

MEMORANDUM

To: Historic District Commissioners

From: Jill Thacher, Historic Preservation Coordinator

Date: September 20, 2018

Re: Proposed Ordinance Amendment

An issue has been identified with a section of the current Chapter 103 Historic Preservation ordinance. Currently, all certificates of appropriateness (“authorizations”) expire after 3 years, with no mechanism to extend them. There are occasional projects that take longer than 3 years to get approved and constructed, especially site plan projects. Without a return trip to the HDC for an additional approval for the same work, these projects are out of compliance with Chapter 103.

Staff has worked with the City Attorney’s office and proposes revisions that would change the three year approval to six years if:

- A permit is issued for work on the project within three years of the date the HDC approves the application. This would be an automatic extension.
- A new application is received before the original approval expires. If there is no “change in the facts”, meaning neither project nor city (ordinance, design guidelines, etc.) changes, an administrative approval may be issued.

This amendment will preclude the necessity for projects such as the Montgomery Building to reapply to the HDC for the same work that has already been approved once. Changes to the project would still require a new HDC application for either HDC or staff approval.

HDC action is not required, but a motion supporting the change would be appropriate. Staff suggests the following motion:

I move that the proposed amendments to Section 8:413 (Issuance of Permits) to Chapter 103 Historic Preservation of the Code of the City of Ann Arbor are appropriate and the Historic District Commission recommends that City Council approve them.

HISTORIC PRESERVATION

AN ORDINANCE TO AMEND SECTION 8:413 (ISSUANCE OF PERMITS) OF CHAPTER 103 OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 8:413 of Chapter 103 of the Code of the City of Ann Arbor be amended to read as follows:

- (1) Prior to the issuance of any permit, the commission shall hold a public hearing in compliance with the Open Meetings Act. Public notice shall be placed in a local newspaper of general circulation prior to the meeting, and shall include a meeting agenda that lists each permit application to be reviewed or considered by the commission.
- (2) The commission shall file certificates of appropriateness, notices to proceed, and denials for applications for permits with the Building Official within 5 working days of the date of decision.
- (3) A permit shall not be issued until the commission has acted as prescribed by this chapter. If a permit application is denied, the decision shall be binding on the building official.
- (4) If work has been authorized by the commission or administratively, the authorization shall expire after 3 years have elapsed from the date of authorization, after which expiration no permits may be issued for the work without a new application and a new authorization. For commission approvals, the date of authorization shall be the date of the meeting at which the commission authorized the work. A commission authorization may be extended so that it expires after 6 years from the date of authorization under either of the following circumstances:
 - (a) If any permit for the authorized work is lawfully issued within 3 years from the date of authorization, the authorization is automatically extended; or
 - (b) If the owner of the historic resource where the work is to be performed or an agent acting on the owner's behalf submits an application within 3 years from the date of authorization showing that there has been no change in the facts relevant to the authorization, staff shall administratively approve the extension.
- (5) A denial shall be accompanied with a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for Commission review when Commission recommended changes have been made. The denial shall also include notification of the applicant's rights of appeal to the State Historic Preservation Review Board and to the Circuit Court.
- (6) The failure of the commission to act within 60 calendar days after the date a complete application is filed with the commission, unless an extension is agreed upon in writing by the applicant and the commission, shall be considered to constitute approval.

Section 2. This ordinance shall take effect on the tenth day following legal publication.