

ACTION

DATE

COMMITTEE

M.A.P.C.

B.C.C./B.C.C.

5-25-78

6-20-78

Approved

Approved

Closed

DR 78-12 - Proposed amendment to the Historic Landmark Designation section (28.04.195) of the Wichita Zoning Ordinance.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

June 8, 1978

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning

SUBJECT DR 78-12 - Proposed Amendment to the Historic Landmark Designation Section (28.04.195) of the Zoning Ordinance.

Attached hereto is a delineated copy of a proposed amendment to the City Zoning Ordinance related to Historic Landmark Designations. Also attached is an excerpt from the Minutes of the Planning Commission meeting of May 25, 1978, containing the commentary and action taken by the Planning Commission following the hearing on the proposed amendment. This item is scheduled to appear on the June 20, 1978 Agenda for consideration by the Board of Wichita City Commissioners.

BACKGROUND:

During the previous consideration by the Board of Wichita City Commissioners of a request for demolition permits on structures located at 1102 and 1108 North Topeka Avenue within the established Topeka-Emporia Landmark District, it was determined that the existing wording of the Historic Landmark Designation section of the City Code (28.04.195) provides for the automatic elimination of the landmark designation from properties when permits are issued for the demolition of structures thereon. It was furthermore indicated that it was not the intent of originators of the Historic Landmark Designation section of the Code to provide for the automatic elimination of the designation from properties within established historic landmark districts.

The owners of the properties at 1102 and 1108 North Topeka indicated that should demolition permits be issued for their structures, they were willing to retain their property within the Landmark District and subject their future proposed development to the review of the Historic Landmark Preservation Committee. The property owners and the Historic Landmark Preservation Committee subsequently entered into a restrictive covenant agreement to achieve their desired ends and the Board of Wichita City Commissioners took action authorizing the issuance of demolition permits. The Board of Wichita City Commissioners furthermore directed that the Historic Landmark Designation section of the City Zoning Ordinance be amended to provide for the retention of properties within established historic landmark districts following the removal of structures that may be existing thereon.

E. H. Denton
June 8, 1978
Page 2

SUMMARY:

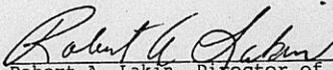
On May 25, 1978, the Metropolitan Area Planning Commission considered a proposed amendment to the City Zoning Ordinance which would retain properties within established districts following the removal of structures. This is to be accomplished by adding to the last paragraph of Section 28.04.195 those phrases underlined below thereby making the paragraph read as follows:

"In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark structure not located within a landmark district, the Superintendent of Central Inspection shall instruct the Metropolitan Area Planning Department to remove the designation from the official zoning map of the City; provided that, upon removal of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated landmark district."

After consideration of this proposed amendment by the Planning Commission, COLE moved, BARRIER seconded that the Planning Commission recommend to the City Commission the amendment be approved. The motion carried by a vote of five in favor (COLE, BARRIER, TAYLOR, MAY and BELL), and three opposed (HENNESSY, SAVINA, and BAYOUTH). Jones and Greider were absent.

RECOMMENDATION:

It is recommended by the Planning Commission that this proposed amendment to Section 28.04.195 of the Code of the City of Wichita be adopted.


Robert A. Lakin, Director of Planning

RAL:RLY:vn
Attachments

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION 28.04.195 OF THE CODE OF THE CITY OF WICHITA, KANSAS: PROVIDING FOR ZONING CLASSIFICATION OF LAND UPON REMOVAL OF STRUCTURES LOCATED WITHIN OR OUTSIDE A HISTORIC LANDMARK DISTRICT AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 28.04.195 of the Code of the City of Wichita, Kansas, shall read as follows:

"Historic Landmark Designation. The purpose and intent of this section is to provide means of designating on the official zoning map of the city of Wichita those properties determined to be historic landmarks by the board of city commissioners of the city of Wichita. The termination of eligibility for designation as a historic landmark shall be based on the conclusions and findings of fact of the historic landmark preservation committee as created and directed by Sections 2.12.1015 through 2.12.1025 inclusive of the code of the city of Wichita and upon the recommendations of the metropolitan area planning commission following public hearing as hereinafter provided.

