

MINUTES  
HISTORICAL PRESERVATION COMMISSION  
NEW CITY HALL  
212 SW 9<sup>TH</sup> STREET  
LAWTON OKLAHOMA  
OCTOBER 22, 2013

The meeting was called to order by Debra Jones, Chair, at 4:00 p.m. in the New City Hall. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

**ROLL CALL:**

**PRESENT:** Denham, David; Hagler, Joey; Jones, Debra; Jones, John; Michener, Paige; Smith, Richard.

**ABSENT:** Crawford, Susan; Newcombe, Steve; Phillips, Cherry.

**OTHERS PRESENT:** Debbie Dollarhite, Planning Department; Denise Ezell, City Clerk's Office.

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3. Approve minutes of February 6, 2013.

**Motion** by Michener, **Second** by Jones D., to approve the minutes as written. **Aye:** Hagler, Jones D; Jones J; Michener; Smith. **Nay:** None. **Motion Passed.**

4. Review and discuss proposed changes to Article 10, Historical Preservation Overlay District, Chapter 18, Lawton City Code.

Dollarhite stated after putting overlays on a couple of historic properties it has become obvious the ordinance needs tweaking. Here are proposed changes recommended by staff and the Commission. These are the highlights: Minor modifications or clarification of the design guidelines adopted with each HP Overlay District may be made by the Commission for the following:

- Expansion or clarification of the list of allowable materials;
- Modification of the requirement or regulations regarding driveways and the parking of vehicles; and
- Landscaping requirements.

For all other modifications, the Commission will make a recommendation to the City Council, and the City Council will make the final decision after providing notice to all affected property owners. Certificate of Appropriateness may be approved by the Planning Director, the Subcommittee, or the Historical Commission, depending upon the nature and significance of the work. Administrative approval may include the following:

- Roofing
- Portable accessory structures no greater than 200 square feet in size
- Widening of a driveway
- Installation of mechanical or electronic equipment

- Fencing
- Repair or replacement of structural elements with identical or like materials

In cases of Certificate of Economic Hardship, the requirement for a public hearing has been changed to be an option as determined by the Commission. For demolitions, the Planning Director shall have the authority to approve a Certificate of Appropriateness for the demolition of accessory structures and fences, and the Commission shall have the authority to approve a Certificate of Appropriateness for demolition of major structures. The Commission will have the option of requiring a public hearing.

Jones J asked how will the property owners have any say if you waive the public hearing. Is there a problem with omitting this process?

Jones D stated I would have a hard time determining economic hardship without holding a public hearing. The owners will have a different view of hardship than the District members.

Dollarhite stated some of the information that is required is private information. Do you want to require a public hearing where all of that is aired?

Jones D stated you don't have to disclose private financials in a public hearing.

Dollarhite asked wouldn't it be a matter of record?

Jones D stated that is a good question for the City Attorney. I would say strike that from the ordinance.

Jones J stated I don't see any bearing.

Michener stated I don't either.

Jones D stated I recommend we strike "e". Let's start reading on page 13 and see if there are other changes.

"a. an estimated cost of the proposed construction, alternation, demolition or removal and estimate of any additional cost that would be incurred to comply with the recommendations of the historical commission for changes necessary for the issuance of a certificate of appropriateness."

Jones D I think that is reasonable.

"b. A report from a licensed general contractor, licensed engineer, or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

c. The estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes

recommended by the historical commission and, in the case of a proposed demolition, after renovation of the existing property for continued use.”

Jones D stated they don't have to have an appraisal just estimated market value.

“d. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility or rehabilitation or reuse of the existing structure on the property.”

Jones D stated we are recommending “e” be struck.

“f. If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.”

Smith stated I think a lot of this information may be irrelevant.

Jones D stated that is why I believe we need to strike some of it.

Michener asked what if they are claiming economic hardship but making a large profit off of it.

Hagler stated the market could change in 2 or 3 years.

Denham stated two years ago they might have been making good money but now they are not.

Jones D stated you will see this when you have commercial buildings and they have a tenant. The question is do you want that kind of information when considering economic hardship.

Jones J stated I don't see a commercial building being a factor anytime soon.

Denham stated the ordinance must be written for both.

Jones D stated we have had some churches looking into it.

Jones J asked is economic hardship when Council wants to demolish a building or is this from the homeowner.

Jones D stated it would be an appeal from the homeowner.

Jones J asked who issues a demolition order.

Jones D stated demolitions are covers under Section 1015. If the structure is in a district we have to go through a process to demolish it.

Michener stated if I decided to tear my house down I would have to come before the Commission and they would decide if I could or couldn't. This would be when I would declare economic hardship because I couldn't afford to repair it.

Jones J asked does the City Council have the final say.

Jones D stated yes. Economic hardship could also be for a Certificate of Appropriateness. This is certainly an important part of the ordinance.

Denham asked so on rentals are we going to want to see their income tax returns to see their profits.

Smith stated this says you could be making \$30 million but if you can prove that it is not economically feasible on this particular project you have to grant it. Income doesn't make a difference.

