



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

KELLY A. ALLEN
JESSICA A. HALLMARK
JOHN W. KUMMER
GREGORY K. NEED
G. HANS RENTROP
CHRISTOPHER J. TOWER

39572 Woodward, Suite 222
Bloomfield Hills, Michigan 48304
Telephone (248) 540-7400
Facsimile (248) 540-7401
www.ANAfirm.com

OF COUNSEL:
PHILLIP G. ADKISON
KEVIN M. CHUDLER
GARY R. RENTROP
KATHERINE A. TOMASIK

March 7, 2024

VIA ELECTRONIC MAIL

Historic District Commission
City of Mackinac Island
7358 Market Street
P.O. Box 455
Mackinac Island, MI 49757

Re: 6948 Main Street (“Red House”)

Dear Commissioners:

As you know, at a special meeting of the Historic District Commission (“HDC”), the Commission will be addressing the 60-day time period for the HDC to address the application for demolition of the Red House.

The City's Historic District Ordinance and the State Statute provide, in relevant part, as follows:

*The failure of the commission to act within 60 calendar days after the date a **complete application** is filed with the commission, unless an extension is agreed upon in writing by the applicant and the commission, shall be considered to constitute approval.*

[Emphasis added].

I have enclosed a document entitled “General Directions for Work Within a Historic District” which was adopted by the Commission on January 5, 2015 (“General Directions”). At page 3 of the General Directions is Item C, entitled “Required Application Information for the Demolition or Moving of Resources within the City of Mackinac Island Historic Districts”. Applicants are alerted to these requirements, which are available on the City’s website, by the statement at the top of the Application form which states:

*Demolition (Complete Section B and refer to General Directions
and Item C)*

The second attachment to this letter is the first page of the demolition application submitted by the Applicant with an arrow added to show that the Applicant put an "X" in the box that preceded the above statement.

At page 3 of the General Directions, under Item C, subsection C.9. provides:

It is the applicant's burden to provide all the required information on the application and to show that the application complies with the ordinance. If the applicant does not meet the burden, the application shall be denied.

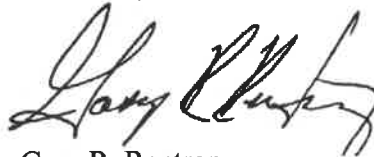
Please familiarize yourself with the Item C requirements in preparation for the special meeting. I advised Jim Murray by email that I would be advising the HDC of my legal opinion that his client's Application is incomplete in that it does not provide all the information required under Item C.

As you may recall, City Council on July 12, 2023, acting pursuant to the Historic District Ordinance and State Statute, passed a Resolution requiring that demolition applications for properties within the proposed East End Mission Historic District be referred to the Commission and treated as if they are in a historic district. You can also note that the opening paragraph, page 1 of the General Directions and Item C, page 3 of the General Directions apply to historic districts and proposed historic districts.

If you have any questions or need any further information, please do not hesitate to contact my office.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC



Gary R. Rentrop

GRR/mjl
Enclosures

GENERAL DIRECTIONS FOR WORK WITHIN A HISTORIC DISTRICT

I. Determine the Classification of Work

An Application is required for all "Work" (construction, addition, alteration, repair, moving, excavation or demolition) involving a "Resource" (one or more historic or non-historic buildings, structures, sites, objects, features, or open spaces) located within a historic district or proposed historic district.

Please determine which classification of work you are proposing from the Categories below. The Building Official can assist you in this determination. Your proposed work may involve both Demolition and New Construction (for example, removal and replacement of a porch where the replacement is not "like for like"). If this is the case, please complete the General Application and the required Application Information for both Demolition and New Construction.