Upon recommendation of the historic landmark preservation committee, an application may be initiated for the designation of a historic landmark on legally described property or properties which have been incorporated into the historic landmark preservation plan of the city of Wichita.

The applicant shall provide the names of the owner(s) of record, together with an accurate legal description of the property proposed to be designated, and shall accompany the application with a fee of seventy dollars to cover the expenses associated with the handling of the case. The applicant shall also identify the specific criteria as set out in Sections 2.12.1019 and 2.12.1020(2) of this code under which the described property is proposed to be designated as a historic landmark.

Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file

and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

At the conclusion of the public hearing the metropolitan area planning commission shall forward its recommendation for approval or disapproval of historic designation to the board of city commissioners. In the event the board of city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark structure not located within a landmark district, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; provided that, upon removal of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district."

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publi-

cation once in the official city paper.

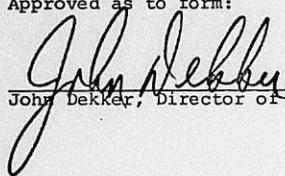
ADOPTED at Wichita, Kansas, this ___ day of _____,
1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:



John Dekker, Director of Law

EXCERPT FROM PLANNING COMMISSION MINUTES OF MAY 25, 1978:

24. Case No. DR 78-12 - Proposed amendment to the Historic Landmark Designation Section (28.04.195) of the Wichita Zoning Ordinance.

GALBRAITH reviewed the following memorandum with the Commission:

PROPOSAL

Appearing on the agenda for the May 25, 1978 meeting of the Metropolitan Area Planning Commission is a proposal to amend the Historic Landmark designation section of the City Zoning Ordinance. More specifically, it is proposed to add to the last paragraph of Section 28.04.195 those phrases underlined below thereby making it read as follows:

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark structure not located within a landmark district, the superintendent of central inspection shall instruct the Metropolitan Area Planning Department to remove the designation from the official zoning map of the City; provided that, upon removal of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated landmark district."

BACKGROUND

Under the present wording of Section 28.04.195 of the zoning ordinance, the physical removal of the principal structure from a property designated as a historic landmark automatically eliminates the historic landmark designation from the property. Although the elimination of the designation may be appropriate on individual landmark properties, the Historic Landmark Preservation Committee has indicated that it was not the intent of the originators of the current landmark designation section of the zoning ordinance to provide for the automatic elimination of the designation from properties within historic landmark districts.

The discrepancy in the intent and effect of the wording on historic landmark districts was brought to light during a recent review by the Wichita Board of City Commissioners of a request for the issuance of demolition permits for properties located at 1102 and 1108 North Topeka. These properties are located within the Topeka/Emporia Landmark District which was approved for historic landmark designation by the Board of Wichita City Commissioners on August 16, 1977.

During the course of the review of the demolition permits, the property owners indicated that they were not opposed to retaining their land within the landmark district and thereby subjecting their intended office development to review by the Landmark Preservation Committee for conformance and compatibility with the character of the district.

To accomplish the desired ends of the historic district and the property owners requesting the demolition permits, the Historic Landmark Preservation Committee and the property owners agreed and entered into restrictive covenants on the future development of the properties at 1102 and 1108 North Topeka.

The Board of Wichita City Commissioners thereupon approved the request for the issuance of demolition permits and directed that a proposed ordinance revision to retain properties within historic landmark districts be referred to the Metropolitan Area Planning Commission for consideration and recommendation.

SUMMARY

The proposed ordinance revision set out above will provide for the retention of land within official designated historic landmark districts following the physical removal of structures located thereon. Representatives of the Historic Landmark Preservation Committee will be available for discussion of this item during the August 25, 1978 hearing.

RECOMMENDATION

It is recommended that the proposed ordinance revision be forwarded to the Board of Wichita City Commissioners with a recommendation for adoption.

HENNESSY questioned whether or not the City Commission had required either a restrictive covenant be given or they would not issue a demolition permit. GALBRAITH stated that he was not present at that meeting, but felt the applicant was willing to submit the covenant rather than having to wait for a possible text amendment. HENNESSY said his concern was if the applicant was not willing to submit the covenant, then the City Commission would have denied his request.

COLE stated that there are two things to be considered, one is the District, irrespective of the structures in the District, and the second is the landmark structure itself.

