

TO: Metropolitan Planning Commissioners
FROM: Jeff Welch, MPC Interim Executive Director
PREPARED BY: Dave Hill, MPC Deputy Director
Kaye Graybeal, Historic Preservation Planner
DATE: April 9, 2015
SUBJECT: ***City of Knoxville Code Amendments:
Demolition Delay Building Code and Zoning Ordinance Amendments
SUGGESTED AMENDMENT FOR CONSIDERATION***

Staff has prepared an amendment for Commission consideration in response to discussion during the Tuesday, April 7th MPC Agenda Review meeting, related to property owner notice for determinations of local historic significance (Agenda Item 4-B-15-OA):

DRAFT ORDINANCE SECTION 105.5.5.1 - WITH SUGGESTED AMENDMENT

105.5.5.1 Demolition Delay for Structures Listed or Eligible for Listing on the Historic Structures Inventory. When the Department receives an application for a demolition permit for a structure which is listed or is eligible for listing on the Historic Structures Inventory, either individually or as a contributing historic structure, but is not within a local historic overlay district (H-1) or neighborhood conservation overlay district (NC-1), the Department shall not issue a demolition permit for the structure until the Historic Preservation Planner of the Knoxville-Knox County Metropolitan Planning Commission reviews the demolition permit application. **Structures determined to be of local historic significance may be added to the Historic Structures Inventory by the MPC Historic Preservation Planner. For structures to be added to the Historic Structures Inventory, the property owner shall be notified of the determination in writing via the U.S. Postal Service, to be delivered to the property owner's address as listed by the Knox County Property Assessor.** The Historic Preservation Planner must provide a written determination of the property's historic status to the Building Official within seven (7) calendar days of submission of a completed permit application. The Building Official shall provide written notification to the applicant that a 60-day delay will be imposed or issue the demolition permit within three (3) days of receipt of the Planner's determination. The Building Official shall issue, if still requested, the demolition permit within sixty (60) days of submission of a completed permit application, unless a longer period is agreed upon by the applicant and the Building Official.

Addition in bold
& underlined

Should the Commission decide to recommend the draft amendment, the motion should be made to **RECOMMEND ADOPTION OF THE DRAFT ORDINANCE, AGENDA ITEM 4-B-15-OA, WITH THE ADDITION OF TWO SENTENCES TO SECTION 105.5.5.1, AS PER THE MPC STAFF RECOMMENDATION.**

- In addition to the draft amendment provided by staff, MPC Commissioner Laura Cole submitted three questions for Commission discussion at the April 9th MPC meeting:

Question 1. Item 4-b-15-0A 10.5.5 mentions the applicant but it is not clear that the owner is notified of analysis / determination of property. Could we add language to clarify that the property owner is notified property is in play and a determination will be or has been made on the property?

Staff Response: The Commission can make such a recommendation. The suggested amendment provided above adds a notification process (which would also include the documentation justifying the determination), but does not notify the property owner in advance of the determination. The process has been kept simple for two reasons: (1) local determinations have to be made as efficiently as possible (10-day turn-around) to avoid unnecessary delays for demolitions of non-historic structures, and (2) for local historic structures not on the Inventory, flexibility is needed to delay demolition near the time the application is received. Staff has tried to maintain the perspective that the 10-day administrative review period corresponds reasonably with the maximum 60-day delay period.

Question 2. Can 3rd parties make requests for determination?

Staff Response: Yes. The draft ordinance does not limit or specify who can make a local determination request, so 3rd parties can initiate a request. Staff intent is to require a minimum level of documentation in accordance with National Register criteria, using a form provided by MPC staff, so that only serious requests will be accepted for further consideration.

Question 3. The local determination process appears to be the sole responsibility of the Preservation Planner - is that correct or does the HZ Board assist? I'm concerned that the local process is rather broad and subjective. Any thoughts about how we might clarify?

Staff Response: For local determinations of historic significance, the MPC Preservation Planner is solely responsible for making the determinations. To reduce subjectivity, National Register Criteria for Evaluation will be used (see 1st page of Historic Structures Inventory), a form will be provided that identifies minimum information required for a local determination, and local determinations will be made only on a structure-by-structure basis. No districts will be considered under the local determination process.

For some of the reasons provided in Question 1 (keeping the process simple), the City's Historic Zoning Commission (HZA) is not included in the local determination process. Staff is also unsure if the HZA has any authority to decide building code issues. Because of the use of National Register Criteria and a formal documentation process, subjectivity has been limited to the extent possible. Involvement by the HZA may be possible to eliminate decision-making by a single staff person.