All applicants must include a completed form entitled "General Application for Work Located in a Historic District". **See the attached checklist to help compile a complete application package.**

A. MINOR WORK IN A HISTORIC DISTRICT (COMPLETE SECTION "A" ON THE GENERAL APPLICATION)

Applications that indicate the work will be minor work may be administratively approved on behalf of the Commission by the City's Building Official. Minor work is:

1. Exterior repair work with little or no change in the appearance using material(s) like the material(s) being replaced or repaired (known as "like for like").
2. Re-roofing using asphalt shingles of traditional color, that are either: 3 tab architectural, low profile, (Landmark CertainTeed or equivalent) or heavy duty architectural dimensional (or equivalent).

Where the City's Building Official is uncertain as to whether the work is minor, the Building Official shall refer the application to the Historic District Commission.

B. NEW CONSTRUCTION (SEE PAGE 2 FOR INSTRUCTIONS)

1. This is work that changes the footprint or volume of a building or structure; or creates a new building, addition or structure; or materially alters the appearance of the resource; or may not be consistent with the historic integrity of the property.
2. Applicant shall complete that application identified as New Construction and provide the requested material. (Section "B")

C. DEMOLITION OR MOVING OF STRUCTURE (SEE PAGE 3 FOR INSTRUCTIONS)

1. This is work which includes one or more of the following:
 - Removes materials
 - Reduces the footprint or volume of a building or structure
 - The moving or removing of a building or structure within the same site or off site.
2. Applicant shall complete that application identified as Demolition or Moving and provide the requested material. (Section "B")

II. Historic District Commission Procedure

- A. Note that your application will not be processed until all the required information and fee have been received by the submittal due date. (14 days prior to the scheduled meeting date)
- B. For all work in a Historic District which is not determined by the Building Official to be minor work, Applicant will need to obtain a determination by the Historic District Commission (the "HDC") that the work is minor or obtain the approval of the HDC with a Certificate of Appropriateness or Notice to Proceed before work can commence within a Historic District.

ITEM B

INSTRUCTIONS FOR THE APPLICATION FOR NEW CONSTRUCTION WITHIN HISTORIC DISTRICT

Regarding proposed new construction (which is any Work within a historic district or a proposed historic district which changes the footprint or volume of a building or structure; or creates a new building, addition or structure; or materially alters the appearance of a resource; or may not be consistent with the historic integrity of the property), the HDC in reviewing plans, shall follow the relevant requirements of the State's Local Historic Districts Act, the City's Historic District Ordinance and the HDC's Design Review Standards and Guidelines which include the United States Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as set forth in 36 C.F.R. part 67 and consideration of the following:

- a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
- b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
- c) The general compatibility of the design, arrangement, texture and materials proposed to be used.
- d) Other factors, such as aesthetic value, that the commission finds relevant.
- e) Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MLC 125.1501 to 125.1531.

Resource means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district. Open Space means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

APPLICATION REQUIREMENTS

Each application requires submittal of eleven (11) identical packets of documentation. Blueprint size or 11" x 17" paper is requested when scaled and/or dimensioned drawings are required. Applications must be on top with backup documentation attached to the back of each application. See the attached checklist to help compile a complete application package.

THESE ARE THE MINIMUM REQUIREMENTS. THE COMMISSION AND ITS STAFF RESERVES THE RIGHT TO ASK FOR ADDITIONAL INFORMATION AS AN INDIVIDUAL CASE REQUIRES.

ITEM C

REQUIRED APPLICATION INFORMATION FOR THE DEMOLITION OR MOVING OF RESOURCES WITHIN THE CITY OF MACKINAC ISLAND HISTORIC DISTRICTS

A. RESPONSIBILITY OF THE HISTORIC DISTRICT COMMISSION

The City of Mackinac Island's Historic District Commission is the entity which reviews all applications for work within a historic district or proposed historic district. The demolition or moving of any historic resource constitutes an irreplaceable loss to a historic district or proposed historic district and to the City of Mackinac Island. The demolition or moving of even a non-contributing resource can have serious consequences for a historic district or proposed historic district.