MARION CONE, Historic Landmark Committee, stated that their own ordinance was very specific on this problem. When they wrote the ordinance through the planning process so that the Commission could consider the historic cases, there was no part of the landmark ordinance which dealt with the removal of landmark structures, so they inserted in the zoning ordinance portion that if the structure were removed, then the designation would be removed, otherwise there was no other way to remove the designation. She said it was a mistake on their part not to make it clearer.

HENNESSY said that his concern was for the people in the district. They did not approve of the designation and now their rights are being taken away on the property to do anything they wish to do with it.

CONE said that she investigated 47 different ordinances throughout the United States. They all have districts and 43 out of the 47 are exactly as the Landmark Committee's.

SAVINA asked how many residents were in that one district. CONE stated about 102 residents. SAVINA asked if she expected anymore to be removed. CONE said that she would think so, some of the houses in that area are very deteriorated.

MOTION: That the Planning Commission recommend to the City Commission that the amendment be approved. Cole moved, Barrier seconded and it carried with a vote of 5 in favor (Cole, Barrier, Taylor, May and Bell) and 3 opposed (Hennessy, Savina and Bayouth). Jones and Greider were absent.

June 8, 1978

E. H. Denton, City Manager

Robert A. Lakin, Director of Planning

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E. H. Denton
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After consideration of this proposed amendment by the Planning Commission, COLE moved, BARRIER seconded that the Planning Commission recommend to the City Commission the amendment be approved. The motion carried by a vote of five in favor (COLE, BARRIER, TAYLOR, MAY and BELL), and three opposed (HENNESSY, SAVINA, and BAYOUTH). Jones and Greider were absent.

RECOMMENDATION:

It is recommended by the Planning Commission that this proposed amendment to Section 28.04.195 of the Code of the City of Wichita be adopted.

Robert A. Lakin, Director of Planning

RAL:RLY:vn
Attachments

87951

June 30, 1978

ORDINANCE NO. 35-62

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION 28.04.195 OF THE CODE OF THE CITY OF WICHITA, KANSAS: PROVIDING FOR ZONING CLASSIFICATION OF LAND UPON REMOVAL OF STRUCTURES LOCATED WITHIN OR OUTSIDE A HISTORIC LANDMARK DISTRICT AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

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"Historic Landmark Designation. The purpose and intent of this section is to provide means of designating on the official zoning map of the city of Wichita those properties determined to be historic landmarks by the board of city commissioners of the city of Wichita. The termination of eligibility for designation as a historic landmark shall be based on the conclusions and findings of fact of the historic landmark preservation committee as created and directed by Sections 2.12.1015 through 2.12.1025 inclusive of the code of the city of Wichita and upon the recommendations of the metropolitan area planning commission following public hearing as hereinafter provided.

Upon recommendation of the historic landmark preservation committee, an application may be initiated for the designation of a historic landmark on legally described property or properties which have been incorporated into the historic landmark preservation plan of the city of Wichita.

The applicant shall provide the names of the owner(s) of record, together with an accurate legal description of the property proposed to be designated, and shall accompany the application with a fee of seventy dollars to cover the expenses associated with the handling of the case. The applicant shall also identify the specific criteria as set out in Sections 2.12.1019 and 2.12.1020(2) of this code under which the described property is proposed to be designated as a historic landmark.

Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file

and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

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The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

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The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publi-

cation once in the official city paper.

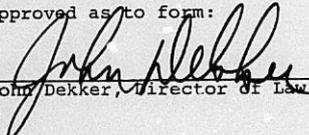
ADOPTED at Wichita, Kansas, this ____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:



John Dekker, Director of Law

ORDINANCE NO. _____

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The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publi-

cation once in the official city paper.

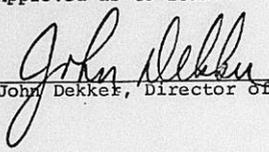
ADOPTED at Wichita, Kansas, this ___ day of _____,
1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:



John Dekker, Director of Law

May 26, 1978

Ms. Marion B. Cone
Historical Landmark Preservation
Committee
3751 E. Douglas
Wichita, Kansas 67218

Re: DR 78-12 - Proposed amendment
to the Historic Landmark Designation
Section of the City Zoning Ordinance

Dear Ms. Cone:

At their regular meeting of May 25, 1978, the Metropolitan Area Planning Commission considered the above-captioned proposal to amend the zoning ordinance. Their action was to recommend that the amendment be approved.

This matter will be forwarded to the City Commission for consideration at their regular meeting of June 20, 1978. This meeting will be held in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, and we would remind you that Planning items are considered after all other matters of business.

If you have any questions, please call.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:bh

WICHITA-SEDGWICK COUNTY

DATE

May 16, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO Wichita-Sedgwick County Metropolitan Area Planning Commission
FROM Robert A. Lakin, Director of Planning
SUBJECT Possible Amendment to the Historic Landmark Designation Section of the City Zoning Ordinance (DR 78-12)

PROPOSAL

Appearing on the agenda for the May 25, 1978, meeting of the Metropolitan Area Planning Commission is a proposal to amend the Historic Landmark designation section of the City Zoning Ordinance. More specifically, it is proposed to add to the last paragraph of Section 28.04.195 those phrases underlined below thereby making it read as follows:

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The discrepancy in the intent and effect of the wording on historic landmark districts was brought to light during a recent review by the Wichita Board of City Commissioners of a request for the issuance of demolition permits for properties located at 1102 and

1108 North Topeka. These properties are located within the Topeka/Emporia Landmark District which was approved for historic landmark designation by the Board of Wichita City Commissioners on August 16, 1977.

During the course of the review of the demolition permits, the property owners indicated that they were not opposed to retaining their land within the landmark district and thereby subjecting their intended office development to review by the Landmark Preservation Committee for conformance and compatibility with the character of the district.

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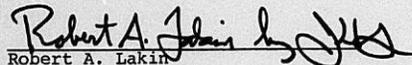
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RECOMMENDATION

It is recommended that the proposed ordinance revision be forwarded to the Board of Wichita City Commissioners with a recommendation for adoption.


Robert A. Lakin
Director of Planning

RAL:RLY:et

86

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 16, 1978

TO Robert A. Lakin, Director of Planning

FROM Gail Williams, CPO Administrative Aide

SUBJECT Amendment to Zoning Ordinance,
Pertaining to Historic Landmark
Structures

At its meeting of May 15, 1978, CPO Council "L" considered the captioned amendment and voted 6-0 to recommend its approval.

Council members feel that the amendment is necessary in light of the establishment of historic landmark districts, wherein retention of landmark status is equally important for the land as for the structure that may be situated upon it. Loss of landmark classification could result in the construction of a completely inappropriate structure in an otherwise historically harmonious area.

Please provide this information to the MAPC when they consider the item on May 25.

Gail Williams

Gail Williams
CPO Administrative Aide

GW:rh

NOTED:

D.

David Furnas
CPO Coordinator



May 16, 1978

Wichita-Sedgwick County Metropolitan Area Planning Commission
Robert A. Lakin, Director of Planning

Possible Amendment to the Historic Landmark Designation Section
of the City Zoning Ordinance (DR 78-12)

PROPOSAL

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Robert A. Lakin
Director of Planning

RAL:RLY:et

AFFIDAVIT OF PUBLICATION

Miscellaneous

87587 (Published in the Daily Record May 3, 1978)
OFFICIAL NOTICE
TO WHOM IT MAY CONCERN AND TO ALL PERSONS
INTERESTED.

NOTICE IS HEREBY GIVEN that on Thursday, May 25, 1978, The Wichita-Sedgwick County Metropolitan Area Planning Commission in the City Commission Meeting Room, First Floor, City Hall, 425 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 23, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.105, of the zoning ordinance, to retain land within historic landmark districts after structures are removed.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed ordinance of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 26th day of April, 1978.

ROBERT A. LAKIN, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning
Commission

(3)

STATE OF KANSAS, SEDGWICK
COUNTY, KANSAS

_____, of lawful age, being first duly sworn, deposes and says that she is Business Manager of THE DAILY RECORD formerly known as The Democrat & Daily Record, a newspaper printed in the State of Kansas, and published in and of general paid circulation on a weekly, monthly or yearly basis in Sedgwick County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office of Wichita in said County and State as second class matter.

