



August 14, 2015

City of Tulsa City Council
175 E. 2nd St.
Tulsa, OK 74103

Tulsa Metropolitan Area Planning Commission
Two West 2nd Street, Suite 800
Tulsa, OK 74103

Re: Response to Zoning Code Proposed Update

Dear City Council Members and Planning Commissioners:

I am writing on behalf of the Tulsa Preservation Commission in response to the most recent draft of the draft Zoning Code Update. The Tulsa Preservation Commission reviewed all sections of the draft that pertain to historic resources. While overall, the Commission found the revisions to and retention of the previous code language positive and sufficient, there are areas identified that we recommend be modified to provide needed clarification or to be consistent with national historic preservation practice.

In April, the Preservation Commission recommended 13 edits to staff. Of those 13, four were not incorporated, one was modified, and one was recommended for post-adoption clarification. After further review and for the reasons stated hereafter, the Preservation Commission seriously requests that the following four edits be included in the final draft:

1. 20.010 C(2) Interpretation- This section currently states that the "more restrictive overlay shall apply" when there are multiple overlays. The Preservation Commission is concerned with how this section of the Code will be implemented and who makes that determination. Specific restrictions that apply to historic preservation are based on set guidelines and standards. We recommend amending the last sentence by adding: "with the exception of a Historic Preservation Overlays which shall govern the HP Overlay District."
2. 70.060 E(2) Notice of Hearing- This section was amended to state that a notice "must identify common examples of work and changes to the property that will trigger the need for a property owner to obtain an HP permit." This could be an infinite list and we do not want to give the impression that certain projects would not be reviewed. We recommend instead that it read: "include a statement that 'examples of changes and work that require an HP Permit include, but are not limited to, the erection, construction, reconstruction, renovation, alteration, painting, removal or demolition of a building, structure, or lot, regardless of whether or not a building permit is required'." This provides a general statement



of the types of work that could require a Historic Preservation Permit instead of specific instances of work.

3. 70.070 E Meeting and Final Decision- Preservation Commission- The current draft states that the Preservation Commission must act on the application within 30 days and if the Commission does not take action within the allotted time, it is an automatic approval. In section 70.010 K, it states that if action is not taken within the allotted period or the applicant has not agreed to an extension that the application is deemed denied, unless otherwise stated. This is the only instance that not taking action within the allotted period is an automatic approval. We recommend this language be removed and the period be extended to 60 days. See attachment for exact language suggested.
4. 70.070 G Demolition Requests- TPC would like to strengthen existing code to require a process wherein the applicant for a demolition permit is provided the opportunity to demonstrate the economic infeasibility of preservation of the structure or other reasons to justify demolition. TPC is also concerned that the 60-day stay period is not sufficient time to work with applicants to find other alternatives to the demolition. For example, to move a structure could take 6 months. Based on research of other demolition ordinances in peer cities and regions, TPC recommends new demolition ordinance provisions (see attachment for proposed language) that:
 - a. Increase number of days for delay.
 - b. Require additional information to substantiate reason for demolition.
 - c. Add an Economic Hardship clause for applicants.
 - d. Add a maintenance section consistent with existing nuisance provisions.

Attached is a copy of recommended language changes that have not been incorporated that we respectfully request be included for reasons stated above.

Thank you for the opportunity to comment. Please let us know if you have any questions or concerns by contacting Preservation Commission Staff member, Jennifer Gates, at jgates@cityoftulsa.org or 576-5685.

Sincerely,



David Pounds
Chair
Tulsa Preservation Commission

Attachment

Suggested Text

20.010 C Interpretation

2. When overlay regulations conflict with regulations that otherwise apply in the under-lying base zoning district, the regulations of the applicable overlay govern. If property is classified in multiple overlay districts and the regulations of one overlay district conflict with the regulations of another overlay district, the more restrictive regulations govern, with the exception of a Historic Preservation Overlays, which shall govern the HP Overlay District.

70.060-E Notice of Hearing

2. Mailed Notice

Notice must be mailed to all owners of property included within the area that is the subject of the proposed HP zoning map amendment and all owners of property within 300 feet of the subject property at least 20 days before the scheduled public hearing. In addition to other information required in hearing notices (see §70.010-F), mailed notice for an HP zoning map amendment must include a statement that ‘examples of changes and work that require an HP Permit include, but are not limited to, the erection, construction, reconstruction, renovation, alteration, painting, removal or demolition of a building, structure, or lot, regardless of whether or not a building permit is required.’

70.070 E Meeting and Final Decision - Preservation Commission

Within 60 days of receipt of a complete HP Permit application, the preservation commission must meet to consider the application and act to approve the HP permit, approve the HP permit with modifications and/or conditions, or deny HP permit application based on the standards and review criteria of §70.070-F, unless the applicant requests or agrees to an extension of the 60-day period. Approval of an HP permit requires at least a simple majority vote of the preservation commission. If additional information is required by the Preservation Commission, time is suspended until information is provided in order to make a final decision.