B. APPLICATIONS FOR DEMOLITION OR MOVING OF RESOURCES

The following guidelines apply to *Applications for Demolition or Moving of Resources*. The guidelines do not apply to the moving, razing or destruction, whether entirely or in part, of a resource which has been destroyed by neglect and/or by fire when arson by the owner or owner's agent has been proven.

C. REQUIREMENTS OF APPLICANT

The Applicant who proposes to demolish or move a resource in a Historic District must submit eleven (11) identical packets of the completed application. An application shall include all of the following:

1. Signatures of the applicant and property owner.
2. Name and mailing address of the property owner.
3. Name and mailing address of the applicant.
4. Specific grounds under the provisions of the local Historic District Ordinance upon which the application for a demolition or moving permit is based.
5. Information sufficient to justify the grounds upon which the applicant has chosen to base the application.
6. Written evidence that alternatives to demolition or moving have been evaluated (including but not limited to rehabilitation, sale, adaptive reuse) and provide both architectural and financial data to support a conclusion the demolition or moving is the only feasible option. This evidence shall show that the property was offered for sale, the price asked, the period of time during which the property was offered for sale, and how the property was advertised for sale. The evidence shall show if there are actions or omissions of the owner that have impaired the ability to market the property.
7. Written evidence of any advice sought by the applicant from a professional(s) experienced in historic preservation work.
8. A description of all measures that will be taken to protect surrounding buildings and any other resources from the risk of adverse impact due to demolition or moving.
9. It is the applicant's burden to provide all the required information on the application and to show that the application complies with the ordinance. If the applicant does not meet the burden, the application shall be denied.

D. GROUNDS UPON WHICH AN APPLICATION MAY BE BASED

The Applicant must demonstrate that one or more of the following conditions prevail and that the proposed work is necessary to substantially improve or correct any of the following conditions set forth in bold type below:

1. **The resource constitutes a hazard to the safety of the public or to the structure's occupants.**
Applicant shall provide:
 - a. Certified written report by a structural engineer licensed in Michigan as to the structural soundness of the building and its adaptability for rehabilitation.
Any dangerous conditions should be identified.

- b. Detailed description of existing conditions, including environmental conditions of the building(s) and property.
- c. Detailed description of proposed changes.
- d. Site plan, to scale, showing the location of the resource proposed to be demolished in relationship to other resources on the property, and to the property lines.
- e. Site plan, to scale, and any other information which accurately describes the proposed use and appearance of the site after demolition or moving of the resource.
- f. Feasibility of alternative uses for the property that would allow retention of the structure.
- g. Floor plans with dimensions.
- h. Photographs of the property showing all elevations, close-ups of details, and relationship to adjacent and surrounding resources.

Applicant shall also provide architectural and historical data, as available:

- a. Date of construction of the resource.
- b. Architectural style of the resource.
- c. Historic photographs of the resource.
- d. Name of original owner / builder / developer.
- e. Building timeline (i.e., dates and location of additions, demolition and changes).
- f. Detailed description of building materials that are original to the resource.
- g. Historic information regarding the resource (i.e., notable residents, highly recognized landmark, important site, etc.).

Note: The City's representatives and consultants may require access and an opportunity to inspect the resource.

2. **The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.**

Applicant shall provide:

- a. Written description of the nature of the proposed improvement and how it will benefit the broader community.
- b. Site plan, to scale, showing the site after the proposed work, including existing and new construction.
- c. Building schematic plans and elevations sufficient to illustrate the size, mass, materials and appearance of the proposed new construction in relation to remaining historic elements on the applicant's property and surrounding sites.
- d. Evidence of required planning and zoning approval for proposed work, financing and environmental clearances.
- e. Floor plans with dimensions.
- f. Photographs of the property showing all elevations, close-ups of details, and relationship to adjacent and surrounding resources.

Applicant shall also provide architectural and historical data, as available:

- a. Date of construction of the resource.
- b. Architectural style of the resource.
- c. Historic photographs of the resource.
- d. Name of original owner / builder / developer.
- e. Building timeline (i.e., dates and location of additions, demolition and changes).
- f. Detailed description of building materials that are original to the resource.
- g. Historic information regarding building (i.e., notable residents, highly recognized landmark, important site, etc.).