Jones D stated the question is do we need as much sensitive/personal information to determine economic hardship. Under the open records act anyone will have access to this information once it is submitted. Do we want to leave "f"?

Denham stated as long as you verify the numbers.

Jones D asked how do you verify what you are told in a zoning proposal. You don't. You have to take it at face value. Okay "g".

"g. Remaining balance on any mortgage or other financing secured by the property and annual debt services, if any, for the previous two years."

Jones J stated that is significant.

Jones D stated okay.

"h. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property."

Jones D stated that is fine.

"i. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years.

j. Assessed values of the property according to the two most recent assessments."

Jones D stated that is an open record at the courthouse. Next is the question about striking the public hearing. I'm a little uneasy that the neighbors will not be notified.

Smith stated instead of saying the commission "may" hold a public hearing should it not state "an owner may request of the commission to hold a public hearing". It sounds like it is being left totally up to the commission as to whether or not there will be a public hearing.

Jones D stated it does leave it up to us.

Denham stated the property owner will not want a public hearing.

Smith stated I feel like they ought to have the right to request it.

Denham stated if he is trying to prove economic hardship I believe he will want as few there as possible.

Smith stated correct. A public hearing will be his last resort.

Jones J stated maybe it isn't a bad idea to leave it up to the Commission. If I lived in a historic area I would want everything possible done to help maintain the value of my property. Maybe we should have the right to determine if there is a public hearing because we can determine if the other properties will not be damaged by the modification of hardship.

Jones D stated it is up to you guys. I have some heartburn with being consistent on what is or isn't a public hearing. You better document it because once you start down the path where one does and another doesn't the third will want to know why there was a difference.

Denham stated if hardship is granted it nulls that house from being a part of the district.

Jones D stated it will cause fewer problems as a free standing district than with a multiple property district.

Jones J stated I agree.

Michener stated the troubles come when those homes sell and you have new owners.

Jones D asked do you want to leave the public hearing requirement in the ordinance.

Denham stated I would say leave it in there.

Smith stated I still think we need to add that the owner may have the right to request but the commission shall decide whether it is held or not.

Jones D stated so you like it the way Dollarhite has written it.

Smith stated it doesn't say that the owner may request it.

Jones D stated it doesn't matter. If a public hearing is required it is required period.

Dollarhite stated if a public hearing is required once they apply for the economic hardship they will have to have one.

Smith stated it doesn't say that.

Denham stated we need to reinsert "public hearing required" and strike "historical commission shall determine".

Michener stated correct.

Smith stated that means you are going to force it into a public hearing.

Michener stated right.

Jones D stated it causes a public hearing right now. We want the original wording.

Jones D asked have we covered everything.

Dollarhite asked we started at the end so do we want to go back to the beginning. There aren't many changes except for the creating of the sub-committee.

Jones D stated the Commission asked for that committee.

Dollarhite stated we said "Subcommittee shall mean a committee comprised of three (3) members of the historical commission. The historical commission shall designate such members for the purposes of reviewing submittals for certificates of appropriateness or for other purposes as outlined herein, in the event that any member of the subcommittee is not able to attend a meeting, any other member of the historical commission may serve as an alternate, as selected by the chairman or vice-chairman, as applicable".

Jones D stated we do want alternates so we have a quick turn around on this.

Dollarhite stated we did discuss having a representative from the district to be present at all meetings for interpretation if necessary. That was not included. If you want I can add it.

Smith stated you should have a member of that neighborhood present for any variance.

Jones D stated when dealing with a district the sub-committee may have to call upon somebody from the district to interpret what the district meant on some of the language. I think we better place in the ordinance that a representative from the district attends the meetings in an advisory capacity.

Jones J stated a knowledgeable representative.

Jones D stated good point so put that in. If they don't send anybody we are on our own.

Denham asked is the only time you will have this subcommittee meeting is for a variance.

Jones D stated yes.

Denham stated so when the subcommittee meets it is recommended a knowledgeable representative from the district attend the meeting as a resource.

Jones D stated when you went over the original commentary you said "minor modification or clarification of design guidelines adopted with each HP overlay maybe made by the commission to the following: expansion or clarification of the list of allowable materials; modification of the requirement regulations regarding driveways and the parking of vehicles; and landscaping requirements". So the commission may make these modifications with no notice served to the district. Is that how it is written?

Dollarhite stated for minor modifications and clarification there is no notice. Other than those 3 things listed the Commission makes a recommendation to City Council. Before Council considers it there will be a notice of mailing 10 days prior.

Jones D stated okay.

Dollarhite stated we also did away with having to mail the notices by certified return receipt due to the expense. There are more changes on page 10 where we talk about Certificate of Appropriateness. The Planning Director could approve repairs and replacement of building elements where it is clear that the work is in accordance with the guidelines. In all other cases it will go to the subcommittee for review. Anything the Planning Director is not comfortable with he can refer to the subcommittee or the applicant can appeal.

