

HISTORIC AND DESIGN REVIEW COMMISSION

October 21, 2015

Agenda Item No: 15

HDRC CASE NO: 2015-424

APPLICANT: Office of Historic Preservation

TYPE OF WORK: Briefing and action on proposed UDC Amendments related to historic district designation and demolitions

REQUEST:

The Office of Historic Preservation is proposing amendments to Article 6, Sections 35-605, 35-614, and 35-615, of the Unified Development Code (UDC), which impact the historic district designation process, application of penalties for demolition by neglect, and requirements for estimates related to economic hardship cases.

SUMMARY:

District 2 Councilman Alan Warrick has submitted a City Council Resolution (CCR) to amend the process for initiating a new historic district and to remove penalties associated with the demolition of historic properties. District 1 Councilman Roberto Treviño has also submitted a CCR related to demolition procedures which requires a minor amendment to Section 35-614. The Infrastructure and Growth Committee reviewed the CCRs on June 18, 2015, and recommended that the items be forwarded to a City Council B Session for further review. The B Session meeting took place on September 16. Prior to the scheduled A Session, a recommendation from the HDRC and Zoning Commission is required.

The current designation process outlined in UDC Section 35-605 was created by City Council in December 2012. Under the current historic designation process, once the City receives an application for an eligible historic district, the City conducts an informational meeting for all owners in the potential historic district. The proponents must submit a petition demonstrating support from owners of at least 30 percent of the properties within the proposed district boundary in order to initiate the public hearing process. The application shall remain valid for two years. Once the petition is verified, the City initiates the public hearing process at the Historic and Design Review Commission, the Zoning Commission, and the City Council. Ultimately, historic designation is a zoning change, which is a decision under the purview of the Mayor and City Council exclusively.

In June 2010, a number of changes were made to the UDC based upon recommendations from the Strategic Historic Preservation Plan (SHPP) adopted by City Council in 2009. The SHPP recommended a process consistent with the process for listing properties in the National Register of Historic Places, which allows an application to move forward if there was not significant opposition from owners. From June 2010 to December 2012, the process involved a public meeting hosted by the City followed by a 90-day period during which residents could submit forms in favor or in opposition of becoming a local historic district. If the City received opposition from at least 50 percent of the property owners, then the designation process would end. If not, the public hearing process would begin. Although not the case, some residents perceived that not voting would count voting yes. There was also concern by residents that the process focused on the negative and created controversy. After listening to their concerns, the Council determined that a change was necessary, which is when the current process was developed.

Prior to June 2010, once a district was nominated and an initial public meeting was held, advocates for the district were given one year from the date of the meeting to collect signatures in favor from at least 51% of the property owners or the owners of at least 51% of the properties.

The three changes proposed would require amendments to Section 35-605 of the Unified Development Code. The first would increase the percentage of owner support required to initiate the public hearing process from 30% to 51% of the properties located within the proposed district boundaries. The second would require the City to facilitate the voting process by providing a form to affected property owners to submit their vote in support or opposition of initiation of the

process for district designation. The third proposal would change the length of time during which an application will remain valid from two years to one year. These changes would make the process comparable to the provisions in place prior to June 2010. Councilman Warrick has also indicated a desire to end an application where a clear majority of 51% has expressed verifiable written opposition.

The fourth proposed change would amend UDC Section 35-615, which outlines provisions for prevention of demolition by neglect and includes penalties for historic buildings that are demolished as a public safety hazard. Currently, Section 35-615(c)(3)(iv) states that if a historic building has been given notice to be in violation of this and other city ordinances and is demolished, then no application for a permit for a project on the property may be considered for a period of five years from the date of demolition of the building or structure. Earlier this year, there was confusion among stakeholders that this penalty applied to all demolition cases.

This five-year restriction on permits is intended to support the prevention of demolition by neglect. Additionally, this penalty is in place to ensure that owners do not use the BSB process to circumvent historic district regulations regarding demolitions. Councilman Warrick proposes to clarify this so as to avoid confusion in future cases and to ensure the penalty does not apply in all demolition cases.

To ensure clarity, staff proposes to amend the language to more clearly articulate when the penalty would apply and the notification requirements that would need to occur from both the Development Services Department and the Office of Historic Preservation in order for the penalty to apply. The current language requires at least two notices of violation of Section 35-615. Because this section is not commonly cited, this requirement created confusion about the application of the penalty in a recent case. Staff proposes to amend the UDC language to require at least two notices of violation of Section 35-615, at least two municipal court cases filed, and verified consultation with the owner of the property. The authority to notice an owner and file municipal court cases currently exists. The proposal is to provide clear language under this specific section to ensure appropriate application of the penalty. This clarified language will eliminate confusion about when the penalty will apply.

In an effort to support investment and infill development while balancing the desire of citizens to preserve the character and quality their historic neighborhoods, this penalty only applies in extreme cases of demolition by neglect on the part of the owner.

The fifth amendment outlines submittal requirements for demolition applicants that are providing rehabilitation estimates.

RECOMMENDATION:

Staff recommends approval.

