

CHRISTOPHER COLUMBUS STATUE

Proposal: Remove statue from Marconi Plaza and store at secure location

Review Requested: Final Approval

Owner: City of Philadelphia

Applicant: Margot Berg, Public Art Director

History: Sculpted and installed at Centennial Exhibition, 1876; relocated to Marconi Plaza, 1976

Individual Designation: 3/10/2017

District Designation: None

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This application proposes to relocate the Christopher Columbus Statue from Marconi Plaza at 2700 S. Broad Street to an undisclosed, secure storage facility. Brian Abernathy, the City's Managing Director, requested that the Historical Commission consider the removal of the statue in a letter to the Commission on 24 June 2020. Mr. Abernathy stated that he was making the request on behalf of the City of Philadelphia, the owner of the statue. He contended that "recent events surrounding the statue and its present location have presented severe threats to public safety and welfare, as well as the safekeeping of the statue itself." Margot Berg, the City's Public Art Director, submitted a building permit application to the Historical Commission on 16 July 2020, elaborating on Mr. Abernathy's request. The application contends that removing the statue is necessary in the public interest to protect and preserve public safety and the statue itself. The application will be considered at a special meeting of the Historical Commission on 24 July 2020.

BACKGROUND INFORMATION ON THE STATUE AND ITS DESIGNATION

The Christopher Columbus Statue was sculpted for and installed at the Centennial International Exhibition of 1876, a World's Fair held in Philadelphia to celebrate the 100th anniversary of the Declaration of Independence. The Exhibition was staged in the West Park section of Fairmount Park, in the area that is roughly bounded by Parkside Avenue and Montgomery Drive and centered on Belmont Avenue. The exhibition was an enormous international event, which ran from May to November 1876, included exhibits from 37 countries, and hosted 10 million visitors. The Columbus Monument Association commissioned the statue and gifted it to the City of Philadelphia for display at the exhibition. The Columbus Monument Association was formed in 1872 and was primarily composed of members of Philadelphia's Italian-American community. The identity of the sculptor is unknown. The statue was erected at the western edge of the intersection of Fountain and Belmont Avenues, the two main axes of the exhibition, to the southeast of the U.S. Government Exhibition Building. Although nearly all of the approximately 200 exhibition buildings were removed after the exhibition closed, the statue remained in place until 1976, when it was moved to its current location at Marconi Plaza on S. Broad Street.

Acting on a nomination submitted by a third party, the Historical Commission designated the statue as an historic object on 10 March 2017, finding that it satisfied Criteria for Designation A and B as enumerated in Section 14-1004 of the City's historic preservation ordinance. The nomination's boundary and physical descriptions clearly indicated that the designation includes the statue and pedestal only, not the site or appurtenances like the enclosing fence.

The adopted nomination argued that the statue satisfies Criteria A and B, that it:

- (A) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the City, Commonwealth, or nation or is associated with the life of a person significant in the past; and,
- (B) Is associated with an event of importance to the history of the City, Commonwealth or Nation.

The nomination argued and the Historical Commission concurred that the statue satisfies Criterion A, “has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the City, Commonwealth, or nation,” because Columbus was adopted as a symbol for the emerging nation by George Washington and others during the Revolutionary Era and the statue was installed at a celebration of the 100th anniversary of the Declaration of Independence. Americans of the Revolutionary Era elevated Columbus, or Columbia, as a potent symbol for independence and an independent America because the explorer not only marked the beginning of European settlement in North America, but was also unrelated to Great Britain, against which the colonists were rebelling. As the nomination contends, “To patriots in the cause for independence from Great Britain, Columbus embodied the spirit and qualities of bravery and forging ahead despite challenges. Thus, the word, Columbia, the feminine version of Columbus, is synonymous with the ‘United States of America’.” The Historical Commission found that the statue satisfies Criterion A because it has value as part of the heritage of the nation, in that Columbus symbolized the nation at the time of independence and the statue of Columbus was created and installed at the Centennial, a celebration of the 100th anniversary of that independence.

