

LDC-19-03 (Demolition Review for Historic-Age Resources)

Hold a public hearing and consider a Development Code amendment to include a demolition review process for historic-age resources.

Background

6.27.19 – City Council Special Meeting

- **Ordinance 2019-19** adopted (extended in **Ord. 2019-32**)
 - City shall not issue a permit authorizing the demolition or removal of any building or part of such building until at least 90 days have passed since date of last notice required posted or sent
 - Applies to buildings, any part of a building identified as a medium or high preservation priority property within the boundaries of the draft My Historic SMTX historic resources survey
 - If outside the draft My Historic SMTX, applies to buildings, any part of a building that is at least 80 years of age

Background

7.11.19 – Historic Preservation Commission Regular Meeting

- Staff presented other cities demolition review processes
- Staff asked for direction on key decision points to be written into the ordinance
 - Applicability Criteria
 - Review Period
 - Notification List
- Staff presented two process options to HPC
 - One without a process to designate local historic landmarks
 - Staff recommended this process which closely mirrored Ord. 2019-19
 - One with a process to designate local historic landmarks
 - HPC gave direction to include a designation process

Background

7.31.19 – Historic Preservation Commission Special Meeting

- Staff presented a draft demolition review process
 - Commission gave direction on the purpose, applicability, and notification sections of the proposed ordinance
- Commission moved to approve the proposed ordinance
 - With amendment to include a Neighborhood Presentation meeting

Background

8.28.19 – Historic Preservation Commission Special Meeting

- Staff presented a full draft demolition review for historic-age resources ordinance
- Discussion was held by Commission regarding holding the demolition for the full 90 days if area for demolition was found not to be historically significant
 - Commission consensus was to hold the permit the full 90 days
- Commission approved the draft ordinance included in packet
 - Amend Section C.1(a) – Exceptions
 - Explicitly state process for Neighborhood Presentation meeting rather than refer to another section in the SMDC
 - Spell out CONA in Notifications section

Responsible Party	Action	Approximate # of Days
Applicant	Application Submitted	0 Days
Staff	Determine if demolition is subject to the demolition review provision	12 Days
Staff	Notifications sent to all persons and entities described in ordinance; scheduling of Neighborhood Presentation Meeting	20 Days
HPC	Public hearing and initial determination whether property is eligible for consideration as a local historic landmark. If determined to be eligible, then the Commission may initiate a request for designation of the property as a local historic landmark and extend the delay period. If the property is not determined eligible, the demolition permit shall be issued no later than the termination of the delay period.	45 Days
HPC	Public Hearing and consider recommendation on local landmark designation under Sec. 2.5.4.2. (owner consent or 3/4 vote required to continue to P&Z).	75 Days
P&Z	Public hearing and consider recommendation on local landmark designation (owner consent or 3/4 vote required to continue to city council).	105 Days
City Council	Public hearing and consideration of local landmark designation on first reading (owner consent or 3/4 vote required to continue to second reading).	112 Days
City Council	Second reading on local landmark designation (owner consent or 3/4 vote required).	126 Days
Applicant	If not designated as a historic landmark, then demolition permit will be issued. If designated a landmark, applicant submits an application for Certificate of Appropriateness to demolish a local landmark under existing process.	127 Days

Background

9.10.19 – Planning and Zoning Commission Meeting

- Staff presented HPC recommended draft demolition review ordinance
 - Commission postponed action and directed staff to draft an alternate ordinance based on staff's recommendation
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10.8.19 – Planning and Zoning Commission Meeting

- Alternate ordinance presented to Commission
 - Modifies the applicability when not within the boundaries of the *My Historic SMTX*
 - Removes Neighborhood Commission meeting requirement
 - Removes landmark designation process
 - HPC may issue demolition permit early if there is no finding of significance

Responsible Party	Action	Approximate # of Days
Applicant	Application Submitted	0 Days
Staff	Determine if demolition is subject to the demolition review provision	12 Days
Staff	Notice of demolition request and public hearing sent to all persons and entities described in ordinance	20 Days
HPC	<p>Public hearing to consider the demolition delay period and allow discussion of alternatives to demolition and methods for potential preservation of historic character.</p> <p>If determined to be eligible and there is potential for preservation of historic character, the Commission may extend the delay period a maximum of 180 days. HPC may issue demolition permit early if there is a finding of no historic significance.</p>	45 Days

Effect:

- Add a new applicability requirement to Section 2.7.3.1(B) of the San Marcos Development Code to require all applications for demolition permits for historic-age resources to be reviewed prior to issuance of demolition permit

Section 2.7.1.5 Appeals and Relief Procedures

- A. Appeal.** The applicant for a site plan permit may appeal the decision of the initial decision-makers to the Planning and Zoning Commission in accordance with Section 2.8.1.1.

