

March 16, 2015

Historic Preservation Ordinance Review Committee
c/o Historic Preservation Website
City of Houston Planning and Development Department
611 Walker, 6th Floor
Houston, Texas 77252

Re: Recommendation Regarding the Appeals Process

Dear Committee Members;

I congratulate you for your efforts to date that support clarification of elements within the Historic Preservation Ordinance. One of the last remaining elements still under review is the appeal process indicated in Sec 33-253 below:

Sec. 33-253. Appeal.

(a)

An applicant aggrieved by a decision of the HAHC with respect to any certificate of appropriateness may appeal to the planning commission by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision.

(b)

The planning commission shall consider the appeal at its first regularly scheduled meeting for which required notice can be given. The planning commission shall consider the application, the findings of the HAHC and any evidence presented at the meeting at which the appeal is considered. The planning commission shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness. If the planning commission does not make a decision on the appeal within 30 days following the planning commission's hearing on the appeal, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.

(c)

An applicant aggrieved by the decision of the planning commission on an appeal from a decision of the HAHC may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of Section 2-2 of this Code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the planning commission. The decision of the city council shall be final and exhaust the applicant's administrative remedies.

Historically, many of the appeals to the Planning Commission have been regarding issues of historic context, historic character, or historic architectural relationships. I believe there is a valid need for appeal review by the Planning Commission but that the Planning Commission would be most beneficial regarding process issues and that their expertise and experience has not been and is not meant to be in non-process areas of historic preservation. The Houston Archaeological and Historical Commission (HAHC) was established and is composed of members who have either by profession or by experience been exposed to the unique visual characteristics of architectural preservation and related historic preservation ideals and how these ideals correctly fit within a historic preservation context.

To fulfill the original intent of the Historic Preservation Ordinance, I recommend the following clarification of Sec. 33-253 (a), (b), and (c).

Sec. 33-253 (a) -

An applicant aggrieved by a decision of the HAHC with respect to the process followed in the review of any certificate of appropriateness may appeal to the planning commission by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision.

Sec. 33-253 (b) -

The planning commission shall consider the appeal at its first regularly scheduled meeting for which required notice can be given. The planning commission shall consider the application, the findings of the HAHC and any evidence relating to the process followed as presented at the meeting at which the appeal is considered. Regarding the process followed, the planning commission shall: (1) return the appeal to the HAHC for re-consideration of process points stated by the planning commission; (2) reverse the decision of the HAHC regarding the process followed by the HAHC; or (3) affirm the decision regarding the process followed by the HAHC. If the planning commission does not make a decision on the appeal within 30 days following the planning commission's hearing on the appeal, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.

Sec. 33 – 253 (c) –

An applicant aggrieved by the decision of the planning commission on an appeal from a decision regarding the process of the HAHC may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of Section 2-2 of this Code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the planning commission. The decision of the city council shall be final and exhaust the applicant's administrative remedies.

I ask your consideration of the above modifications in your recommendations to City Council for clarification of Sec. 33-253.

Sincerely,

J. Kent Marsh, AICP CUD
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