That a notice, a true copy of which is hereto attached, was published in the regular and entire issue of said newspaper for _____ consecutive _____, as follows:

- 1st MAY 3 1978
- 2nd _____
- 3rd _____
- 4th _____
- 5th _____
- 6th _____

Margaret Hopkins
Business Manager

Subscribed and sworn to before me this 26th day of May 1978

William V. Krause
Notary Public

My commission expires NOV 29 1981

Publication Fees \$ 5.82

WILLIAM V. KRAUSE
STATE NOTARY PUBLIC
Marion County, Kansas
My Appt. Exp. NOV 29 1981

(Published in The Daily Record on May 3, 1978)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on Thursday, May 25, 1978, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 28, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.195, of the zoning ordinance, to retain land within historic landmark districts after structures are removed.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 26th day of April, 1978.

Robert A. Lakin, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning
Commission

(SEAL)

Young

THE CITY OF WICHITA

OFFICE OF

DATE April 25, 1978

TO JOHN DEKKER, Director of Law

FROM H. R. KUHN, Assistant City Attorney

SUBJECT Proposed Ordinance amending
28.04.195
(historic landmark district)

Attached find the original and a delineated copy of the proposed amendment to 28.04.195 (historic landmark district). The proposed ordinance was submitted to me by Robert Young of the Planning Department. I had previously discussed the matter with Lakin. What they wanted to do was to secure the retention of the zoning classification when a structure was removed from within a historic landmark district. Further, when the structure was located outside a landmark district, the designation was to be removed from the zoning maps upon the structures removal.

I reworked the title of the proposed ordinance to reflect the substance of the amendment. Mr. Young wanted the original approved by you and then returned to Planning for processing.



H. R. Kuhn
H. R. KUHN
ASSISTANT CITY ATTORNEY

HRK:mb
Enclosures

cc: Robert L. Young, Principal Planner ✓

April 18, 1978

Mr. H. R. Kuhn, Assistant City Attorney

Robert L. Young, Principal Planner

Proposed amendment to the City Zoning Code concerning historic landmark properties.

Attached, please find drafts of an original and a delineated copy of a proposed amendment to Section 28.04.195 of the City Code.

This is the section of the City Code dealing with historic landmarks. The intent of the proposed amendment is to provide for the retention of land within officially designated historic landmark districts following the removal of structures located thereon.

I believe Bob Lakin has discussed this amendment with you previously. Would you please review these drafted documents and determine their appropriateness and sufficiency? If they are adequate, would you please have them signed by Mr. Dekker and returned to our office for processing?

If you have questions concerning this matter, please contact me.



Robert L. Young
Principal Planner

RLY:jm
Attachments

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION 28.04.195 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO HISTORIC LANDMARK DESIGNATIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 28.04.195 of the Code of the City of Wichita, Kansas, shall read as follows:

"Historic Landmark Designation. The purpose and intent of this section is to provide means of designating on the official zoning map of the city of Wichita those properties determined to be historic landmarks by the board of city commissioners of the city of Wichita. The determination of eligibility for designation as a historic landmark shall be based on the conclusions and findings of fact of the historic landmark preservation committee as created and directed by Sections 2.12.1015 through 2.12.1025 inclusive of the code of the city of Wichita and upon the recommendations of the metropolitan area planning commission following public hearing as hereinafter provided.

Upon recommendation of the historic landmark preservation committee, an application may be initiated for the designation of a historic landmark on legally described property or properties which have been incorporated into the historic landmark preservation plan of the city of Wichita.

The applicant shall provide the names of the owner(s) of record, together with an accurate legal description of the property proposed to be designated, and shall accompany the application with a fee of seventy dollars to cover the expenses associated with the handling of the case. The applicant shall also identify the specific criteria as set out in Sections 2.12.1019 and 2.12.1020(2) of this code under which the described property is proposed to be designated as a historic landmark.

Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file

and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

At the conclusion of the public hearing, the metropolitan area planning commission shall forward its recommendation for approval or disapproval of historic designation to the board of city commissioners. In the event the board of city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark structure not located within a landmark district, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; provided that, upon removal of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district."