The nomination argued and the Historical Commission concurred that the statue satisfies Criterion B, “is associated with an event of importance to the history of the City, Commonwealth or Nation,” because it was created for and installed at the Centennial International Exhibition of 1876, a pivotal event in nineteenth-century America, where the country emerged as an economic, technological, and political power on the world stage. The nomination contends that “the Centennial Exhibition was the first great World’s Fair in the United States” and “the Columbus statue was very visible at the Centennial, near the exquisite ‘Bartholdi Fountain’ at the intersection of Belmont and Fountain Avenues.” The nomination continues, stating that the Columbus statue “was placed in one of the most frequented areas [of the Centennial], close to the intersection of Belmont and Fountain Avenues in acknowledgement of the explorer’s part in our history.” The nomination concludes that

To the average American ... the Centennial Exhibition evoked patriotism in how our young country stood in competition with the much older, established nations of the world who had the great pasts and cultures borne over centuries. It was fitting then, for this statue of Columbus to be part of the Centennial for he connected our country to the values of a developed civilization as he inspired our Founding Fathers to break from Great Britain for independence to create an American culture and heritage.

The Historical Commission found that the statue satisfies Criterion B because it is associated with an event of importance to the history of the nation, the Centennial Exhibition, the country’s most prominent celebration of the 100th anniversary of the colonies’ declaration of independence from Great Britain.

The nomination asserted and the Historical Commission agreed that the Christopher Columbus Statue is historically significant in the context of the Centennial Exhibition. The statue of Columbus, who was unrelated to Great Britain and therefore aptly symbolized the new nation for its founders as they broke from Britain, stood at the heart of the grounds of the Centennial, the nation’s most important celebration of the 100th anniversary of the founding of the United States of America.

The nomination acknowledged that sculpture was moved from its historic location on the former Centennial grounds in Fairmount Park in 1976, but did not elaborate the reasons for the move, the mechanics of the move, or any significance associated with the new location. The

nomination states that the statue is “now situated in Marconi Park in South Philadelphia,” but it makes no claim that the current site has any historical significance or that the statue itself derives any historical significance from its current site. The nomination is silent on Marconi Plaza, other than observing that the statue is now located there, “where it has been since 1976, one hundred years after its original placement on the grounds of West Fairmount Park.”

