollars every year to keep my yard beautiful, but then I get to see that every day. Everybody should be able to live next to a beautiful house and it's only fair that we get a good building next to us.

Minnette Boesel: Thank you, I believe your husband is the next speaker. Stephen Weinzapfel.

Stephen Weinzapfel: So basically, I have a few things she hasn't said. The home has had a few different owners, and he's not the first that has decided that it didn't make sense to restore it. It's been abandoned since we moved in in 2009, so we're going on 8 years now. We supported the heights historic ordinance and we love the history, but not everything that's old is worth saving, and this place is a venue for crime. To the best of our knowledge, the other home owners want it gone too. That includes one home owner at 915 Heights who actually restored his home. This structure is beyond repair and we are beyond frustrated with it and it needs to go. It needs to go, I understand history, I love history, but regulate what he builds in its place, don't make him keep the structure, because it'll stay vacant and it'll fall down.

Minnette Boesel: Thank you so much. Mr. Strickland, as the applicant, you may have up to 2 minutes if you care to make any other remarks. No? Will staff restate their recommendation please?

Matthew Kriegel: Staff recommends denial.

Minnette Boesel: Any questions for staff? Commissioner Lovell raised her hand first. Commissioner Lovell?

Commissioner Lovell: Again, we come back to, how much original material will be there even if we tell this gentleman to keep the house, and he said it's not worth the money to put the money into it, unless we find someone who wins the lottery. So, I'm just wondering what it is that you think can be salvaged out of this whole thing? So, I'm just wondering, number 1, what do you think can be salvaged? And number 2, is this an asbestos roof? Because my understanding is, are you going to recommend also to keep this roof which can't be insured?

Matthew Kriegl: My answer is, in regard to the roof, if it is an asbestos roof, which it may be, then reroofing would be an approval or it may not even need an approval.

Sue Lovell: Well it looks like to me that most of the mass of the house is the roof. Are you going by exterior to determine what's left?

Matthew Kriegl: The entire shell of the building is essentially intact. The shiplap was removed so the structure should be braced and new structure should be built in there to prevent the house from laterally shifting. but a lot of the material, like the windows, were stolen, the wood siding is still there, the exterior walls are still there, the mass of the building is still there, we would let anyone replace the roof in a historic district.

Sue Lovell: So, does the lack of shiplap make this not structurally sound?

Matthew Kriegl: Parts of the building are not structurally sound

Sue Lovell: So almost all of the shiplap is gone?

Matthew Kriegl: Correct.

Minnette Boesel: Commissioner Hellyer had a comment.

Rob Hellyer: I wanted to specifically address staff's response on the criteria starting with number 1 which is incapable of earning a reasonable return etc. They talk about the estimate that was provided for a 500 square-foot addition but no estimate for a larger addition which would bring it into approximately same size as the proposed new construction of 3700 square-foot which means a 2500 square-foot addition to 12 square-foot house, I'd say likelihood of getting this approved would be pretty slim, but nonetheless, whether its capable of earning a reasonable return or not, it's obviously not going to earn any return in the current condition, so money has to be put into it. So, I'm not convinced they don't meet criteria 1. Criteria 2, similarly, if the property can't be adopted for any other use, I don't feel they don't meet that. The one that sticks for me is #3, that they have to make an attempt to sell the property, and I don't think there's been any evidence that they've tried to sell the property.

Matthew Kriegl: They claimed that it was pocket listed and we have an email or two from the retailer and people interested in purchasing the house, but when they looked at it, some of them never even got inside.

Commissioner Rob Hellyer: So, if they have, it has not been formerly listed in the MLS. So, it's a gray area whether or not it meets the criteria. I don't think unusual and compelling circumstance even applies here. You don't have to meet both, it's one or the other. But, if there has been some attempt to sell the property and there's been no offers, then we have to seriously think, does it meet the criteria or not? I'm going to add something. I go by this house so often that I don't notice it anymore and I have a house on 9th Street. I have noticed the continued deterioration of the property and the COA sign from 3 years ago falling down which has since been replaced.

Minnette Boesel: Commissioner Kelman.

Commissioner Brie Kelman: I walk or drive by this house twice a day with my son to school right there and the sign from November to December 2014, it's such a focal point of our neighborhood to be atrophying there, is just so horrible to me.

Minnette Boesel: Commissioner Cosgrove.

Commissioner John Cosgrove: Can staff comment as to the relationship of this property with demolition by neglect, and what ramifications that designation would have on this site?

