



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



HISTORIC LANDMARK REPORT

Meeting Date: May 20, 2013

Case	LD1200003	Jurisdiction	City
Reference Name	Liberty Warehouse Nos. 1 and 2		
Request	Removal of Historic Landmark Designation		
Site Characteristics	Tier	Downtown	
	Site Acreage	2.618	
	Existing Use	Warehouse/Vacant	
	Date Constructed	1938 and 1948	
	National Register District	No	
	National Register Individually Listed	Yes	
	Local District	No	
Applicant	Greenfire Development	Submittal Date	September 7, 2012
Owner	Durham Liberty, LLC		
Location	611 and 613 Rigsbee Avenue		
PIN(s)	0821-08-99-3378, 0821-08-99-3574		
Recommendations	Staff	Denial	
	SHPO	Denial	
	Historic Preservation Commission	Denial	

A. Summary

The applicant, Greenfire Development, is requesting that the City remove the Durham Historic Landmark designation from the Liberty Warehouse Nos. 1 and 2, exterior and land. The structures were designated in 2010 by the City Council at the request of the property owner for both their architectural and cultural significance. The staff report from the designation includes a physical description and history of the structures and describes the significance of the structures that met the Local Historic Landmark criteria at the time of designation (see Attachment C). The structures were also listed individually on the National Register of Historic Places in 2008.

B. Background

The Unified Development Ordinance (UDO), Section 3.17.4 Designation of an Historic Landmark, includes the following criteria to qualify for the landmark designation:

A building, structure, site, area, or object may be considered for designation as an historic landmark only if both of the following criteria are met:

- A. The [Historic Preservation] Commission deems and finds that the building, structure, site, area, or object appears individually eligible for listing or is individually listed on the National Register of Historic Places;
- B. The Commission deems and finds that the property is of special significance in terms of its pre-historical, historical, architectural or cultural importance, and possesses integrity of design, setting, materials, feeling and association.

The following statement of significance was provided in the staff report when the property owners applied for landmark designation in 2009, making the case for the City Council to designate the property:

The Liberty Warehouse Nos. 1 and 2 is the only surviving loose-leaf tobacco auction house in Downtown where once a district of such auction houses stood. When the Liberty Warehouse stopped hosting tobacco auction in the 1980s, it represented the close of a significant era in Durham's history. As the only remaining evidence in the built environment of this piece of cultural history, the Liberty Warehouse Nos. 1 and 2 is significant by association with events that have made a significant contribution to the broad patterns of our history and by embodying the distinctive characteristics of a type that is now rare. Despite some changes to the exterior and interior, this structure retains integrity.

C. Applicant's Justification

The applicant's justification for removal of the local historic landmark designation from the property at this time is a loss of integrity of the building. The application cites the partial roof collapse, other roof issues and instability, and unsuccessful repairs as the reason that "so much of the original architecture has been compromised that building repair cannot be done in a manner that maintains the historic integrity of the structure." The application states that "to return the

building to its original condition is impractical” based on the structural report completed by Kimley-Horn after the collapse, and claims that “if the roof design and truss system are significantly altered, the building will no longer meet the landmark criteria.”

D. Alterations Since Designation

A few significant changes to the building have occurred since the property’s designation in 2010. On April 6, 2011 the City’s Neighborhood Improvement Services Department condemned the structures at 611 and 613 Rigsbee Avenue. Then on May 14, 2011 a major roof collapse over the drive aisle of Warehouse No. 1 flooded a significant portion of the properties. As a result of these events the City initiated a demolition by neglect investigation. On June 14, 2011 the property owner submitted in writing to the Planning Department its intention to fix the building, therefore staying the demolition by neglect investigation and process as per Section 3.19.2B of the Unified Development Ordinance. The property owner was given six months to fix the roof. No repairs to the roof were completed in that six month period.

In December of 2011 the property owner requested an extension to complete the repairs. This was granted through February 1, 2012. At that time the property owner had still not rectified the roof damage, and the City restarted the demolition by neglect investigation and process. On February 15, 2012 the investigation culminated in the Planning Director determining that the buildings were in a state of demolition by neglect. Planning staff worked with the property owner to determine the scope of work of repairs and a timeline for completion to stabilize the building. The property owner was given eight months to complete the work. On May 24, 2012 the condemnation on 613 Rigsbee was lifted after repairs to a few structural members were completed in this structure. In July 2012 Planning staff was informed that an additional roof section had collapsed along the south wall of the property where a makeshift tarp drainage system had been installed to deal with water coming into the building through the roof. As of October of 2012 when the scope of work resolving the demolition by neglect case was required to be completed, repairs to 611 Rigsbee had not been started.

E. Fiscal Impact

The Historic Landmark program is a way to protect historically important properties throughout the City and County. State statute NCGS 105-278 provides that taxes are reduced by 50% on such properties, to take into account the extra costs associated with restoring, preserving and maintaining historic structures. The reduction occurs upon designation of the property as a landmark. The tax reduction may be lost in the event of a change in the designation or a change in the property that causes the property to lose its historic designation. In that event,

the tax reduction amount for the year in which the status was lost and for the three previous years become payable, with interest. The property tax reduction represents 50% of the assessed value of the landmark. If the landmark designation were to be removed this would result in the property owner having to repay deferred taxes to the City and County. The approximate total amount to be repaid is \$29,100 based on an estimated calculation by the County Tax Administration Office of the deferred taxes and interest accrued (as per NCGS 105-277.1F). That amounts to approximately \$12,900 to be repaid to the City and \$16,200 to be repaid to the County. The exact amount owed is payable upon the date that the landmark designation is removed and will be calculated at that time by the County Tax Administration Office.

F. Notification

Staff certifies that notification, including newspaper advertisements and letters to adjacent property owners, has been carried out in accordance with Section 3.2.5 of the UDO. In accordance with Section 3.17.4D.1, notice has also been provided to the County Manager and the County Board of Commissioners.

G. Staff Analysis

This property was identified as an important historic resource to protect and preserve by its individual listing on the National Register of Historic Places and designation as a Durham Historic Landmark. The significance of the structure as the last remaining tobacco auction house where a sea of such warehouses once stood has not changed. The only change in the property, and the case the applicant is making for removal of the landmark designation, is because of the condition, and therefore integrity of this historic resource. While modifying the roof design and truss system to address the structural integrity issues would potentially have a significant impact on the integrity of the interior of the structure, the landmark designation is for the exterior of the property. The roof is not visible from the adjacent streets and is not an important architectural feature of the exterior design of the structure. The exterior walls of the structure are still intact and could be renovated to bring them back to their historical look. Furthermore, the property is in this condition because the property owner has not taken steps to repair the damaged portions of the roof that would ensure the integrity of the structure remains intact. Staff does not believe that this removes the importance of the preservation and protection of this resource that the landmark designation provides. In fact, the neglect of the repair of the structure is precisely why the property needs to remain protected with this designation.

H. Recommendations

Staff. The Liberty Warehouse Nos. 1 and 2 is associated with events that have made a significant contribution to the broad patterns of Durham's history. The structure is listed individually on the National Register and remains as a reminder of a major part of Durham's past. In addition, as the last remaining tobacco auction house in Durham, the warehouse embodies an important and once prolific architectural type that is now unique.

The applicant has not provided any evidence in the application that indicates that any of the significant elements of the property have lost historic integrity or any other sufficient justification for removal of the designation. The applicant did not attend the public hearing at the Historic Preservation Commission meeting to present such evidence. Therefore, the staff has determined that since the Liberty Warehouse Nos. 1 and 2 still meets the UDO criteria, staff does not recommend removal of the local historic landmark designation from the structures. At the City Council public hearing for this request the applicant has a final opportunity to present any evidence of a loss of historic integrity of the property in support of their request.

State Historic Preservation Office. In accordance with the UDO, the Staff provided an opportunity for the NC Department of Cultural Resources (the State Historic Preservation Office) to review and comment on this proposed Historic Landmark Designation removal. In a letter dated January 4, 2013 the Department stated:

This property has been identified as a significant resource worthy of protection and, in addition, continues to be individually listed on the National Register of Historic Places. The report provides ample information to determine whether or not removal of designation would be appropriate; we find the analysis provided by Durham City-County staff (D and E, pp. 3-4) to be complete and concur with its recommendation to deny removal of the designation (F, page 4).

Historic Preservation Commission. The Durham Historic Preservation Commission found that, in the case LD1200003, Liberty Warehouse Nos. 1 and 2, the structures remain consistent with the criteria for designation in Section 3.17.4A of the UDO, and therefore, does not recommend that the Durham City Council remove the local historic landmark designation of the Liberty Warehouse Nos. 1 and 2.

I. Alternatives

The City Council may approve the removal of the designation as proposed or reject the proposal, retaining the landmark designation for this property.

If the Liberty Warehouse local historic landmark designation is removed by the City Council any protections afforded locally designated historic properties will no longer apply to the property. By State statute, the property owner will have to repay the deferred taxes plus interest from the last three years and will not receive the 50% tax deferral going forward. The demolition by neglect condition will be removed from the property and therefore no enforcement action and associated fines on this violation will be pursued. The property owner can then at any time apply for permits to demolish or otherwise modify the structure following zoning regulations and building code but without consideration of the historic significance of the property.

If the City Council does not remove the landmark designation from the property the stay of enforcement of the demolition by neglect condition will end and the property owner will be subject to fines of up to \$500 a day until the conditions of neglect are rectified. Any changes to the exterior of the structure will still require the approval of a certificate of appropriateness (COA) prior to issuance of any permits and beginning the work. Any request for a COA for demolition would have to be approved by the Commission, but that approval could be delayed for up to 365 days by State statute. This provision is intended to allow time to work with the property owner to explore alternatives to demolition or, as a last resort, to fully document the structure prior to its demolition.

J. Staff Contact

Lisa Miller, Senior Planner, (919) 560-4137 ext. 28270, Lisa.Miller@DurhamNC.gov

K. Attachments

Attachment 1, Context Map

Attachment 2, Application Materials

Attachment 3, Liberty Warehouse Nos. 1 and 2 Landmark Designation Staff Report

Attachment 4, North Carolina Department of Cultural Resources Letter, January 4, 2013

Attachment 5, Ordinance to Remove Landmark Designation