Section 2.7.1.6 Expiration and Extension

- A.** A site plan permit is subject to the expiration and extension requirements in Section 2.3.5.1.

Section 2.7.1.7 Completion and Acceptance

- A. Prior to Occupancy.** All improvements required by the site plan permit must be completed in accordance with applicable regulations and standards prior to the issuance of a certificate of occupancy for the last building on the site.
- B.** If the construction of any improvement is to be deferred until after the issuance of a temporary certificate of occupancy, the property owner shall first provide sufficient security to the City in the form of a cash escrow to ensure completion of the improvements.
- C. Prior to Final Acceptance.** The property owner shall submit an engineer's letter of concurrence certifying that all stormwater detention and water quality management facilities are in conformance with the approved plans and specifications before the City may finally accept such facilities.

DIVISION 2: COMMON SIGNAGE PLAN

Section 2.7.2.1 Applicability and Effect

- A. Applicability.** Prior to the issuance of a sign permit for one or more buildings or businesses on the same lot or parcel of land, a common signage plan approved by the Responsible Official in accordance with the requirements of this section may be submitted.
- B. Effect.** Approval of a common signage plan authorizes the submittal of a sign permit in conformance with the common signage plan.

Section 2.7.2.2 Application Requirements

- A.** An application for a common signage plan shall be submitted in accordance with the universal application procedure in Section 2.3.1.1.

Section 2.7.2.3 Responsible Official Action

- A.** The Responsible Official shall review the proposed application against the requirements in Section 7.3.1.1 and other applicable technical requirements of the City.
- B.** Following review, the Responsible Official shall approve, approve with conditions that bring the application into conformance with this Development Code and other applicable technical requirements of the City or deny the application.
- C.** If the application is disapproved, the reasons for such disapproval shall be stated in writing and provided to the applicant, specifying the provisions with which the application does not comply. A revised application may be submitted to the Responsible Official for further consideration.
- D.** An appeal of the Responsible Official's action may be filed with the Planning and Zoning Commission in accordance with Section 2.8.1.1.

Section 2.7.2.4 Enforcement of an Approved Plan

- A.** It shall be the responsibility of the applicant to enforce the terms of the common signage plan and a current copy of such plan, including any amendments, must be kept on file by the Responsible Official.

Section 2.7.2.5 Existing Signs Not Conforming to Common Signage Plan

- A.** All signs not conforming to the proposed common signage plan shall be required to comply at the time of application for a new sign permit.

DIVISION 3: CONSTRUCTION PERMITS

Section 2.7.3.1 Purpose, Applicability, Exceptions and Effect

- A. Purpose.** Approval of a construction permit confirms that the application conforms to all requirements of this Development Code pertaining to the construction of the proposed structure.
- B. General Applicability.** A construction permit is required prior to the construction, demolition, alteration or placement of a structure on a lot, tract or parcel.

Effect:

- **Add new Division 4: Demolition Review For Historic-Age Resources to Chapter 2, Article 7**
- **Will effect properties:**
 - **located within My Historic SMTX historic resources boundaries evaluated as high or medium preservation priority; or**
 - **located outside of the boundary that are listed on the National Register of Historic Places, or a Recorded Texas Historic Landmark**

protection plan as are necessary to assure that the plan meets water quality standards, based on the recommendation of the Responsible Official, a qualified geologist, or a Texas-licensed professional engineer. Conditions may include a requirement to prepare or modify a mitigation plan.

- E. No watershed protection plan or qualified watershed protection plan shall be approved or approved with conditions unless proper documentation is submitted to the Responsible Official indicating that all applicable federal, state, and local permits, approvals, and clearances have first been obtained including any required floodplain permit under Chapter 39 of the City Code.

Section 2.6.1.5 Appeals and Expiration

A. Appeal

1. The applicant for either phase of a watershed protection plan or any interested person within the notification area may appeal the decision of the Engineering Director to the Planning and Zoning Commission.
2. For a qualified watershed protection plan, the decision of the Planning and Zoning Commission may be appealed to the City Council, in accordance with Section 2.8.1.1.

- B. **Expiration.** A watershed protection plan (phase 1 and/or phase 2), is expired in accordance with Section 2.3.5.3 if an active permit for development of the land is not in place within two (2) years of the date of approval of either phase of the plan.

ARTICLE 7: SITE PLAN

DIVISION 1: APPROVAL AND APPLICATION PROCESS

Section 2.7.1.1 Purpose, Applicability, Exceptions and Effect

- A. **Purpose.** The purpose of a site plan permit shall be to apply the standards contained in this Development Code to a specific development. A site plan permit assures that preparatory development and construction activities on the development site shall meet city standards prior to soil disturbance, development, construction, demolition or placement of a structure on the tract, parcel or lot.
- B. **Applicability.** Approval of a site plan permit is required prior to any non-exempt development of land within the city limits or within the city's extraterritorial jurisdiction.
- C. A site plan permit is required for all development meeting any of the criteria listed below.
 1. Existing non-residential and multifamily uses that are proposing to add greater than five thousand (5,000) square feet of impervious cover.
 2. Existing non-residential and multifamily uses that expand more than fifty (50) percent of the building's originally constructed floor area.
 3. All non-residential and multi-family development located partially or completely on a lot within any of the following sensitive environmental regions:
 - a. Over the Edwards Aquifer recharge or contributing zones;
 - b. An identified floodplain, water quality or buffer zone;
 - c. The San Marcos river protection zone;
 - d. The San Marcos river corridor; or
 - e. Wetlands or other jurisdictional water.
- D. All other development shall require submission of a small site plan with the applicable construction permit application demonstrating compliance with the requirements of this Development Code.

Item	DRAFT Ordinance (HPC Recommended)	DRAFT Alternative Ordinance (P&Z Recommended)
Applicability (When does the ordinance apply?)	<ul style="list-style-type: none"> – Within <i>My Historic SMTX</i> boundaries <ul style="list-style-type: none"> ○ High or medium preservation priority – Outside <i>My Historic SMTX</i> boundaries <ul style="list-style-type: none"> ○ At least 50 years of age ○ Listed on National Register of Historic Places ○ Recorded Texas Historic Landmark 	<ul style="list-style-type: none"> – Within <i>My Historic SMTX</i> boundaries <ul style="list-style-type: none"> ○ High or medium preservation priority – Outside <i>My Historic SMTX</i> boundaries <ul style="list-style-type: none"> ○ Listed on National Register of Historic Places ○ Recorded Texas Historic Landmark
Exceptions to applicability	<ul style="list-style-type: none"> – Within a local historic district or designated as landmarks (COA required) – Imminent threat to public safety (determined by Chief Building Official or Fire Marshal) 	<ul style="list-style-type: none"> – Within a local historic district or designated as landmarks (COA required) – Imminent threat to public safety (determined by Chief Building Official or Fire Marshal) – Identified in <i>My Historic SMTX</i> as not historically significant – Identified in <i>My Historic SMTX</i> that are not at least 50 years old or older
Notifications	<ul style="list-style-type: none"> – Those listed in Ord. 2019-19 (Emergency ordinance) – Addition of published notice in SMDR, CLG Coordinator with THC, and Executive Director of Preservation Texas 	<ul style="list-style-type: none"> – Those listed in Ord. 2019-19 and recommended by HPC – Addition of the Planning and Zoning Commission and the Neighborhood Commission

Item	DRAFT Ordinance (HPC Recommended)	DRAFT Alternative Ordinance (P&Z Recommended)
Neighborhood Presentation Meeting	<ul style="list-style-type: none"> – Purpose is to begin discussion on proposed demolition; not a forum for final decisions 	<ul style="list-style-type: none"> – No Neighborhood Presentation meeting required
Historic Preservation Commission (HPC) Decision	<ol style="list-style-type: none"> 1. Designation as a local historic landmark 	<ol style="list-style-type: none"> 1. Consideration of the delay period 2. Discussion of alternatives to demolition and methods for potential preservation of historic character
Demolition Delay Period	<ul style="list-style-type: none"> – 90-day (no early release) – HPC may extend until City Council renders final decision on landmark designation – No maximum delay 	<ul style="list-style-type: none"> – HPC may issue permit early if no finding of historic significance – HPC may extend delay for a maximum of 180 days

Staff recommends:

- 1. A demolition review period with a proactive approach to designate local historic landmarks using information within *My Historic SMTX*.**
- 2. Including language to allow the demolition permit to be issued prior to the end of 90 days if not historically significant.**

Historic Preservation Commission recommends:

- 1. Draft ordinance which would require eligible properties to be scheduled for a public hearing before the HPC for initial determination for consideration as a local landmark**

Planning and Zoning Commission recommends:

- 1. Draft ordinance which would not require eligible properties to be scheduled for a public hearing before the HPC for determination as a local landmark and the demolition permit can be released early if there is no finding of significance from HPC.**