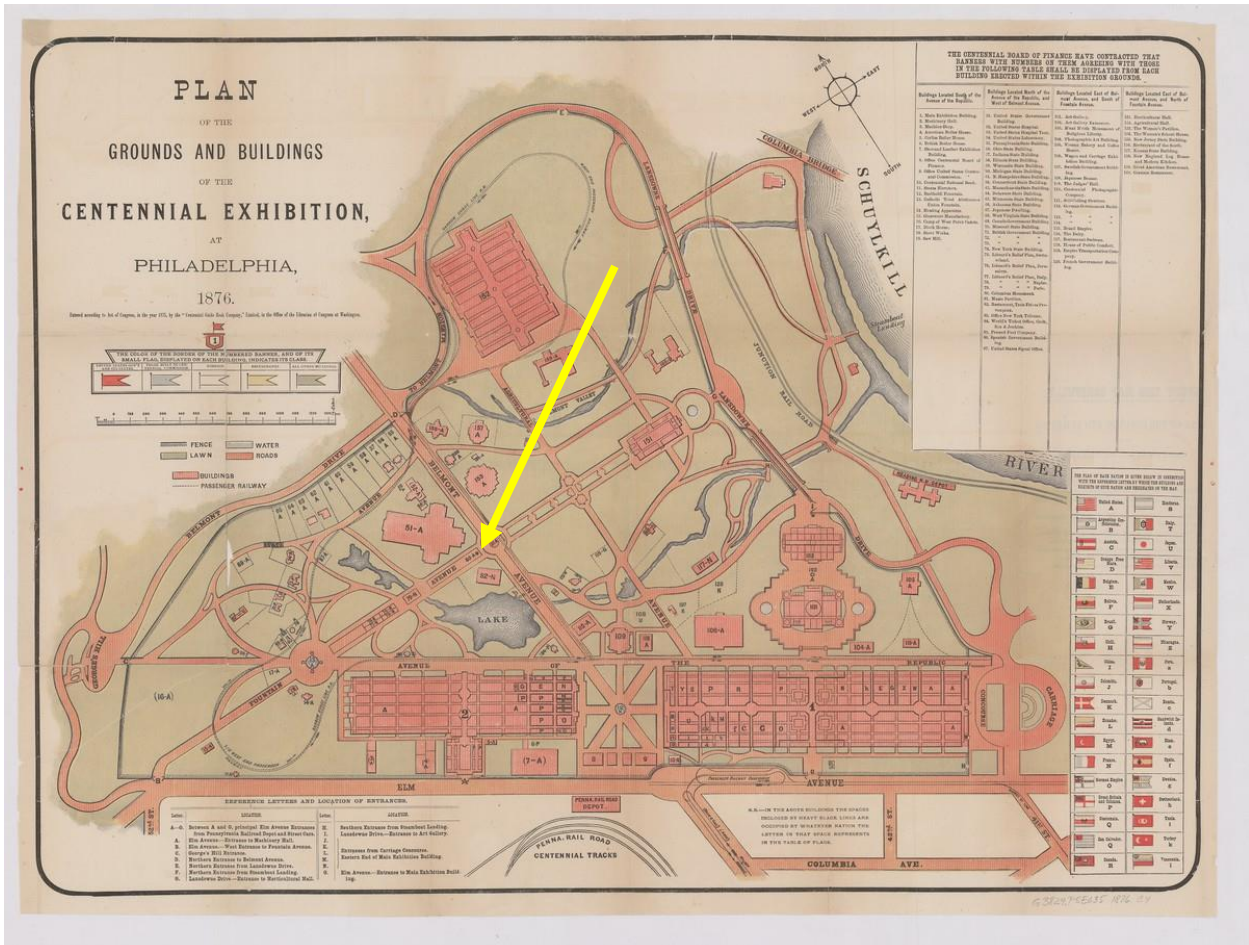


Figure 1 Plan of the Grounds and Exhibition of the Centennial Exhibition at Philadelphia, 1876, with the Christopher Columbus Statue location indicated.



Figure 2 Christopher Columbus Statue in 1876 and 1959 at its original location at Belmont and Fountain Avenues.

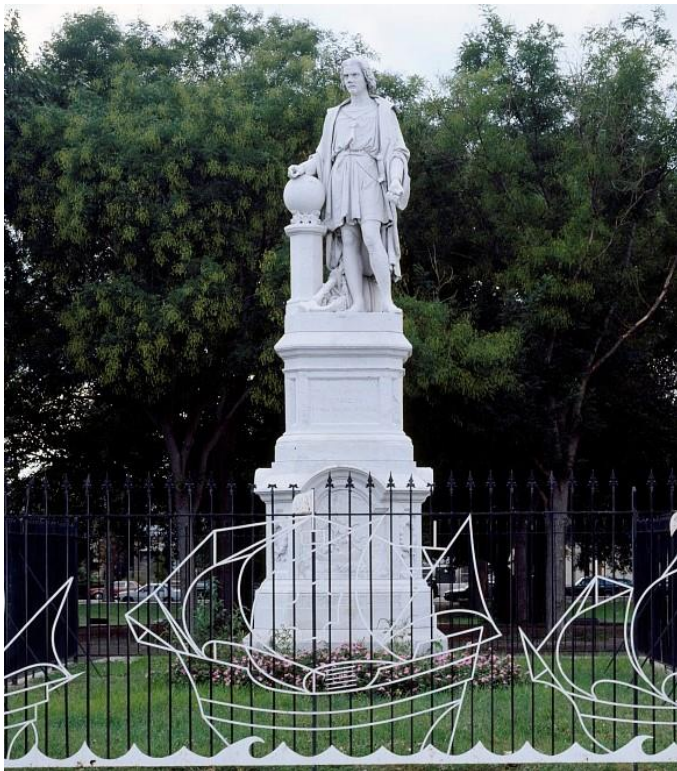


Figure 3 Christopher Columbus Statue at Marconi Plaza before and after safety measures.