70.070 G Demolition Requests

1. Any HP permit application for demolition shall be issued if the commission determines that the building or structure meets one or more of the following criteria:

- a. Threat to public health and safety;
- b. The building or structure is noncontributing or no longer contributing to the district or no longer qualifies as a historic structure; or
- c. Economic infeasibility.

2. In order to establish the existence of the conditions specific in subsection 1, the following standards and criteria are required to be submitted:

a. To prove existence of a threat to public health and safety, the applicant must establish the following:

(i) Demonstrate through a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and supporting information that a major or imminent threat to public safety exists;

(ii) Present all reasonable alternatives for correcting the threat and analyses of all such alternatives; and

(iii) Demonstrate that the costs of correcting the threat would not allow a reasonable economic return as described in subsection 2(c) of this section.

b. To prove the building or structure is no longer contributing to the district or no longer qualifies as a historic structure, the applicant shall provide evidence that:

(i) The information relied on in making the original designation was erroneous or false, or significant new information is available that was not previously available, such that the place, site, building, structure or object does not currently meet the criteria specified in Section 70.060(J);

(ii) Circumstances wholly beyond the property owner's control, such as an act of nature, have rendered the resource ineligible for designation in accordance with the criteria specified in Section 70.060(J); or

(iii) Due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character from its period of significance as determined in the original nomination.

c. To prove the existence of a condition of unreasonable economic return, the applicant must establish that the building or site is incapable of earning a reasonable economic return. The applicant shall submit to the commission evidence establishing each of the following factors:

(i) Two estimates- one for the cost of the proposed construction inclusive of the demolition and one for the cost that would be incurred to comply with the rehabilitation of the structure.

(ii) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of the structure and its suitability for rehabilitation.

(iii) The estimated market value of the property: 1) in its current condition; 2) after rehabilitation; and 3) and after demolition shall be compared.

(iv) Amount paid for the property, the date of purchase or acquisition, and the party from whom purchased.

(v) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

(vi) Any listing of the property for sale or rent, price asked, and any written offers received within the previous two (2) years.

(vii) Per the most recent county property tax assessment, the market value of the land and improvements and real estate taxes for the previous two (2) years.

(viii) For income producing property, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance expenses for the previous two (2) years.

3. If the application for demolition is denied, the applicant may file for a demolition permit with Development Services 180 days after the initial denial. During the 180-day stay period, the property owner is encouraged to consult with the commission and other interested parties to find alternatives to demolition. Should alternatives acceptable to the property owner not be found, the HP permit for demolition will be deemed approved and must be issued upon termination of the stay period.

Prior to the expiration of the 180-day stay period, the preservation commission may request that the city council extend the stay for a period not to exceed an additional 180 days. The preservation commission must provide written notice to the property owner of such request and of the date of the public hearing to consider the request. At the hearing, the city council must consider whether:

- a. The preservation commission has presented reasonable alternatives that would preserve the structure;
- b. Suitable alternatives have been found and further time is required to finalize arrangements for achieving such alternatives; and
- c. The property owner desires further time to search for or continue action on available alternatives.

After notice and public hearing, the city council must vote to approve, approve with conditions, or deny the request for an extension of the stay period. If the request is denied the HP permit for demolition will be deemed automatically approved.

4. During any period of the stay of demolition the property owner may use the property in question in any legal manner, except that no action may be taken that would place the property in danger of damage or destruction.

5. Maintenance of Historic Properties

- a. The purpose and intent of this subsection is to preserve, protect, and perpetuate the elements of the historic fabric unique to the historic resource or site and to stabilize the historic authenticity of

the historic resource, building or site to prevent need for demolition or destruction due to neglect of important resources in the City's history. For purposes of maintenance and repairs, every effort shall be made to stabilize the resource, building or site so that its historical integrity is preserved in a manner consistent with the Secretary of the Interior's Standards and the City's Unified Design Guidelines.

b. To help meet the purpose and intent, the following maintenance requirements are established:

(i) Water Protection. Structures shall be maintained in a watertight condition to preclude intrusion by dry rot and other decay problems caused by water. Deteriorated, insufficient, or ineffective waterproofing or weather protection of exterior walls, roofs, foundations, floors, windows, or doors shall be promptly addressed and repaired to prevent further decay, deterioration, or possibility of injury to members of the public and/or property.

(ii) Structure. Roof, foundation, and structure shall be maintained through proper treatment and repair, to prevent decay, demolition by neglect, loss of historic materials and features, damage to the structure, and/or injury to the public. Defective materials or deterioration which may cause any or all portions of roofs, foundations, walls, or other structural members to deteriorate shall be promptly addressed, and repaired or stabilized to prevent further decay, deterioration, loss of historic fabric, and possibility of injury to members of the public and/or property.

c. In addition to any other penalty authorized by law, failure to maintain shall constitute a public nuisance pursuant to Title 55 and Title 24 of this Code resulting in the issuance of an order that the owner perform the maintenance necessary to comply with this section. Any failure to comply with such an order shall entitle the City to cause the maintenance to be performed at the owner's expense and in addition to the penalties provided by this code for violation thereof, such cost may be recovered of such owner or occupant by civil action in any court of competent jurisdiction. In addition, any such costs shall become a lien against the property as provided for in Section 209 of Title 24.