

The Risks of Building in a “Historic District”

Sunday, June 26 2016, 2:51 PM



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Posted by **Gemma Alexander** on Thursday, June 23, 2016 in **Apartment Investment**

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Home buyers want the character of old houses but demand modern conveniences. Businesses are willing to pay more for locations in pedestrian-friendly, iconic old neighborhoods, as long as the facilities meet their needs. So it stands to reason that historic neighborhoods hold a lot of promise for redevelopment, but the process is not always straightforward. What are the pitfalls when building in a historic district, and how can you avoid them?

What is a historic district?

A building can be old without being historical, and a neighborhood can have history without being a historical district. There are many good reasons to choose a conservative approach when building in an old neighborhood, but if your property is in a historic district, special care is not a choice, it's required.

Historic districts are officially designated areas containing buildings deemed significant to the city's cultural fabric. In a historic district, buildings and their settings are protected by public review. The first historic district was formed in 1931, when Charleston, South Carolina, enacted a local ordinance designating an "Old and Historic District" to preserve buildings from the late 1700s. But history is relative, and in the Western states, many communities have designated neighborhoods built in the 1930s as historic districts.

The historic district is a tool to avoid cookie cutter development while establishing a unique brand based on a city's history. With few exceptions, the intent is not to block progress or stifle business. In most cases, it's possible to develop any number of completely modern uses – from office buildings to health clubs – in a historic district. Building in a historical district is undoubtedly more complicated than a standard development, but can result in the type of project that wins awards.

Who governs historic districts?

In 1978, the United States Supreme Court decision in *Penn Central Transportation Co. v. City of New York* recognized that preserving historic resources is "[an entirely permissible governmental goal](#)," and that New York City's historic preservation ordinance was an "appropriate means" to securing that goal. Some state constitutions have also explicitly recognized historic preservation as a legitimate governmental function. The [State Historic Preservation Office](#) (SHPO) is the key agency responsible for the identification and protection of historic and cultural resources in the United States. All 50 states implement the [National Historic Preservation Act](#), meaning that they nominate properties for inclusion in the National Register of Historic Places, maintain their own registers, and review applications for [federal rehabilitation tax credits](#).

States also authorize the adoption of local preservation ordinances, easement programs, and rehabilitation tax incentive programs. That's because in most cases, historic preservation is a local concern. Would-be developers deal with a local preservation commission, which requires advance review of proposed projects and either grants or denies permits to change historic-designated properties.

What are the risks of building in historic districts?

The strength and authority of preservation commissions can vary widely among communities. Projects subject to review, called "[reviewable actions](#)," can range from the dramatic (demolition and parcel subdivision) to the minor (replacing a window or hanging a sign). Although historic preservation ordinances are not uniform, they generally empower preservation commissions to review and act upon applications for certificates of appropriateness (also called "certificates of approval" or "historic area work permits"). Most often, owners of historic property submit an application to a preservation commission for permission to alter, demolish, move, or construct additions and new buildings.

The details are highly dependent on specific local rules. A worst case scenario is the outright rejection of a project. Many localities allow for the demolition of historic properties only where a property owner establishes economic hardship or the property poses a safety threat after a fire or other type of natural disaster.

More common outcomes are scheduling delays and increases in cost. Some communities permit property owners to demolish historic buildings after a specific waiting period during which preservationists can explore options to save the building. Some communities issue a demolition permit upon demonstration of plans and financing to guarantee that a new building compatible with other historic resources in the area will be constructed.

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... projects, which do not require demolition of historic structures, are usually much easier to permit. With no history to preserve beyond a cohesive local aesthetic, these projects are typically subject to the same design guidelines that govern the exteriors of existing buildings. But they offer greater latitude on the inside of the building, where only standard building codes would apply.

How can you avoid the risks of building in a historic district?

Researching the local preservation ordinance early in the design process will go a long way toward eliminating risk. If the laws are unusually strict, [legal assistance](#) may be advisable. Most preservation ordinances establish an appeal process and give consideration to financial hardship and other issues of special concern. In most cases, you can count on delays and higher costs compared to a standard development, but the result – modern convenience with historical character in a desirable locale – is usually worth the extra effort.



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