Denham asked does the appeal go to the subcommittee first or the commission.

Dollarhite stated to the commission.

Denham stated it says "the Planning Director approves or disapproves the application or may elect to forward the application for review by the subcommittee." It doesn't really say anything about the appeal.

Smith stated in D it says "the subcommittee may approve or disapprove the application or may elect to forward the application for review by the historical commission".

Dollarhite stated everything has been written to where it could end up to the whole Commission.

Denham stated you might check on an appeal notice for the applicant because I'm not seeing it.

Dollarhite stated on page 11 in paragraph E it states “Any applicant may request a meeting with the planning director or the subcommittee before submitting an application and may consult with the same during the review of the application.” In F it states “If the Planning Director disapproves a certificate of appropriateness, the applicant may appeal to the subcommittee. Likewise, if the subcommittee disapproves a certificate of appropriateness, the applicant may appeal to the full body of the historical commission. If the historical commission disapproves such a certificate of appropriateness, no permit shall be issued, and the applicant shall not proceed with the proposed work. However, any person aggrieved by a decision of the historical commission may file an appeal pursuant to Article 2 of this chapter.” If the Commission disapproves the application they can appeal to the Board of Adjustment.

Jones D stated you need to suggest to the Mayor that he places someone from this Commission on the BOA.

Dollarhite stated on the demolition provision Rogalski wanted to remove the public hearing. The City Attorney’s office is reviewing that section because Greb believes that according to state statues you have to hold those hearings. I’m sorry I’ve been gone and I didn’t check with him to see what he has found.

Jones D stated I believe he is correct.

Dollarhite stated I don’t want to get into demolition because we may not be changing anything.

Jones D stated okay is there any other changes you want to make. This has to go before the Planning Commission and I’ll have Ezell email you the date in case you would like to attend. We will also attach a copy of the final ordinance.

Jones J asked if there are changes on demolition what do we do.

Jones D stated you will see those in the ordinance prior to the Planning Commission meeting.

Dollarhite stated we would like to remove the public hearing but it will be according to whether state law will allow us to do so.

Jones D stated my concern is getting the subcommittee function as quickly as possible. Let’s move forward with those changes.

5. Chairman and Committee Member report and comments.

Jones D stated I would like to welcome Hagler and Smith and thank you for volunteering to serve. For the subcommittee it will be myself and Rogalski. Michener will you service?

Michener stated yes.

Jones D asked how about Hagler.

Hagler stated I maybe gone for 6 to 8 weeks.

Jones J asked can any member can be an alternate.

Jones D stated yes. Okay first choice is Rogalski and myself and then any other 2 members.

Smith stated I had ask Rogalski to check on whether there was some mechanism by which notification of historic labeling went onto an easement so that if it is passed down to another owner they would get notification. He was going to discuss this with staff.

Dollarhite stated it is labeled on our official maps.

Smith stated so anytime a surveyor has to present a survey for a new purchaser it shows up.

Denham stated I don't think so because nothing is filed at the Courthouse.

Jones D stated it will on an appraisal but in Oklahoma it is not in the abstract.

Smith asked why couldn't it be like an easement or a zoning designation.

Denham stated we need to call Norman or Tulsa to see what they do. Norman has signs when you enter into a district.

Jones D stated he is after the abstract records.

Smith stated a surveyor will not know unless it shows up somewhere in the city's information for that piece of property.

Jones D stated I think now you are asking a different question. Many city websites have zoning maps by parcel. Our city does not have a parcel program.

Dollarhite stated an official zoning map will show the overlay. I would have to check the GIS maps to see if they provide that information.

Smith stated when you purchase a piece of property you get a legal description and a survey. There is nothing in either of those unless provisions are made for it to be labeled a historic district.

Jones D stated normally it is in the legal opinion. This maybe a discussion we should have in January with Rogalski. We need to poll other cities who have dealt with this. Is there some kind of notification that can be done to protect the property?

Michener asked doesn't the owner have to disclose this information.

Jones D stated they should.

Smith stated all I'm after is some sort of mechanism.

Denham stated this is the fourth time over several years we have played this game and we have never gotten it resolved.

Jones D stated your resolution could be your binding site plan and limitations of your use permitted on review.

Dollarhite stated if there is a binding site plan on the official zoning map it says BSP. They are working on sitting it up in maps so that if you click on it you will see the ordinance and you can pull the site plan.

Jones J stated most realtors will not go that far.

Jones D stated I'm more interested in providing the information than trying to police the realtors.

Jones J asked so the GIS maps on the web show the binding site plans.

Dollarhite stated I'm pretty sure you can do down to that level and even get the ordinance number.

Jones D stated if they are doing that why couldn't they have an HP.

Dollarhite stated I know it shows on the official map but I'm not certain about the GIS. I'll have to check.

Jones J asked if I call your office and ask for a zoning on a particular parcel and you refer me to the records what will they tell me.

Dollarhite stated they should tell you it is zoned R1 with an HP overlay.

Jones D stated thanks to everyone for being here.

6. Adjournment.