Legislation Details (With Text)

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Title:	Conduct the public hearing on proposed text amendments to Chapter 11 (Historic Preservation) of Title 6 (Zoning Regulations) of the Naperville Municipal Code - PZC 19-1-59		
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Attachments:	1. Proposed Code Amendments - Chapter 11 (Historic Preservation), 2. 5-23-19 HPC meeting minutes - DRAFT		

Date	Ver.	Action By	Action	Result
6/5/2019	1	Planning and Zoning Commission	accept	Pass

PLANNING AND ZONING COMMISSION AGENDA ITEM

ACTION REQUESTED:
Conduct the public hearing on proposed text amendments to Chapter 11 (Historic Preservation) of Title 6 (Zoning Regulations) of the Naperville Municipal Code - PZC 19-1-59

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Gabrielle Mattingly

BOARD/COMMISSION REVIEW:
The Historic Preservation Commission (HPC) reviewed the amendments on May 23, 2019, provided some comments for consideration, and generally concurred with the recommendations made by staff. Official notice for the public hearing for PZC 19-1-59 was published in the Daily Herald on Monday, May 20; Wednesday, May 22; and Friday, May 24.

BACKGROUND:
On April 16, 2019, the City Council directed staff to revise sections of Chapter 11 (Historic Preservation) of the Naperville Municipal Code based on discussion generated from proposed demolition of a property in the historic district (26 N. Sleight -COA #19-402). In summary, the Council's requested revisions included: public notice requirements for any appeals to the City Council of a decision rendered by the HPC and a requirement for independent structural analysis to be completed for any requested full demolition of a structure in the Naperville Historic District.

Based on the direction received from the City Council, staff worked with the City of Naperville Legal Department to incorporate the requested amendments to the Code. Upon review of the overall Historic Preservation Chapter, staff identified other key revisions that would improve the processing of submittals for Certificate of Appropriateness (COA) requests in the historic district. Staff recommends that these changes be incorporated concurrently with the changes directed by the City

Council.

The proposed amendments were presented to the HPC at their meeting held on May 23, 2019. The HPC reviewed and provided input on the proposed text amendments (input included further below). Following review and recommendation by the Planning and Zoning Commission, the proposed text amendment will be presented to the City Council for final approval.

DISCUSSION:

Summary of Proposed Key Text Amendments

Staff has included a summary below of the proposed amendments to Chapter 11 (Historic Preservation) of Title 6 (Zoning Regulations) of the Naperville Municipal Code; a draft of the proposed code amendments is also attached for reference. Proposed deletions are ~~stricken~~ and new text is underlined.

Landmark Application Procedures

Recently, a Landmark Application was submitted for the property located at 110 S. Washington (Old Nichols Library). This application went before the HPC and a final decision was rendered by the City Council. Based on experience with the process used to landmark the property, staff is recommending the following changes to the procedures for processing landmark applications:

Proposed Change	**Rationale**
Increase the timeframe that a property owner can respond to a landmark application submitted for their property from 30 to 60 days.	It may be difficult for a property owner to complete their technical response to a landmark application made on their property within a 30 day window.
Allow **either** the landmark applicant or the owner of the property to request an extension to the 150-day period in which landmark applications must be processed. Currently, this extension can only be requested by the landmark applicant.	If not processed within 150-days, a landmark application is deemed null and void. Currently, only the landmark applicant can request an extension to this timeframe; however, in those instances where the property owner is not the applicant and does not consent to the application, it is logical that they may also request this extension if needed.
Increase the timeframe in which a new landmark application can be submitted following the denial of a prior landmark application on the same structure from 1 year to 3 years.	The landmark application review and response process is lengthy and costly. Particularly in those cases where the applicant is not the owner, it is reasonable for the owner to have a certain level of protection regarding the frequency of which these requests may again be considered following the denial of a prior request. This time frame will not apply to landmark applications that are submitted with owner consent.

Amend the cost reasonableness formula that may be used by a property owner in opposition to a landmark application submitted for their property against their consent.	If a landmark application is filed by a non-owner applicant, the property owner has the opportunity to demonstrate that the cost to improve the structure would exceed 150% of the assessed valuation of the structure. In those instances where the property is or has been tax exempt, this formula does not work. For such properties, staff recommends a new provision that would allow the owner to submit evidence to demonstrate that the cost to improve the structure would exceed 50% of its replacement cost, which is a standard used elsewhere within the Zoning Code.

Public Notice Requirements
The following changes are proposed to the public notice requirements based on City Council direction and/or in order to be consistent with notice requirements required for all other zoning-related requests:

- If written notice is required per Chapter 11 (Historic Preservation), said written notice shall be provided to property owners located within 300' of the subject property inclusive of public right-of-way (current code requires notices to property owners within 250' exclusive of public right-of-way).
- If a sign must be posted on a subject property per Chapter 11 (Historic Preservation), said signs shall be posted at least 15 days prior to the meeting date (current code requires 10 day posting period).
- For appeals to an HPC decision on a COA, the applicant will be required to post a sign on the property and send written notification to surrounding property owners at least 15 days prior to the City Council consideration of the appeal.
- If a COA application is submitted for demolition, notice shall be published in the newspaper by the City and paid for by the applicant.

COA Requirements
Staff is proposing improvements to the COA review requirements in order to improve the efficiency of the process.

