

Background:

The First National Bank of Texas building, located at 507 N. Gray St. in downtown Killeen, was constructed in 1960 in the Mid-Century Modern style.

In 2008, the City of Killeen conducted a Historic Resources Survey, which identifies the building as a “High Priority” contributing resource. According to the Texas Historical Commission, a contributing building is one that contributes to the overall historic and architectural significance of a district. The survey identified eighteen (18) High Priority contributing buildings within the Downtown area.

Also in 2008, the Killeen City Council adopted a Heritage Preservation Ordinance, adding Sec. 31-821 of the Killeen Code of Ordinances, which states the following:

The City hereby declares that as a matter of public policy the protection, enhancement, rehabilitation, preservation and use of historic landmarks is a public necessity and is required in the interest of culture, prosperity, education and the general welfare of the people. The purpose of this division is to:

- A. Protect, enhance, and perpetuate historic landmarks and districts which represent distinctive elements of the City's unique historic, architectural, and cultural heritage;
- B. Foster civic pride in the history and accomplishments of the past;
- C. Protect and enhance the City's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- D. Insure the harmonious, orderly and efficient growth and development of the City;
- E. Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and
- F. Encourage stabilization, rehabilitation, restoration, and improvements of property values.

In 2009, the Historic Overlay District (HOD) was established to “provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value.”

Per Killeen Code of Ordinances Sec. 31-392: “The HOD is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; to foster civic pride and past accomplishments; to protect and enhance City attractions for tourists and residents; to strengthen the economy; and to promote the use of historical and cultural landmarks for the general welfare of the community. Additionally, the historic overlay district is intended to help promote the development of a downtown consistent with the community objectives identified in the downtown action agenda.”

In 2014, the Killeen Downtown Historic District was added to the National Register of Historic Places. The National Register nomination for the Historic District also identifies this building as a contributing resource within the district.

Process for Demolition:

Killeen Code of Ordinances Sec. 31-830 states the following:

It is the intent of this and succeeding sections to preserve the historic and architectural resources of the City, through limitations on demolition and removal of historic buildings, structures and sites to the extent it is economically feasible, practical and necessary. The demolition or removal of historic buildings, structures and sites in the City diminishes the character of the City's historic district and it is strongly discouraged. Instead, the City recommends and supports preservation, rehabilitation, and relocation within the historic district. It is recognized, however, that structural deterioration, economic hardship and other factors not entirely within the control of the property owner may result in the necessary demolition or removal of a historic building, structure or site.

City of Killeen Code of Ordinances Sec. 31-830 sets forth the requirements and process for demolition of a contributing property within the HOD. Should the City resolve to demolish the First National Bank of Texas building, the process would be as follows:

1. *Review by Heritage Preservation Officer (HPO).*

The City's Heritage Preservation Officer (HPO) will review the demolition permit to determine if the building is a contributing resource or is historically or architecturally significant. If the property is determined by the HPO to be a contributing building, the applicant must apply for a hearing before the Heritage Preservation Board (HPB) for a determination of significance pursuant to Killeen Code of Ordinances Sec. 31-829.

2. *Review by Heritage Preservation Board (HPB).*

If upon review, the HPB concludes that the building is not a significant historic property, the applicant may apply for a demolition permit and demolish the building. If the HPB concludes that it does possess significance, the property owner is required to submit an Order of Economic Hardship application pursuant to Sec. 31-831.

As noted above, the First National Bank of Texas building is listed as a contributing resource in the National Register of Historic Places and is identified as a "high priority" resource in the 2008 Historic Resources Survey. Therefore, it's likely the HPB would conclude that it is historically significant. In that case, the property owner would need to demonstrate economic hardship.

3. *Determination of economic hardship by HPB.*

Upon receipt of a complete determination of economic hardship application, the HPO will schedule an HPB meeting within forty-five (45) days. At the meeting, the applicant may present testimony and evidence to demonstrate economic hardship. In order to sustain a claim of unreasonable economic hardship, the owner must prove that:

1. The subject historic property is incapable of earning a reasonable rate of return, regardless of whether the return represents the most profitable return possible; *and*
2. The subject historic property cannot be repaired or rehabilitated for any other beneficial use, whether by the current owner or by a purchaser, which would result in a reasonable return; *and*

3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

The HPB may determine that unreasonable economic hardship exists and approve the demolition application if: 1) The building, structure or site cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated and denial of the application would deprive the owner of all reasonable use of the property; *and* 2) that the historic property cannot be feasibly moved or relocated.

If the HPB determines that an economic hardship exists, the owner may apply for a demolition permit and proceed to demolish the building.

If the HPB denies the application, the owner may not demolish the building and may not re-apply for an economic hardship application for at least three (3) years from date of the HPB's determination unless substantial changes in circumstances have occurred.

3. *Appeal of HPB decision to City Council.*

The applicant, or any persons adversely affected by the decision of the HPB, may appeal the decision to the City Council. Appeal requests must be filed with the City Manager's office within ten (10) days of the HPB's decision and must be scheduled for the next available regular City Council meeting. The appeal may only allege that the HPB's decision was arbitrary, capricious, or illegal.

Notice of the appeal shall be posted on the property for ten (10) days upon receipt of a formal appeal request. Written notice of the public hearing for the appeal request must be mailed to all property owners within one hundred (100) feet of the subject property. Appeals shall be considered only on the record made before the HPB and will require a $\frac{3}{4}$ majority vote of the City Council to overturn an HPB decision.

Potential Implications:

Demolition of a contributing building within the National Register Historic District could result in the district being removed from the National Register of Historic Places. Staff has been advised by the Texas Historical Commission that demolition of the First National Bank of Texas building could jeopardize the district's listing on the National Register.