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publi-

cation once in the official city paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:

John Dekker, Director of Law

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION
28.04.195 OF THE CODE OF THE CITY OF WICHITA,
KANSAS, PERTAINING TO HISTORIC LANDMARK DESIGNA-
TIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS:

SECTION 28.04.195 of the Code of the City of Wichita, Kansas,
shall read as follows:

"Historic Landmark Designation. The purpose and intent of this section is to provide means of designating on the official zoning map of the city of Wichita those properties determined to be historic landmarks by the board of city commissioners of the city of Wichita. The determination of eligibility for designation as a historic landmark shall be based on the conclusions and findings of fact of the historic landmark preservation committee as created and directed by Sections 2.12.1015 through 2.12.1025 inclusive of the code of the city of Wichita and upon the recommendations of the metropolitan area planning commission following public hearing as hereinafter provided.

Upon recommendation of the historic landmark preservation committee, an application may be initiated for the designation of a historic landmark on legally described property or properties which have been incorporated into the historic landmark preservation plan of the city of Wichita.

The applicant shall provide the names of the owner(s) of record, together with an accurate legal description of the property proposed to be designated, and shall accompany the application with a fee of seventy dollars to cover the expenses associated with the handling of the case. The applicant shall also identify the specific criteria as set out in Sections 2.12.1019 and 2.12.1020(2) of this code under which the described property is proposed to be designated as a historic landmark.

Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file

and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

At the conclusion of the public hearing, the metropolitan area planning commission shall forward its recommendation for approval or disapproval of historic designation to the board of city commissioners. In the event the board of city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark structure not located within a landmark district, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; provided that, upon removal of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district."

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publi-

cation once in the official city paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:

John Dekker, Director of Law

WICHITA-SEDGWICK COUNTY

DATE

April 11, 1978

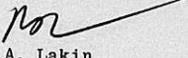
METROPOLITAN AREA PLANNING DEPARTMENT

TO Robert L. Young, Principal Planner
Current Plans Division
FROM Robert A. Lakin, Director of Planning

SUBJECT Historic/Landmark District Amendments

Cone left another markup of the proposed change on landmarks. I brought her in and sat down and chatted a bit with her and believe that what I have rewritten (attached) might provide more clearly the distinctions that are being sought under the amendments of the ordinance. First of all, landmark is a very broad and general term defined in 2.12.1024. It includes structure, land, districts, archaeological sites, etc. Secondly, for designations where only a structure is involved, such as City Hall or the Courthouse, if they should ever be removed, indeed, the designation should be removed from the zone maps. Therefore, the first part of the ordinance should continue to provide for this. However, an ordinance should be written so that we would know that we were dealing specifically with a structure only and not one of the other categories of landmark. I hope the language that I have suggested on the attached draft does this.

Additionally, we want to provide that in district areas where structures are removed or where there is vacant land, that new development will be compatible with the designated district. Accordingly, I have changed what is written as an "exception" into a proviso so that the removal of a structure, authorized, non-authorized or what have you, would provide that the land retain the classification and any new structures would have to come under the review of the Landmark Committee. When you get a chance to review this, redraft it and check it out with Gene Pirtle, who I believe is advising the Landmark Committee. I have chatted a bit with Hub Kuhn on what I have done and without reading the specific language, he generally agrees with my assessment and recommendations. When you have both Cone and Pirtle in agreement with what we are doing, write up the amendment and forward it to Hub Kuhn for his specific review before we advertise. If that's all right then go ahead, advertise and send it on its way.


Robert A. Lakin
Director of Planning

RAL:rme
Attachment

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark structure not located within a landmark district, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; provided that, upon removal of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated landmark district.

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

Bob Lakin

city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark ^{structure not located within a landmark district}, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; ^{Provided} except that, upon ~~PERMIT~~ ^{by permit} of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district."

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1978.

ATTEST:

City Clerk _____

MAYOR
Official changed by Nov 4 6-78

Bob Lakin

City commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; ~~except that, upon ^{GENERAL WITHDRAWAL} authorization, ~~shown~~ by permit of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district.~~"

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

THE CITY OF WICHITA
OFFICE OF CITY MANAGER

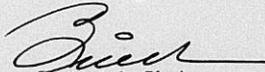
DATE April 4, 1978

TO Robert A. Lakin, Director of Planning
FROM Robert G. Finch, Deputy City Manager

SUBJECT Proposed Amendment to Section
28.04.195

You have received the original copy of a proposed amendment to Section 28.04.195 which provides that when a structure is demolished, the land shall remain within a designated historic landmark district. The ordinance was prepared at the request of the City Commission.