- Variance requests made on properties located within the Historic District shall no longer require HPC review prior to review by the Planning and Zoning Commission unless the improvement that is the subject of the variance request would also require a COA to be approved by the HPC.
- Additions to the rear or side of a building that can be seen from the street but have no impact on the exterior architectural appearance of the structure can be approved through an administrative COA (vs. HPC review as is currently required).
- Delete the "Application of Regulations" factor for consideration of a COA as it is duplicative with the current factor titled "Compatibility with District Character". The "Application of Regulations" factor reads as follows: The Commission may consider the height and bulk of buildings and areas of yards or setbacks within the context of existing neighborhoods in making its determinations.
- Include an "Impact of Demolition" factor for consideration of a COA such that the HPC may

weigh the impact of the loss of a structure's historical or architectural contribution to the district against the cost required by the applicant to make necessary improvements to the structure per Title 5 (Building Regulations).

- Add separate submittal requirements for COA applications for proposed demolitions vs. non-demolitions. This requirement has been added to give emphasis on the separate requests and to clearly indicate the additional submittal requirements for a demolition application (additional submittal requirements include an independent structural analysis and an architectural and historical significance analysis).
- Add a requirement that an independent structural analysis be completed for any proposed demolition of a landmarked structure in whole (or in part, as determined by the Zoning Administrator). Said analysis shall be contracted by the City and paid for by the applicant seeking approval of the proposed demolition.

Fines and Penalties

Based on discussion generated at the HPC meeting, staff discussed additional fines and penalties for violation of any provisions in the Naperville Municipal Code with the City of Naperville Legal Department. The following revisions are proposed:

- Add a requirement that any violation to the provisions of the Naperville Municipal Code, including Section 6-11-9 (Maintenance and Repair Required), shall be subject to a fine of no less than $500 and no greater than $1,000.
- If any fines and penalties are not paid in a timely manner, the City may place a lien on the property; said lien shall be equal to the amount of the costs of such analyses plus any recording fees and interest.

Historic Preservation Commission Review

The requested revisions were presented before the HPC at their meeting held on May 23, 2019. The HPC and members of the public provided input on the proposed revisions. A summary of the feedback has been provided below along with a response from staff. A draft of the HPC meeting minutes is included in the attachments.

Feedback from HPC	**Staff Response**
For Landmark Applications, the increased three-year time frame for resubmittal of a landmark application (following denial of a prior submittal) should not apply to an application that has property owner consent.	The proposed code will allow for submittal of a landmark application, with owner consent, at any time regardless of denial or expiration of a recent application.
The proposed Independent Structural Analysis should include the cost to repair the home up to current code requirements.	The proposed code will include a requirement that the estimated cost to repair or restore the structure to a condition that complies with the standards for issuance of an occupancy permit, under the provision of Title 5, be submitted as part of the structural analysis submittal.

Summary of Feedback Received

Feedback from Residents	**Staff Response**

Publication in a newspaper should be required for any proposed demolition in the historic district.	The proposed code will include a requirement for publication providing notice of any proposed demolition in a newspaper of general circulation in the City shall be published by the City no more than 30 days nor less than 15 days in advance of the meeting. The cost of publication will be paid for by the applicant.
Could a building freeze be imposed on the builder for illegal demolition?	A two-year building moratorium code provision was previously included in the Historic Preservation Ordinance for any occurrence of illegal demolition, in part or in whole. This moratorium stipulated that no building permits for construction of a new home, and no occupancy permit, shall be granted at the subject property until two years from the date the subject property is properly graded and reseeded or any partial demolition is completed. In 2011, the Plan Commission requested deletion of this provision due to concerns that the impact of a two-year vacancy may have on the structure and on the neighborhood. This provision was henceforth stricken from the code. ***Staff does not recommend that this provision be added again at this time.***
A tree removal evaluation for any proposed teardown should be required.	Per City Ordinance, a tree removal permit is required to be submitted for removal of trees on private property, when the property is over 1 ½ acres. Any property less than 1 ½ acres is not affected by this ordinance. Given the size of the lots in the historic district, most properties are not affected by this Ordinance. ***Staff does not recommend the creation of a different tree removal process for properties located in the historic district.***
An “impact on neighboring property” criteria should be included as a Factor for Consideration.	The proposed code includes a “Compatibility with District Character” Factor for Consideration that allows the HPC to consider the compatibility of the proposed improvement with the character of the historic district in terms of scale, style, exterior features, building placement and site access, as related to the primary façade, in rendering a decision to grant or deny a certificate of appropriateness.
Separate COA applications should be submitted for proposed demolition and any proposed construction.	The proposed code includes procedures for issuance of a separate Certificate of Appropriateness application for non-demolition COAs and demolition COAs.

Stronger expectations should be given about proposed replacement homes in the historic district.	The Historic Building Design and Resource Manual (HBDRM) provides guidelines for construction of new residential buildings. These guidelines include details on: style, scale, massing, placement, materials, and foundation height. ***If City Council concurs, staff recommends that a consultant be hired to amend the HBDRM to provide more details on the expectations of the new home construction in the district***.

Key Takeaways

- The HPC reviewed and provided input on the proposed amendments at their meeting held on May 23, 2019.
- The proposed text amendment and the input from the HPC has been provided to the PZC for their review and consideration. Following the PZC's consideration, the proposed text amendment will be forwarded to the City Council for a final decision.