3. **Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.**

Applicant shall provide, in written form, information sufficient to establish it meets the elements of this condition, which shall include:

- a. Form of ownership of the property, including names and addresses of the owners. If owner is an organization, governmental entity or corporation, include name and telephone number of a contact person.
- b. Amount paid for the property, date of purchase, party from whom property was purchased, and any relationship between the parties.
- c. Remaining balance on any mortgage or other financing secured by the property.
- d. If property is income-producing, (1) annual gross income for the previous three years (2) itemized operating and maintenance expenses (3) depreciation deduction (4) annual cash flow before and after debt service.
- e. Assessed value and real estate tax on the property, according to the two most recent tax assessments
- f. Estimated fair market value of the property (1) in its current condition (2) after complying with HDC Standards and Guidelines (3) after the proposed demolition or moving. There shall be a detailed explanation of what the property conditions are, including the environmental condition of the property, and how those conditions impair the ability to market the property.
- g. Any real estate listing of the property for sale or rent in the past three years, including price asked, open houses held, prospects shown the property and offers received.
- h. Three bids each for the cost of the proposed demolition or moving compared with the cost of stabilizing or "mothballing" the resource.
- i. Long term and short term availability of funds, including income and financing, available to the owner that would allow retention of the resource.
- j. List of financial incentives for preserving the resource available to the applicant through federal, state, city or private programs.
- k. Floor plans with dimensions.
- l. Photographs of the property showing all elevations, close-ups of details, and relationship to adjacent and surrounding resources.

Applicant shall also provide architectural and historical data, as available:

- a. Date of construction of the resource.
- b. Architectural style of the resource.
- c. Historic photographs of the resource.
- d. Name of original owner / builder / developer.
- e. Building timeline (i.e., dates and location of additions, demolition and changes).
- f. Detailed description of building materials that are original to the resource.
- g. Historic information regarding the resource (i.e., notable residents, highly recognized landmark, important site, etc.).

4. **Retaining the resource is not in the interest of the majority of the community.**

Applicant shall provide:

- a. Written description of the nature of the resource and existing conditions.
- b. Written description of proposed changes.
- c. Written discussion of how the demolition or moving of the resource might benefit the community.

- d. Site plan, to scale, showing the location of the resource proposed to be demolished or moved in relationship to other resources on the property, and to the property lines.
- e. Site plan, to scale, and any other information which accurately describes the proposed use and appearance of the site after demolition or moving of the resource. The HDC may require the completion of a Application for New Construction.
- f. Feasibility of alternative uses for the property that would allow compliance with City of Mackinac Island Historic District Standards and Guidelines.
- g. Floor plans with dimensions.
- h. Photographs of the property showing all elevations, close-ups of details, and relationship to adjacent and surrounding resources.

E. Applicant's Proposed Use of the Property after the Proposed Demolition.

As a condition precedent to the issuance of a notice to proceed with the proposed demolition, Applicant shall provide plans for the intended use of the property after demolition and if new construction is intended, Applicant must complete that portion of the General Application and required Application Information for New Construction.

An application which does not include the required information and material is incomplete. If the application is incomplete, the applicant shall be notified after review of the application by the Commission that the application is incomplete and in what manner it is incomplete, in order to allow the applicant to submit such materials as will constitute a complete application. An applicant who does not submit the requested materials risks denial of the application. All documentation becomes part of the public record.

THESE ARE THE MINIMUM REQUIREMENTS. THE COMMISSION AND ITS STAFF RESERVES THE RIGHT TO ASK FOR ADDITIONAL INFORMATION AS AN INDIVIDUAL CASE REQUIRES.

NOTE: All photos, drawings and physical samples, etc., become the property of the HDC/City of Mackinac Island. These may be returned to the applicant upon request after they are no longer needed by the Commission/City.