As directed by the City Commission on April 4, 1978, please bring the proposed ordinance to the attention of the Metropolitan Area Planning Commission for its review and recommendation.


Robert G. Finch
Deputy City Manager

RGF/tpd

cc: John Dekker, Director of Law
Marion Cone, Historic Landmark Preservation Committee



to be filed with the director of planning and with the official charged with the enforcement of zoning. After receiving the recommendation of the commission, the governing body may approve, disapprove or amend, by motion, the plan subject to changes, special conditions and safeguards as may be deemed by either the commission or governing body to be in the public interest.

c. All amendments to any plan approved hereunder or under previous procedures shall follow the same procedure as for the hearing and approval of an original development plan.

d. No building permit shall be issued on lands meeting the conditions and criteria under B.1.a of this section unless a development plan shall have been approved in accordance with provisions herein.

e. After a plan has been submitted and approved for tracts as one unit, development in compliance with the plan may proceed on parts of a unit.

f. Any substantial deviation as determined by the superintendent of central inspection from the plans submitted shall constitute a violation of the building permit authorizing construction of the proposed development. No building permit shall be issued for any construction which is not in conformity with an approved development plan.

g. Notice of hearing of the plan shall be given by publication in a newspaper of general circulation in the city for one publication not less than twenty days in advance of hearing, and by notice by mail to adjoining property owners as may be determined necessary under adopted policies of the commission. (Ord. No. 28-670, § 1; Ord. No. 27-712, § 1.)

28.04.195 Historic landmark designation. The purpose and intent of this section is to provide means of designating on the official zoning map of the city of Wichita those properties determined to be historic landmarks by the board of city commissioners of the city of Wichita. The determination of eligibility for designation as a historic landmark shall be based on the conclusions and findings of fact of the historic landmark preservation committee as created and directed by Sections 2.12.1015 through 2.12.1025 inclusive of the code of the city of Wichita and upon the recommendations of the metropolitan area planning commission following public hearing as hereinafter provided.

Upon recommendation of the historic landmark preservation committee, an application may be initiated for the designation of a historic landmark on legally described property or properties which have been incorporated into the historic landmark preservation plan of the city of Wichita.

The applicant shall provide the names of the owner(s) of record, together with an accurate legal description of the property proposed to be designated, and shall accompany the application with a fee of seventy dollars to cover the expenses associated with the handling of the case. The applicant shall also identify the specific criteria as set out in Sections 2.12.1019 and 2.12.1020(2) of this code under which the described property is proposed to

28.04.200 ZONING

except that, upon the authorized removal by permit of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district.

be designated as a historic landmark.

Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

At the conclusion of the public hearing, the metropolitan area planning commission shall forward its recommendation for approval or disapproval of historic designation to the board of city commissioners. In the event the board of city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; (Ord. No. 34-116.)

They request removal of the zoning and 15 foot setback from and the 20' from with and 20' from.

28.04.200 Sectional zoning maps. A, PREPARATION. The planning commission shall cause to be prepared sectional maps of all lots, tracts and parcels of lands located within the city, which maps describe by legend and color the zoning classification or district of each such lot, tract and parcel of land as the same has been heretofore approved and established by the planning commission and the city commission according to law.

B. OFFICIAL TITLE. Each such sectional map, identified by the particular section, township and range of the lands, embraced therein, shall be marked "Official Zoning Map, City of Wichita, Kansas," and shall be signed by the planning director of the city, and marked with the effective date of this section.⁵

C. RATIFICATION.

1. The particular zoning classification or district of each lot, tract and parcel of land, as shown by the legend and color on such sectional maps, are hereby ratified, confirmed and approved.

2. Every lot, tract and parcel of land within the city shall be and is hereby zoned the particular classification district shown by legend and color on such sectional maps.

⁵The original ordinance from which this section was derived, was adopted February 2, 1954.