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

**AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE
CITY CODE OF SAN ANTONIO, TEXAS TO REVISE THE HISTORIC
DISTRICT DESIGNATION PROCESS AND TO REVISE THE
PENALTIES FOR DEMOLITION OF HISTORIC STRUCTURES BY
NEGLECT.**

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WHEREAS, the Office of Historic Preservation received a City Council Request (CCR) requesting review of the current law, policies and procedures relating to the designation of Historic Districts and the enforcement of City ordinances to prevent demolition of historic structures by neglect; and

WHEREAS, on June 18, 2015, the Infrastructure and Growth Council Committee recommended changes to the city of San Antonio Unified Development Code historic district creation process, and changes to the city of San Antonio Unified Development Code penalties for demolition of historic structures by neglect, and recommended further review in City Council B Session; and

WHEREAS, on September 16, 2015, the City Council B Session also recommended these changes to Article VI of the city of San Antonio Unified Development Code; and

WHEREAS, the Zoning Commission has recommended approval of these amendments; and

WHEREAS, the Historic and Design Review Commission has recommended approval of these amendments; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Code of San Antonio, Texas is hereby amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 35 of the City Code of San Antonio, Texas is amended as follows:

Chapter 35, Article VI, Section 35-605 is amended as follows:

Sec. 35-605. Designation Process for Historic Districts.

(b) Processing Applications for Designation of Historic Districts.

- (1) Initiation. Any person owning property within the proposed area, the historic preservation officer, the historic and design review commission, the zoning commission or the city council may initiate a historic district designation by filing an application with the historic preservation officer. Properly submitted applications shall remain valid for one (1) year ~~two (2) years~~ from the date it is deemed complete and thereafter shall be expired. Requests for designation shall be made on a form obtained from the city historic preservation officer through the office of historic preservation. Completed applications shall be returned to the office of historic preservation for review and processing as applicable. To the extent that this paragraph conflicts with any other provisions of this chapter, this paragraph shall control except for buildings, objects, sites, structures, or clusters heretofore designated as local landmarks or districts, National Register landmarks or districts, state historic landmarks or sites, or state archaeological landmarks or sites.

- (3) Decision. Following an informational meeting and notice of the receipt of an application for a proposed designation, the historic preservation officer shall provide a mailed ballot to the owner or owners of property within the proposed historic boundary. When the historic preservation officer has received verifiable written support from the owners of at least fifty-one (51) ~~thirty (30)~~ percent of the properties within the proposed historic district boundary the historic preservation officer shall forward the application to the historic and design review commission for a public hearing and recommendation. The historic preservation officer shall not accept written support for an expired application, however previous support that is verifiable may be resubmitted to support a new application. Property ownership shall be verified utilizing the last certified tax rolls of the appropriate county tax assessor collector for the proposed area. For purposes of calculating the support of fifty-one (51) ~~thirty (30)~~ percent of the property owners, each property as listed on the tax rolls shall be counted individually, regardless of whether an individual or group owns multiple properties within the proposed area. Properties owned by governmental entities shall not be counted in the fifty-one (51) ~~thirty (30)~~ percent support requirement, although their written preference may be submitted to any board, commission or to city council for their consideration. Additionally, for properties owned by more than one (1) party, only one (1) property owner need submit written support in order for the historic preservation officer to count the property in the calculation. The historic preservation officer shall notify all property owners within a proposed historic district boundary of the date, time, place and purpose of the historic and design review commission hearing at least thirty (30) days prior to the historic and design review commission hearing on the historic district designation. The historic and design review commission shall make its recommendation for either approval or denial within thirty (30) days from the date of submittal of the designation request by the historic preservation officer. Upon recommendation of the historic and design review commission, the proposed historic district designation shall be submitted to the zoning commission with the historic and design review commission recommendation. The zoning commission and the city council shall process the application as prescribed in section 35-421 of this chapter and this section. The zoning commission shall schedule a hearing on the historic and design review commission's recommendation to be held

within forty-five (45) days of receipt of the historic and design review commission's recommendation and shall forward its recommendation for either approval or denial to the city council. The city council shall schedule a hearing to be held within forty-five (45) days of its receipt of the zoning commission's recommendation. The city council shall review and shall approve or deny the proposed historic district. Upon passage of any ordinance designating an area as historic, or removing the designation of historic, the city clerk shall send notice of the fact by mail to the owner or owners of affected property.

Chapter 35, Article VI, Section 35-615 is amended as follows:

Sec. 35-615. - Prevention of Demolition by Neglect.

(c) Enforcement.

(3)Penalties.

(iv) If any building, object, site or structure covered by this subdivision shall have to be demolished as a public safety hazard ~~and the owner thereof shall have received two (2) or more notices from the director of code compliance of building neglect in violation of this and other city ordinances,~~ no application for a permit for a project on the property may be considered for a period of five (5) years from the date of demolition of the structure provided that the following have occurred prior to an order for demolition:

- A. The owner thereof has received two (2) or more notices from the historic preservation officer and director of code compliance of building neglect in violation of this and other city ordinances;
- B. At least two municipal court cases have been filed in an attempt to enforce the property maintenance code;
- C. A verified consultation between the owner, historic preservation officer, and director of code compliance has occurred.

Additionally, no permit for a curb cut needed for the operation of surface parking lot shall be granted by a city office during this period, nor shall a parking lot for vehicles be operated whether for remuneration or not on the site for a period of five (5) years from and after the date of such demolition.

SECTION 3. All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing code.

SECTION 6. The City Clerk is directed to publish notice of these amendments to Chapter 35, Unified Development Code of the City Code of the City of San Antonio, Texas. Publication shall be in an official newspaper of general circulation in accordance with Section 17 of the City Charter.

SECTION 7. This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this ____th day of _____, 2015.

M A Y O R
Ivy Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney