



Department of Planning and Development

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8500, Fax: (314) 862-3168

MINUTES

HISTORIC PRESERVATION COMMISSION MEETING

Heman Park Community Center

975 Pennsylvania Avenue, University City, MO 63130

6:30 pm; Thursday February 20, 2020

The Meeting was called to order at approximately 6:30 PM.

Roll Call

Present:

Donna Leach, Chair

Donna Marin

Bill Chilton

Sandy Jacobson

Absent:

Robert Klahr

Christine Mackey-Ross

Clifford Cross, Director of Planning and Development

John Mulligan, City Attorney

Council Liaison, Tim Cusick

1. Approval of Minutes

- a. Ms. Leach suggested that the approval of the minutes from February 6, 2020, be tabled due to the absence of several commissioners and the lack of time for review. Mr. Chilton moved to postpone the approval of the minutes from February 6, 2020. Ms. Jacobson seconded the motion. The motion passed unanimously.

2. Old Business

- a. **File Number:** 19-00711
Address: 711 Kingsland Avenue, University City, MO
Applicant: Tristar Companies LLC
Property Owner: Tristar Companies LLC
Request: Demolition Permit Review and Design Review

Mr. Chilton stated that at the December meeting the applicant asked for both design review for conformance with district standards, and a review for a permit to demolish. He said that the building they were asking to demolish was a significant historical building. He said the proposed new building needed to be studied. He felt there was too much for the commission to take in at that meeting. Due to there being no quorum, that December meeting was converted into a work session. Mr. Chilton felt that the applicant should have presented the entire project and the commission should have had a discussion as a first step.

Ms. Leach asked if he would have preferred separating the demolition and design on separate applications. Mr. Chilton stated the whole project should have been presented in its entirety at a work session. Ms. Marin agreed. Ms. Leach said that since only Mr. Chilton, Mr. Klahr, and she were there, they should have started the process at the next meeting with a full commission. Mr. Chilton said it was a confusing process, and that the application stated it was for demolition and design review. He had inquired about whether this first meeting was only about a demolition. Mr. Cross stated that at that original meeting the applicant was seeking a planned development and was seeking the recommendation of the HPC to move forward with the Plan Commission. He said the demolition permit had been under discussion, and that the applicant also was seeking a recommendation to go into the application packet for the Plan Commission and City Council. He said this had nothing to do with a building permit, which cannot be issued until City Council approved the process. The applicant was seeking a demolition permit and a recommendation on the design by the Commission. Mr. Cross stated that Mr. Chilton had asked that the design review be considered as part of the demolition permit. He explained that there were two different components – there were 30 days allowed for the demolition permit and 45 days for the design review. The commission had a timeframe to make the recommendation. This was contained in the report being discussed. He said these could not be completed in tandem because the building permit process would be 45 days while the demolition permit process was limited to 30 days. Mr. Cross clarified that the Commission were a recommending body only. The HPC could recommend not to approve this design, and the applicant could go to the Board of Appeals and that recommendation could be overturned.

Ms. Jacobson asked if, in the absence of a plan, if they had not tied the design to the demolition, would they have denied the demolition? Mr. Cross said they could not tie design for a building and the demolition of a building. Each preservation district had its own criteria. University City's ordinance was unique in breaking up the kinds of reviews – demolition, design review, or building permits. Some of the districts called out neighborhood covenants. He said the commission had to consider these two issues separately. Ms. Leach asked if they could have had the applicant apply separately for the demolition and the design. Mr. Cross explained that given the report of the Commission, the applicant could hold off on the demolition permit, or they could press for an administrative action in regards to the demo permit. The Commission could deny

the demo permit, and the applicant could then appeal the decision if the Zoning Administrator did not issue them a demolition permit. Mr. Cross said both the commission or the applicant could appeal the decision of the Zoning Administrator.

Ms. Leach said she would love to bring the business to the Loop, but she is not sure this project works. Ms. Jacobson confirmed that once they submitted the application, the clock began on the 30-day limit before a decision needed to be made. The applicant came back within the design window with revised designs. Mr. Cross explained that this meeting was the meeting at which the Commission needed to make their recommendation.

Ms. Marin clarified that at this meeting they could make a recommendation for or against the demolition. Mr. Cross said the demolition timeframe was up. Ms. Marin asked how the City would make the appeal process known to the City. Mr. Cross explained that for the action item of the demo permit, Mr. Cross could deny the application for a demo permit, the applicant could appeal, public notice would be given for a public hearing. Alternately, Mr. Cross said he could issue the demo permit and notify the HPC, who could then go through the appeals process. Ms. Leach asked how much notice was given for an appeal. Mr. Cross said the meeting for an appeal would require 15 to 30-day notice. Ms. Leach asked how much time the BOA would have to make their decision. Mr. Cross said they could table the matter if they needed more information within reason. The Zoning Board of Appeals would consider the appeal. This would be an appeal of the action of the Zoning Administrator (issuance or non-issuance of the demo permit). There would be 15-30 days before the Commission could appeal.

Ms. Leach asked if Mr. Cross had read the commission's report. Mr. Cross said he had begun looking into it. At this point, he would be obligated to issue the demo permit per the ordinance. For the design review, the 45-day window was coming up, and the recommendation of the HPC would go to the Plan Commission, which would be considered and included in the recommendation forwarded to the Mayor and City Council. The final action of any appeal at the City level would end up with City Council. If there were any grievances with the City Council, it would go to court.

Ms. Leach asked for Mr. Mulligan's input on the appeal process. Mr. Mulligan stated that the appeal process is spelled out in the code. Ms. Leach asked if there was anything additional that the commission may not know. Mr. Mulligan stated that there was nothing specific he could address.

Ms. Jacobson said that she felt there was a significant misunderstanding when the vote was taken on the demolition contingent on the design. She felt that the commission did not understand the importance of the vote they made granting conditional permission for the demolition. Mr. Cross stated that February 6 was the deadline for the demo permit, but he had not yet issued that demo permit. He said the Commission needed to make a decision tonight on the demo, and that the time limit for the design recommendation

would be coming up soon as well. He said he could issue a response to each separate issue for the commission. Mr. Cross said at some point they would need to take the recommendation of the HPC and move forward.

Ms. Marin noted that one of the reasons they did not approve the design was because the Tru Hotel brand had not yet approved the designs presented at the last meeting. Ms. Jacobson asked for clarification that the HPC would make a recommendation tonight to approve Mr. Chilton's report. Mr. Cross explained that as a Commission they needed to approve the report. He said if they were going to include design review and demolition, they would need to separate them and cite the relevant code for each. Mr. Cross said they would need to act as a commission on whether they wished to present the report to the Zoning Administrator. Ms. Marin said she had not had time to look at the report. Ms. Leach asked if Mr. Cross would reformat the report into a different report. Mr. Cross said he would write a memo to the applicant on each individual component of the application. As the Zoning Administrator, he would notify the applicant of the Zoning Administrator's action on both of the requests of the application. The date of that memo and letter would determine the timeframe in which appeals could be made. Mr. Cross said he would likely do this early next week. Ms. Marin said she had looked over the report and agreed with the report. Ms. Leach said she would like to be notified as to the appeals process. Mr. Cross stated that he was obligated by the code to notify the Commission. Ms. Leach recommended that the report be made public. Mr. Cross said he would work to make the report public. Mr. Chilton noted that it would be a part of the official meeting minutes. Ms. Leach directed Mr. Cross to add the report as an attachment to the minutes of this meeting. Mr. Cross noted that there would be further opportunity for public input on the design at the Plan Commission and City Council public hearings. Ms. Leach asked if the applicant would come back to the HPC with brick samples, etc. Mr. Cross said this would only happen if the Plan Commission determined that they needed further input from the HPC. Ms. Leach asked if this would be on the agenda for the Feb 26 meeting. Mr. Cross said it would not, but that the applicant would be doing an informal plan work session with the Plan Commission. He said they would be scheduling a Plan Commission work session meeting. Ms. Leach asked that the HPC be notified of that date.

Ms. Leach began a review of the report. She read section 400.1670; "the historic value of the building...." – she noted the passage of "notable architect" and pointed out that the building was designed by William B. Ittner. She discussed the relationship between this building and the surrounding buildings. She noted that the applicants had admitted the building was not structurally unsound and had presented no engineers report. She said the developer's return on investment did not relate to the historical nature of the building. Mr. Chilton said the developers had given the impression to the commission that there were serious structural issues with the Delmar building but there were not. He suggested that an engineer's report be required on future applications for demolition. Mr. Cross noted that the only way to require an engineer's report would be to change the code to require one. Mr. Chilton suggested the commission could make a formal

statement that the code needed to be amended. Mr. Cross agreed and encouraged the commission to be proactive about issues with the code and noted that the commission could form a subcommittee for this purpose.

Ms. Marin suggested that the Commission could put together a list of ideas in advance of the Comprehensive Plan process. Mr. Cross said the Commission should have a stakeholder in that process. He noted that a unified land-development ordinance would be developed as part of the Comprehensive Plan that would bridge the gap between the different commissions. He said there should be a set of architectural standards that would give clarity as to the district standards. The City would be writing a form-based code based on character areas.

Mr. Chilton said that the Commission should have toured the Delmar building, and that in the future this should be done as part of the process. He also felt there was not enough discussion of the Civic Plaza historic district. Ms. Leach suggested that the timeline should be stopped before all information was gathered. Mr. Cross said this would require a code change. Ms. Jacobson asked if the Commission would have had a strong case if the commission had simply voted the demolition down. Mr. Cross explained that the Commission would still have had to present their findings of fact to the appeals board or Council. Ms. Leach asked if the Commission could have done a walk-through on a day outside of the normal meeting time. Mr. Cross said this could be requested of an applicant in general.

Mr. Chilton asked if the Scientology Building would be coming back before the HPC. Mr. Cusick clarified that Council had approved an extension for their CUP. Mr. Cross noted that the changes were mostly interior, and thus it would most likely not come back before the HPC. Mr. Chilton felt that the Scientology building would have to come back to HPC due to stormwater issues. Ms. Marin asked if the HPC had any leverage to require the developer to preserve some elements of the building. Mr. Cross said staff did not have any recourse to require this, but the developer had agreed to preserve the tiles from the Delmar Building.

Mr. Chilton asked to review the timeline of the application process. Mr. Cross said the clock started on the first meeting (the work session). The 400.1680, subsection A, stated that the Commission would take an action on the demolition permit within 30 days upon receipt of copy of such application from the Zoning Administrator. Mr. Mulligan noted that the Commission would not necessarily have to meet to make a recommendation on an application, but if there was a failure to act, the application would be recommended for approval to the Zoning Administrator. Ms. Jacobson asked about the 15-day limit on the application, which Mr. Cross explained was designed so that the Zoning Administrator could not hold that application. Ms. Leach asked if there were any special consideration around holidays to hold the clock. Mr. Mulligan said the limits in the code were as stated at this point, and that Council could change this time period in the code, or to add a "good cause" clause, allowing for special circumstances.

He also noted that the Commission could ask the applicant to withdraw the application and re-submit with new information to start a new 30-day clock.

Ms. Jacobson asked about ways to proactively streamline the code. Mr. Cross stated that this would involve narrowing down the standards of each district. He said they could focus on procedures first before getting into too many specifics. Ms. Jacobson asked if 60 days would be too onerous. Mr. Mulligan stated this was a policy question for Council to decide. Mr. Cross said staff could research what time limits would be appropriate and what other communities allow for. Mr. Mulligan stated that if he represented the applicant, he would come in with as much information as possible at the outset to justify the application. Ms. Leach asked if the applicant was informed of the code relating to their application. Mr. Cross stated that he did let the applicants know that they needed findings of fact. Mr. Mulligan stated that boards and commissions learn, but it is important for the Commission to make judgements based on their authority from the code to avoid legally irrelevant materials. Ms. Jacobson said that hearing this, the demolition standards needed to be revised to clarify what needs to be present in order to be demolished. Mr. Mulligan said the commission was tasked with interpreting the intent behind the law. The courts usually would give leeway to the conclusions of the board or commission. Ms. Leach stated that in this case, in the last meeting the fact that the clock had run out was the issue. Mr. Mulligan recommended that the report before the Commission tonight should be approved formally. He also noted that the concerns expressed in the report would be taken into consideration by the Plan Commission and City Council, and that Council would have considerable discretion with this case. Mr. Cross noted that the Planned Development process allowed for conditions to be placed on the project by Council, whereas without a Planned Development, the owner of the property could demolish the property and build something by right. This would still come before HPC for recommendation, but it would not have the conditions of the Planned Development. Ms. Leach clarified that the applicant was intending to demolish and begin construction in 2020. Mr. Cross confirmed this was their intent.

Mr. Chilton moved that the HPC approve the report describing the denial of the demolition of the Delmar building and of the design of the Tru Hotel as presented. Mr. Cross clarified that the Commission was denying both design options. Ms. Jacobson seconded the motion. The motion carried unanimously.

New Business

The Commission discussed Commissioners' attendance and term limits. Mr. Cross noted that these standards were set within the standards of the Commission as well as with the City Council rules of appointment. Chapter 120 of the municipal code laid out the requirements of commissioners. In order to re-format the commission it would need to go before Council.

Mr. Chilton asked about section 120.030, where it stated there would be nine members. Mr. Cross said there were two sections of the code that create the HPC. Section 120 addressed all boards and commissions and had a summary of what was involved in HPC. In Chapter 400 the code went more deeply into the requirements of commissioners. Mr. Cross noted the rules of the appointment and how to remove commissioners as laid out in the code. He pointed out Rule 38E which described the process for removal of board/commission members due to unexcused absences. At the termination of a term, Mr. Cross said he wanted to clarify this with Mr. Mulligan, as the practice had been that until someone was replaced, they continued to serve on the board or commission. Mr. Chilton stated that this was needed to insure a quorum at all times. Mr. Cross noted that the Zoning Administrator would be responsible for these updates. The Commission clarified that it was a nine-member commission. Ms. Jacobson also asked what the limit on number of terms was. Mr. Cross noted that the term limit was two terms on the same board. The Council Liaison could appoint a member for a third term in special circumstances. The commission reviewed the updated boards and commissions list. The new member of HPC still needed to be sworn in by the City Clerk.

Other Business

Public Comments

Council Liaison Report –

3. New Business

There was no new business.

4. Council Liaison Report

Mr. Cusick had nothing to report since the last meeting.

5. Adjournment

The meeting was adjourned at approximately 8:45

Prepared by Adam Brown