SUMMARY OF THE APPLICATION

The application submitted by Public Art Director Margot Berg under her cover letter includes the following:

1. Photo of the Columbus statue and base;
2. Letter from Mayor Jim Kenney to Public Art Director requesting the initiation of the removal of the statue;
3. Memo from Managing Director Brian Abernathy requesting the creation of an expedited public process to ensure ample public input and discourse while at the same time adhering to the City's Home Rule Charter;
4. Philadelphia Police Department Affidavit of Officer Francis T. Healy, Special Advisor to Police Commissioner Outlaw, regarding the civil unrest at the statue;
5. Letter from Kathryn Ott Lovell, Commissioner of Philadelphia Parks and Recreation;
6. Letter from the City of Philadelphia's Public Art Advisory Committee;
7. Letter from Nikil Saval, candidate for Pennsylvania State Senate;
8. Summary of public input process undertaken by the City as of 14 July 2020;
9. Plan of guidance for statue removal, provided by a qualified sculpture conservator; and,
10. News outlet coverage of violence and clashes between opposing groups that have recently occurred at Marconi Plaza because of the Columbus statue.

The application makes two primary assertions that are significant for the Historical Commission's deliberations. First, the application asserts that removing the statue is necessary in the public interest to protect and preserve public safety and welfare and to protect and preserve the statue itself. Second, the application contends that the statue will be removed and relocated to a secure storage facility in a manner that will ensure that the statue and its base will be safeguarded.

The application documents that the statue has become a flashpoint for civil unrest as Philadelphians have protested systemic racism following the murder of George Floyd in Minneapolis. In response to the unrest, the City constructed a wooden box around the statue and erected barricades to prevent the public from approaching it; the protective measures have temporarily quelled the unrest and prevented further damage to the statue. The application includes letters from the Mayor, Managing Director, and Commissioner of Philadelphia Parks and Recreation, the City agency that manages Marconi Plaza, indicating that the statue must be moved to protect and preserve public safety and welfare. The application includes an affidavit of Philadelphia Police Officer Francis T. Healy, Special Advisor to Police Commissioner Outlaw, in which he concludes that civil unrest would resume if the protection around the statue were removed. The application documents a plan by a conservator to disassemble, catalogue, and move the statue and its base to a storage facility. The plan provides measures for safeguarding the marble statue and base and ensuring that the work is undertaken following best practices. The application concludes that it is necessary in the public interest to move the statue for both the safety of the public and the statue.

The application includes a letter by Nikil Saval, a candidate for the Pennsylvania Senate. Mr. Saval's wife, Shannon Garrison, works for the Historical Commission performing federal historic preservation reviews, not reviews under the local preservation ordinance like this one. Ms. Garrison has recused from this matter and has and will play no role in the processing of this application.

APPLICABLE LAW AND REGULATION

The application requests that the Historical Commission approve the relocation of the statue from its current location to a City storage facility as necessary in the public interest. The Historical Commission designated the statue of Christopher Columbus as an object. The City's historic preservation ordinance defines an "object" at Section 14-203(195) as:

A material thing of functional, aesthetic, cultural, historic, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

The nomination adopted by the Historical Commission when it designated the Columbus statue in 2017 asserted that the statue is related to a specific setting or environment, the Centennial grounds in West Fairmount Park. However, the statue is no longer located at that place, but has been located at Marconi Plaza since 1976. The adopted nomination makes no claim that the statue is related in any way to Marconi Plaza, other than the fact that it is currently located at the plaza.

The preservation ordinance defines "demolition or demolish" at Section 14-203(88) as:

The razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. **Demolition includes the removal of a building, structure, site, or object from its site** or the removal or destruction of the façade or surface. (emphasis added)

The ordinance explicitly defines the removal of an object from its site as a demolition. The Historical Commission could determine whether the "site" referenced in the definition of demolition is any site at which a movable object may be currently located, or is the "specific setting or environment" to which the object is related, per the definition of "object" at Section 14-203(195). In other words, the Historical Commission could decide whether the removal of the statue from Marconi Plaza constitutes a demolition in the legal sense or whether its removal is simply an alteration, the alternative to demolition, since Marconi Plaza is not the historic site of the statue. However, such an interpretation of the definition of "demolition" and specifically of the meaning of the word "site" as it relates to movable objects may not be necessary because the application contends that the circumstances justify an approval of a "demolition." An analysis of the review of this application as an "alteration" is presented in an appendix below.

If removing the Columbus statue from Marconi Plaza constitutes a demolition in the legal sense, then the Department of Licenses and Inspections is prohibited by Section 14-1005(6)(d) of the preservation ordinance from issuing the demolition permit except in two cases. The section stipulates that:

No building permit shall be issued for the demolition of a historic ... object ... unless the Historical Commission finds that issuance of the building permit is necessary in the public interest, or unless the Historical Commission finds that the ... object cannot be used for any purpose for which it is or may be reasonably adapted.

The Department may issue the demolition permit if the Historical Commission finds that the issuance of the permit is necessary in the public interest, or if the Commission finds that the object cannot be used for any purpose for which it is or may be reasonably adapted, i.e. that preserving the object would impose a financial hardship on its owner. This application makes no claims about financial hardship. Therefore, if the Historical Commission construes the removal of the statue from its current site as a "demolition," it should only approve the application after finding that the issuance of the building permit is necessary in the public interest.

Section 14-1001 of the preservation ordinance stipulates that, "as a matter of public policy,"

the preservation and protection of buildings, structures, sites, objects, and districts of historic, architectural, cultural, archaeological, educational, and aesthetic merit are public necessities and are in the interests of the health, prosperity, and welfare of the people of Philadelphia.

The ordinance declares that historic preservation is in the public interest. Moreover, the promotion of safety and security, a primary function of municipal government, is also in the public interest. The application argues that the removal of the statue is the only way to promote public safety and welfare at Marconi Plaza, and to promote the protection and preservation of the statue itself. If the Historical Commission agrees, it may approve the application to remove the statue from Marconi Plaza as necessary in the public interest.

PUBLIC COMMENT

At the time of the writing of this overview, the Historical Commission had received some public comment on the proposed removal of the statue and scheduled public meeting. Additional public comment will likely be received before the special meeting on 24 July. All public comment that is sent to the Historical Commission and its staff will be incorporated into the official record of the review. All public comment should be sent to the Historical Commission's general email address at preservation@phila.gov while the Commission's staff is working remotely. No one but City officials acting in their official capacities should ever contact members of the Historical Commission directly in person, by email, mail, or telephone, or any other means regarding a matter that is before or may be before the Historical Commission. All correspondence with the Historical Commission must be directed to the staff of the Historical Commission, who will log it, forward it to the Commissioners, and make it available to the applicants and public. Exparte communication with the Commissioners is forbidden by ordinance.

Celeste Morello, who nominated the statue for designation, has submitted a letter to the City regarding the removal of the statue. Ms. Morello makes two main points in her letter. First, she states that she found no reason for the move of the statue from Fairmount Park to Marconi Plaza in 1976 during her research and therefore made no claims in her nomination regarding the relationship of the statue to its current location. Second, she states that the group opposing the removal of the statue led by attorney George Bochetto played no role in and expressed no opinion on her nomination of the statue or her more recent nomination of Columbus Hall on S. 8th Street, which is related to the organization that created the statue for the Centennial, at the time they were under consideration for designation.

Attorney George Bochetto is representing persons claiming to have an interest in the outcome of this application. Mr. Bochetto emailed a letter to the Historical Commission dated 17 June requesting that the Historical Commission comply with all law and regulation with regard to the proposed removal of the statue. Mr. Bochetto then directly emailed a letter to some Commissioners on 26 June again requesting that the Historical Commission comply with all law and regulation. The second letter referenced a court order dated 18 June, in which Mr. Bochetto and the City Solicitor agreed to some conditions regarding the statue and the review of its proposed removal. The order does not explicitly mention the Historical Commission. Mr. Bochetto has also submitted a Right-To-Know Request and a subpoena to the Historical Commission seeking records related to the statue; the Law Department is addressing those requests. In an email to Leonard Reuter, the Commission's attorney, on 14 July, Mr. Bochetto requested that the Commission cancel the special meeting "because the manner and timing of such scheduling does not comply with existing law or the Rules and Regulations of the Historic (sic) Commission, and because the process has already been contaminated with blatant conflicts of interests." Mr. Reuter replied to Mr. Bochetto by email the same day, stating that "the