THE CITY OF WICHITA
OFFICE OF CITY MANAGER

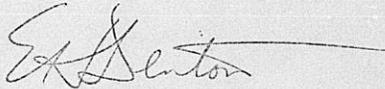
DATE April 3, 1978

TO The Honorable Board of City Commissioners
FROM E. H. Denton, City Manager

SUBJECT Proposed Demolition of Structures
Located at 1102 and 1108 North Topeka
in the Topeka/Emporia Landmark
District

Attached for the information of the Commissioners is a copy of the voluntary restrictive covenant proposed for the site at 1102 and 1108 North Topeka if the existing structures are demolished. The covenant was negotiated between the applicants' attorney, Mr. Thomas Borniger, and the staff of the Historic Landmark Preservation Committee and the Law Department.

Also attached is a copy of a proposed amendment to Section 28.04.195 of the City Code which would permit the retention of land within a landmark district when a structure is demolished. The City Commission should refer the proposed ordinance to the Metropolitan Area Planning Commission for its review, recommendation and later return to the City Commission for action.



E. H. Denton
City Manager

EHD/tpd

Attachments

cc: John Dekker, Director of Law (w/a)
Robert A. Lakin, Director of Planning (w/a)
Marion Cone, Historic Landmark Preservation Committee (w/a)



See my comments on working draft

REFERENCE ITEM 42-CM
AGENDA FOR APR 4 1978

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION
28.04.195 OF THE CODE OF THE CITY OF WICHITA,
KANSAS, PERTAINING TO HISTORIC LANDMARK DESIGNATIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 28.04.195 of the Code of the City of Wichita, Kansas, shall read
as follows:

"Historic Landmark Designation. The purpose and intent of this section is to provide means of designating on the official zoning map of the city of Wichita those properties determined to be historic landmarks by the board of city commissioners of the city of Wichita. The determination of eligibility for designation as a historic landmark shall be based on the conclusions and findings of fact of the historic landmark preservation committee as created and directed by Sections 2.12.1015 through 2.12.1025 inclusive of the code of the city of Wichita and upon the recommendations of the metropolitan area planning commission following public hearing as hereinafter provided.

Upon recommendation of the historic landmark preservation committee, an application may be initiated for the designation of a historic landmark on legally described property or properties which have been incorporated into the historic landmark preservation plan of the city of Wichita.

The applicant shall provide the names of the owner(s) of record, together with an accurate legal description of the property proposed to be designated, and shall accompany the application with a fee of seventy dollars to cover the expenses associated with the handling of the case. The applicant shall also identify the specific criteria as set out in Sections 2.12.1019 and 2.12.1020(2) of this code under which the described property is proposed to be designated as a historic landmark.

Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

At the conclusion of the public hearing, the metropolitan area planning commission shall forward its recommendation for approval or disapproval of historic designation to the board of city commissioners. In the event the board of

city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; except that, upon the authorized removal by permit of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district."

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:


John Dekker, Director of Law

DELINEATED

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION
28.04.195 OF THE CODE OF THE CITY OF WICHITA,
KANSAS, PERTAINING TO HISTORIC LANDMARK DESIGNATIONS.

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Upon receipt of the complete application and fee, the metropolitan area planning department shall establish a case file and proceed to prepare a notice for a public hearing before the metropolitan area planning commission. The notice shall be sent by certified mail with return receipt requested to the owner(s) of record of the property directly involved and shall be published once in the official city newspaper at least twenty days prior to the hearing date.

At the conclusion of the public hearing, the metropolitan area planning commission shall forward its recommendation for approval or disapproval of historic designation to the board of city commissioners. In the event the board of

city commissioners takes action to approve the historic designation of the property involved, the metropolitan area planning department, on the basis of the public meeting record, shall set out on the official zoning map of the city of Wichita a designation corresponding to the case number and a delineation of the property involved.

The establishment of the historic landmark designation shall in no way alter the uses permitted by the zoning classification or districts of this chapter as previously established on the property. A desire to change permitted uses will require the filing of an application requesting a zoning change as provided for in Section 28.04.210.

In the event a permit is issued as provided for in Section 2.12.1024 of this code, for the demolition or removal of a designated historic landmark, the superintendent of central inspection shall instruct the metropolitan area planning department to remove the designation from the official zoning map of the city; except that, upon the authorized removal by permit of a structure within a historic landmark district, the land shall retain its classification as, and remain a part of said designated historic landmark district."

The original section 28.04.195 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1978.

MAYOR

ATTEST:

City Clerk

Approved as to form:



John Dekker, Director of Law