RETURN THE APPLICATION, SUPPORTING MATERIALS, AND FEE TO:

HISTORIC DISTRICT COMMISSION

c/o KATIE PERENY

BOX 455, 7358 MARKET ST.

MACKINAC ISLAND, MI 49757

PHONE: (906) 847-6190

EMAIL: kep@cityofmi.org

Historic District Application Checklist

- Brief Description of the nature of the work proposed and the materials to be used.*
- Photographs - Clear photographs of entire project site, streetscape, water view (if applicable), surrounding context and all elevations of the existing structure(s). Property address should be identified on all photographs.*
- Site Survey/Plan (to scale) – with the following information: Lot dimensions, **existing & proposed** structures, **existing & proposed** setback and yard lines, fences, walls, easements, public rights of way, utilities, driveways, and other relevant information.
- Floor Plans & Elevations – Floor plans, building elevations and where relevant to the proposed work, sections, must include dimensions, material notes, window and door details, topography, foundation height, porch details and other relevant information as requested. For additions, the existing structure and proposed addition must be clearly shown.
- Include detail on drawings of all materials proposed to be used and their dimensional and property characteristics.
- Provide drawings, product literature, specifications, product photographs, or similar, for all new elements. Items include, but are not limited to, windows, doors, siding, trim, columns, railings, louvers, shutters, and roofing.
- Identify on drawings where any existing materials and architectural features will be removed or replaced.

*** Only the first two items are required for Like for Like projects.**

Note: All photos, drawings and physical samples, etc., become the property of the HDC/City of Mackinac Island. These may be returned to the applicant upon request after they are no longer needed by the Commission/City.

GENERAL APPLICATION FOR WORK LOCATED WITHIN A HISTORIC DISTRICT

- Minor Work (Complete Section A and refer to General Directions)
- New Construction (Complete Section B and refer to General Directions and Item B)
- Demolition (Complete Section B and refer to General Directions and Item C)

Application Deadline: Application and materials must be completed and submitted by 4:00 p.m. ten (10) business days before each Commission Meeting. Late applications will be placed on the agenda for the following month. Decision by the Commission will not necessarily occur at the meeting at which the application materials are first received.

A) MINOR WORK

PROPERTY LOCATION: _____
(Number) (Street) (Property Tax ID #)

PROPERTY OWNER

Name: _____ Email Address: _____

Address: _____
(Street) (City) (State) (Zip)

Telephone: _____
(Home) (Business) (Fax)

APPLICANT/CONTRACTOR

Name: _____ Email Address: _____

Address: _____
(Street) (City) (State) (Zip)

Telephone: _____
(Home) (Business) (Fax)

____ Attach a brief description of the nature of the minor work proposed and the materials to be used.
____ Attach one or more photograph(s) of the whole building including façade and any relevant elevations showing the area, item or feature proposed to be repaired or replaced. The Building Official or Historic District Commission may require additional information necessary to determine the work to be Minor Work.

If the Building Official determines that the proposed work is not Minor Work, the Building Official shall direct the applicant to complete an Application for New Work and/ or Application for Demolition or Moving work which will then be referred to the HDC.

I certify that the information provided in this Application and the documents submitted with this Application are true to the best of my information, knowledge and belief; and that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MLC 125.1501 to 125.1531

SIGNATURES

Signature _____ Signature _____

Please Print Name _____ Please Print Name _____

NOTE: All photos, drawings and physical samples, etc., become the property of the HDC/City of Mackinac Island. These may be returned to the applicant upon request after they are no longer needed by the Commission/City.

**RETURN THIS FORM AND SUPPORTING MATERIALS TO:
MACKINAC ISLAND BUILDING OFFICIAL
7358 MARKET STREET, MACKINAC ISLAND, MI 49757
PHONE: (906) 847-4035**

File Number: _____	Date Received: _____	Fee: _____
Received By: _____	Work Completed Date: _____	