PHC is fully compliant with all applicable laws and regulations relating to the holding of a Special Meeting and there is no basis for the PHC to cancel the meeting; however, your request will be forwarded to the PHC, which may consider your request at the July 24 hearing.” Mr. Bochetto’s letters of 17 and 26 June, the court order, and his emails with Mr. Reuter requesting the cancellation of the special meeting are provided to the Commissioners. On 16 July, Mr. Bochetto submitted a 414-page package of materials for the Commissioners’ consideration. It is also provided to the Commissioners.

Other members of the public have indicated their positions on the proposed removal of the statue. Their correspondence is also provided to the Commissioners.

STAFF RECOMMENDATION

The staff recommends that the Historical Commission reject George Bochetto’s request to cancel the special meeting. The Law Department has opined that “the PHC is fully compliant with all applicable laws and regulations relating to the holding of a Special Meeting and there is no basis for the PHC to cancel the meeting.”

If the Historical Commission concludes that the removal of the statue from its current location is, in fact, a “demolition” as defined at Section 14-203(88), the staff then recommends that the Commission find that issuance of the building permit for the removal of the statue is necessary in the public interest and approve the application, provided the City acknowledges that the Historical Commission retains jurisdiction over the statue during its storage, and confirms that it will seek the Historical Commission’s approval for any subsequent alteration, demolition, or installation of the statue, or relocation of the statue to a site outside the City of Philadelphia, pursuant to Section 14-1005(6)(d) of the preservation ordinance.

If the Historical Commission concludes that the removal of the statue from its current location is an “alteration” as defined at Section 14-203(15), the staff then recommends that the Commission approve the application with the same conditions, based on the reasoning presented in the appendix below.

APPENDIX: CONSIDERING THE REMOVAL OF THE STATUE AS AN ALTERATION, NOT A DEMOLITION

The ordinance explicitly defines the removal of an object from its site as a demolition. However, the Historical Commission could determine whether the “site” referenced in the definition of demolition is any site at which a movable object may be currently located, or is the “specific setting or environment” to which the object is related, per the definition of “object” at Section 14-203(195). In other words, the Historical Commission could decide that the removal of the statue from Marconi Plaza is simply an alteration since the plaza is not the historic site of the statue.

The preservation ordinance defines “site” at Section 14-203(298) as:

The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archaeological value regardless of the value of any existing structure.

Section 14-1004(1) authorizes that the Historical Commission may designate a building, complex of buildings, structure, site, object, or district for preservation if it finds that the resource meets one or more of the 10 Criteria for Designation. It appears that the definition of “site” at Section 14-203(298) is intended describe the types of sites that may be designated in and of themselves and not to describe the land on which designated buildings, structures, or objects stand. The definition of “site” does not seem to clarify the demolition question, but, if it were applied in this case, it would argue against considering Marconi Plaza as a site because the plaza is not designated in its own right and the nomination for the statue makes no claims for the historical, cultural, or archaeological value of the plaza.

In the precedent-setting court case known as *Turchi I*, when reviewing the Historical Commission’s interpretation of the demolition provision in the preservation ordinance made during the review of an application to remove a portion of the building at 223 S. 6th Street, the Commonwealth Court opined that the Historical Commission’s reasonable interpretations of the ordinance are entitled to deference and that these interpretations become of controlling weight unless they are plainly erroneous or inconsistent with the ordinance. In that light, the Historical Commission may interpret the provision in the definition of “demolition” at Section 14-203(88) – Demolition includes the removal of a building, structure, site, or object from its site – to mean the removal from its **historic** or **historically significant** site with regard to objects. The ordinance defines objects at Section 14-203(195) as movable. In light of an object’s inherent portability, the current site of an object may be unrelated to its historical significance. The safe and secure removal of an object from a site unrelated to that object’s historical significance may have no impact on the object. The statue was removed from its historic site in Fairmount Park in 1976, prior to the Commission’s jurisdiction over it. The nomination of the statue, which the Historical Commission adopted just three years ago, makes no claim that Marconi Plaza has any sort of historical, architectural, cultural, or aesthetic relationship or connection to the statue. The Historical Commission could find that the removal of the statue from Marconi Plaza does not constitute a “demolition” as defined at Section 14-203(88).

