



# City of San Antonio

## Agenda Memorandum

**File Number:**15-3660

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**Agenda Item Number:** 4.

**Agenda Date:** 6/18/2015

**In Control:** Infrastructure and Growth Committee

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**DEPARTMENT:** Office of Historic Preservation

**DEPARTMENT HEAD:** Shanon Miller, Director

**COUNCIL DISTRICTS IMPACTED:** City-wide

### **SUBJECT:**

Potential amendments to the Unified Development Code relating to historic district designation and demolition penalties.

### **SUMMARY:**

District 2 Councilman Alan Warrick has submitted a City Council Resolution to amend the process for initiating a new historic district and to remove penalties associated with the demolition of historic properties. These changes will require an amendment to Article 6, Sections 35-605 and 35-615, of the Unified Development Code (UDC). This item was referred to the Infrastructure and Growth Committee by the Governance Committee on April 15.

### **BACKGROUND INFORMATION:**

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.

## **ISSUE:**

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.

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. Recently, 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 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.

### **ALTERNATIVES:**

For the district creation process, alternatives are to accept the changes proposed in the CCR, leave the process unchanged, or create a new process not yet discussed.

For the penalties, alternative is to not clarify the circumstances under which the penalty would apply and leave the UDC language unchanged.

### **FISCAL IMPACT:**

The creation of historic districts incurs costs associated with mailing notifications to property owners within proposed boundaries, the allocation of staff time during normal working hours and after hour public meetings, and zoning fees. These costs are currently budgeted. Each of the process options has an equal cost associated so changing the process will have no direct fiscal impact.

### **RECOMMENDATION:**

Staff concurs with the proposed changes to the historic district creation process.

Staff recommends clarifying the language related to the 5-year penalty to eliminate confusion