Matthew Kriegl: So, that actually did come up in our staff meetings. So, under the demolition by neglect section of the ordinance it describes inadequate foundation, deteriorated floor supports, broken ceiling and roofs, leaks, so some of the issues that this house is having could fall underneath that. There have been efforts made, such as boarding up the windows to prevent intruders from getting in, although there are no floors so you can get in there anyway. We haven't fully investigated the demolition by neglect portion of this, it was just mentioned.

Minnette Boesel: And no remediation for termites at any time?

Matthew Kriegl: Correct. As far as I know, there's been no remediation for termites, which is also part of the demolition by neglect.

Brie Kelman: Did the previous owner do that? I remember the reports, but this was years ago.

Matthew Kriegl: I don't recall if the previous owner had an issue with termites. When the previous owner had the house, it was an intact structure with walls and cabinets and he started a renovation toward the end of 2011 which gutted the house and he walked away from it at that point.

Brie Kelman: Does the owner know about that?

Ryan Strickland: Yes ma'am, we were told when we bought it that all termites had had been treated for. There's even evidence that it had been said that they were previously there and they were gone. The guy that did the report has been doing it for over 30 years and he states it's one of the worst he's ever seen. He said that it's so bad that we should not try to reuse the material that's been affected by the termites.

Minnette Boesel: Thank you. Any other questions of staff? Do you want to restate your recommendation?

Matthew Kriegl: Staff is recommending denial.

Minnette Boesel: Thank you. Any further comments or a motion? Commissioner Cosgrove?

John Cosgrove: Clearly, it's not a means issue if he was able to construct a brand-new garage apartment on the site, he would have had the means to address some of the problems with the house.

Minnette Boesel: Are you suggesting then, in a motion, a deferral in which more information would be obtained from staff and our legal?

John Cosgrove: I would be open to that. I don't know if other commissioners feel. But I move that we defer and have staff investigate demolition by neglect.

Minnette Boesel: Alright the motion is to defer and for staff to investigate demolition by neglect. Is there a second? Commissioner Ardoin seconds. Comments?

Commissioner Edie Archer: What does that mean? So, what happens when it comes back next time?

Matthew Kriegl: I have it in the ordinance that the director may investigate complaints and refer deteriorated contributing structures to the appropriate city department for investigation. If needed, the director will notify the property owner of any required repairs. If required, the property owner must develop a plan acceptable to the director to remedy the property within a specific amount of time. Failure to provide a plan shall be a violation of this article.

Sue Lovell: What are the penalties?

Diana Ducroz: So, enforcement relies on writing citations and the planning department is working on developing capacity to develop citations, but right now we have no way to write a citation, but I agree that this house may meet some of the conditions for demo by neglect.

Sue Lovell: Can I ask you a question? So, if we vote on this and move forward on demolition by neglect, what does that mean for the property owner? What penalties are there? Are there fines?

Diana Ducroz: Demolition by neglect means the city is taking action to have the owner repair the structure.

Sue Lovell: By what action? Will there be fines attached?

Diana Ducroz: Once we have the ability to write citations.

Sue Lovell: I'm asking you right now, if we decide that this is demolition by neglect, what does that mean to this gentleman?

Minnette Boesel: I want to clarify that we are not voting on whether this is demolition by neglect. Commissioner Hellyer, to be followed by Deputy Director Wallace Brown.

Rob Hellyer: If I'm not mistaken, the motion is just to defer. That's all we're voting on. Then we would vote based on what staff provides at that time.

Sue Lovell: But no one can tell us what that means, so I wouldn't vote for that. I'd vote for a deferral today, but then we'd have to come back and vote, if it was that.

Minnette Boesel: I'm just reading under demolition by neglect, the director shall investigate complaints

referring to contributing structures and may refer complaints to the appropriate City department. If needed, the director will notify the property owner of any required repairs. If required, the property owner must develop a plan acceptable to the director to remedy the property within a specific amount of time. Failure to provide a plan shall be a violation of this article.

Sue Lovell: So, in the interest of time, we should vote to defer, and you can come back next month with more information and we can then decide what we're going to do and what action we're going to take.

Diana Ducroz: I have questions. Is the motion to have staff investigate whether we think there's a demo by neglect situation, or take action on a demo by neglect situation?

Minnette Boesel: The way I heard the motion was to ask staff to look into a potential demolition by neglect.

Edie Archer: But what does that mean? We'll be doing this for months. I think they've made some good efforts. I think it hasn't been enough, I think it's been ignored, I don't like it, but why are we going to keep coming back? I think this house is shot, I think we should just get rid of it.

Minnette Boesel: We do have a motion on the floor, to ask staff to look into demolition by neglect.

John Cosgrove: If it's not something that's going to change the outcome, then I'm happy to withdraw the motion and we can just vote on the demolition.

Minnette Boesel: Deputy Director Wallace Brown has a comment.

Margaret Wallace Brown: I think the investigation of demolition by neglect is separate from the action we are asking you to take today. You may ask for a deferral, and you may suggest staff investigate a demolition by neglect, but the two are not intertwined, and that is separate from this commission and would not require coming back to this commission, unless the owner needs to obtain a Certificate of Appropriateness. I believe, and I'm going to ask the attorney to weigh in on this, that your actions are the same as they always are with any other C of A. You may agree to approve staff's recommendation, you may agree to deny staff's recommendation, or you may agree to defer. That is independent of you asking the department to investigate demolition by neglect.

Sue Lovell: Who decides whether this is demolition by neglect or not?

Margaret Wallace Brown: My understanding from reading this, that it is an administrative function. The planning director would speak with the department of neighborhoods and the building official to determine the status of the structure, and would consult with our attorneys before we would issue any citations. In my history of working with this, we've pursued this once. We sat down with the building official and property owner, we developed a plan moving forward, which included obtaining a new Certificate of Appropriateness. The planning department and the legal department make the decision whether or not to issue citations, but that happens every day. Municipal Courts issues the citations.

Sue Lovell: But someone has to determine intent and decide that indeed it was intent for that house to fall in on itself. Who makes that decision?

Margaret Wallace Brown: It is my understanding is it's within the purview of the planning department, but I'll do further research. I don't think this has anything to do with the decision you're making here. You may choose any of the three actions, solely based on your opinion of the application in front of you.

Sue Lovell: We have a motion on the floor, unless Commissioner Cosgrove wants to amend the motion.

John Cosgrove: I'm happy to withdraw the motion, and we can just vote up or down on it.

Minnette Boesel: Alright, so you withdraw the motion. Was there a second on it? No? So it wasn't a full motion anyway. Do we have another motion on the floor?

Brie Kelman: I'll move to grant the demolition.

Edie Archer: I'll second.

Minnette Boesel: We have a motion on the floor to accept the applicant's application as presented. The second comes from Commissioner Archer. Is there any other discussion or questions? All in favor of the motion? 4 in favor, 6 opposed. The motion is defeated. Do I hear a new motion? You have 2 options left.

Commissioner David Bucek: I'd like to make a motion to approve staff's recommendation to deny demolition. Is there a second on the motion? Commissioner Garcia Herreros seconds. The motion is to accept staff's recommendation for denial. Are there any other questions?

Sue Lovell: I have a question, so if we vote for this, does that mean we're voting for the house to sit and deteriorate, that's what we'd be deciding. It'll just continue to deteriorate until it falls in on itself and

then it will come back here for new construction.

Minnette Boesel: Commissioner Kelman

Brie Kelman: It's also sandwiched between two 1970s apartment complexes. Not too many people would want to buy a property in between those. That was also in my head.

Minnette Boesel: I believe Ms. Ducroz has a comment.

Diana Ducroz: Yes, staff can look into whether this constitutes a demo by neglect situation, there are 7 criteria in the ordinance we can use, and then we can reach out to the owner to repair a restoration plan for the house, similar to what Deputy Director Wallace Brown mentioned. If they don't, it's a ticket, and they can be fined up to \$500 per day.

David Bucek: I believe one of the consequences of demolition by neglect is the applicant or future owner not being allowed to receive a building permit for a certain amount of time, and I believe there is a restriction on the size. A new structure cannot be larger than the structure that was found to be demolished by neglect.

Diana Ducroz: I can answer that. What you're referring to is an illegal demolition. Those are the penalties if a building is demolished illegally. If the building gets so bad that it appears to be illegally demolished, then we'd have to look into that, but it's not there yet.

David Bucek: Thank you for that clarification.

Sue Lovell: I have one other question. Since this building has been empty since 2010, would it be just this owner, or all other owners who contributed to this happening?

Diana Ducroz: It's the current owner.

Brie Kelman: So, this owner is penalized for work the previous owner did because he tried to come here and couldn't get anything done.

Diana Ducroz: He purchased it in this condition.

Brie Kelman: He's trying to do something better for the neighborhood.

Minnette Boesel: Commissioner Garcia-Herreros.

Commissioner Jorge Garcia-Herreros: I would like to make a proposal to delay this discussion to the very end.

Minnette Boesel: Excuse me, we have another motion on the floor, which was to accept staff's recommendation, unless the person that made the motion and the person that seconded wish to withdraw. Do you both withdraw? Okay, the motion has been withdrawn for a motion to approve staff's recommendation. I hear a new motion on the floor to postpone discussion of this item until the end of the presentation of C of As. Do I hear a second? Alright, Commissioner Lovell seconds. Any discussion? Alright, all in favor? Alright, the motion carries.

Rob Hellyer: So now we are going to resume discussion on 901 Heights Boulevard. We have an additional speaker that is signed up. Mark Hellinger?

Mark Hellinger: If there's going to be a discussion of demolition by neglect, I don't want there to be a secret hearing. I think Mr. Strickland would be willing to work with staff if there are things that need to be fixed up like the termites, in order for the building to be demolished. I don't think there's any grounds for demolition by neglect. He's been boarding up his house and didn't put up a sign that said, "come and take it," it's a house that needs to go and you guys can make that happen. It looks like you guys were going to make that happen until this demolition by neglect thing came up.

Rob Hellyer: Any questions, discussion, motion?

Brie Kelman: I'd like to start a motion to let the applicant come back and talk.

Rob Hellyer: Do we have a second for that motion? Commissioner Lovell seconds. All those in favor? It carries.

Ryan Strickland: Thank you. You were making the point earlier about the signs outside, and I should have taken those down, but in regard to the structures themselves, I have photos that are time stamped showing that I boarded it up. The only thing I haven't done is treat for the termites, but to my defense, that was something the previous owner did, and according to the reports I have, the boards damaged by

the termites could not be reused, so I felt it was not worth an additional \$2,000 at the time, and that's the only thing that's been allowed to continue.

Brie Kelman: I'm glad you brought up the clarification that the previous owner did treat the building for termites. I don't know if anyone else wants to talk about it.

Sue Lovell: It's difficult to take a house down on a boulevard, but on the flip side, what are our alternatives. Do we defer, do we continue to delay? There's not a whole lot of solutions. There's nothing on that side that's historic. It's not what we want it to be, even if we said fix it, what would come back to it is all new. There's not floor, there's not shiplap, the windows are gone, the roof needs to go. What is it that we're clinging to? What moves me are the families that are living next to it. I'd rather move forward with a brand-new house that will look beautiful, otherwise we're going to sit here and watch that house fall down. I'm ready to vote to let them take it down and for them to move forward. That's what I've been thinking about.

Rob Hellyer: Any other comments or a motion?

John Cosgrove: I don't disagree that the house is at the end of its economic life. When I raised the issue of demolition by neglect, if someone sees that as an example, if the next house down the street is left open to the elements and then they come to us, then it sets this precedent and we open ourselves up to other people using this as a way to demolish a house without any repercussion.

Ryan Strickland: Thank you for your point, I just want to say I love Houston and the Heights and I always wanted a house on Heights Boulevard and I didn't think I would find one. When I found it, I got so excited, I called my realtor and said I have to have it. I went into this with the true intention of remodeling this house. But I don't have the money to buy a second house to live in while I work on it.

Rob Hellyer: Not many people are going to be able to sit on a lot for three years and not do anything with it. This is the first candidate for demolition by neglect since I've been on the commission, but I agree with Commissioner Cosgrove that we don't want to see an uptick in those instances.

Sue Lovell: I'd like to be more proactive on looking at houses that are candidates for demolition for by neglect and to contact those home owners to talk about what will happen in the future. I don't know if that's something in our purview.

Rob Hellyer: Deputy Director Wallace Brown.

Margaret Wallace Brown: I think that's an excellent idea, and the Planning department does do that. I can think of a dozen or more that we regularly look at. I don't know if this property has received one of our letters but we are proactive in that regard.

Rob Hellyer: Is anyone ready to make a motion to defer until next month?

David Bucek: I'm prepared to make a motion for that. I'd like to hear from Pete, I just don't think there's enough information.

Rob Hellyer: We have a motion to defer from Commissioner Bucek and Commissioner Lovell seconds. Any more discussion? All those in favor of the motion to defer? It's unanimous.