If the Historical Commission concluded that removing the Columbus statue from Marconi Plaza did not constitute a “demolition” in the legal sense, then it could review the application as an “alteration,” which the preservation ordinance defines at Section 14-203(15) as:

A change in the appearance of a building, structure, site, or object which is not otherwise covered by the definition of demolition, or any other change for which a permit is required under The Philadelphia Code of General Ordinances.

Concluding that removing the Columbus statue from Marconi Plaza is an “alteration,” the Historical Commission would not be subject to the ordinance-mandated limitations on demolition approvals and would apply the Review Criteria enumerated in Section 1005(6)(e) of the preservation ordinance, as it does in most building permit application reviews. The Review Criteria enumerated in Subsections .1, .2, .3, and .5 are applicable in this case. The Criterion at (.4) relates to historic districts and the statue is not located in a historic district. The Criterion at (.7) relates to unnecessary hardship and low- and moderate-income persons, to which the current matter is unrelated. The Criterion at (.8) relates to interiors and the statue is not part of an interior designation.

(e) Review Criteria.

In making its determination as to the appropriateness of proposed alterations, demolition, or construction, the Historical Commission shall consider the following:

- (.1) The purposes of this Chapter 14-1000;
- (.2) The historical, architectural, or aesthetic significance of the building, structure, site, or object;
- (.3) The effect of the proposed work on the building, structure, site, or object and its appurtenances;
- (.5) The design of the proposed work.
- (.6) In addition to the above, the Historical Commission may be guided in evaluating proposals for alteration or construction by the Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” or similar criteria.

The proposed work would align with the purposes of the ordinance, in that it would protect and preserve the statue from damage and destruction (.1). The proposed work would have no impact on the historical, architectural, or aesthetic significance of the object; the object would retain any such significance that it currently possesses (.2). The proposed work would not have an adverse effect on the object, which has no appurtenances; the statue would be moved, but otherwise unchanged (.3). The applicant has confirmed that “the design of the proposed work,” i.e. the plan for the movement and storage, has been carefully considered and the work would be undertaken in a manner that guarantees that the statue will be safe and secure during the move and storage (.5).

Regarding the Review Criterion at (.6), Section 6.9.a.6 of the Historical Commission’s Rules & Regulations directs that “the Commission, its Architectural Committee, and staff shall be guided in their evaluations by the most recent edition of *The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings.*” The Secretary of the Interior’s Standards are primarily intended to provide guidance for the treatment of buildings, structures, and landscapes, and do not address objects like sculptures explicitly. They primarily provide guidance on physical treatments for historic buildings and structures. While most of the Standards and Guidelines cannot be applied to an object like this one, one of the Building Site Guidelines does touch on the question at hand. That Guideline recommends in favor of “retaining the historic relationship between [the landscape feature] and the landscape” and against “removing or relocating ... landscape features, thereby destroying the relationship between [the feature] and the landscape.” The relocation would satisfy the Secretary of the Interior’s Standards and Guidelines because the Columbus statue and Marconi Plaza have no historic relationship with one another and moving it to another location would therefore not disrupt any historic relationships between the statue and its surroundings. The Historical Commission could approve the relocation of the statue to a secure storage facility in the City of Philadelphia as an “alteration” applying the Review Criteria above.

If the City had not presented the arguments about public safety and protection of the statue from damage and destruction supporting the claim that removing the statue is necessary in the public interest, the staff would have recommended that the Historical Commission approve the relocation of the statue to a secure storage facility in the City of Philadelphia as an alteration, provided the City acknowledged that the Historical Commission retains jurisdiction over the statue during its storage, and confirmed that it would seek the Historical Commission's approval for any subsequent alteration, demolition, or installation of the statue, or relocation of the statue to a site outside the City of Philadelphia, pursuant to the Review Criteria at Section 1005(6)(e) of the preservation ordinance.