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MEMORANDUM

To: Kathryn Monzo, Assistant Administrator/Director of Finance
From: Lisa M. Maddox, Esq. 
Date: February 14, 2014
Re: Council's Code Subcommittee Review of December 17, 2013 Planning Board Recommendations

At its meeting on January 22, 2014, the Council's Code Subcommittee reviewed the December 17, 2013 memorandum from Planning Board Attorney Gerald Muller regarding the consolidated Historic Preservation Ordinance and the Planning Board's recommendations regarding several policy issues in reference to same.

As requested, the following is a summary of the Code Subcommittee's consideration of each of the Planning Board's recommendations from the December 17th memorandum.

Planning Board Recommendation 1: The Planning Board will review and consider all HPC recommendations on development applications, but should not be required to place their reasons for rejecting any HPC recommendation on the record.

The Subcommittee indicated that it believes that the Planning Board should be required to include on the record its reasons for rejecting an HPC development application review, as the Township ordinance presently requires. Such a practice will ensure that the record is complete, and that it includes an explanation as to why the Board has determined that it will not accept the HPC's recommendations on a particular application. Otherwise, the record would be devoid of such rationale.

Planning Board Recommendation 2: HPC thought that it should be the sole review agency when a preservation plan was involved, the Borough approach, while SPRAB supported the Township approach, where it as well as the HPC would play a review role on major applications. The Board recommends that the Township approach be taken, with both HPC and SPRAB reviewing major applications and HPC acting in lieu of SPRAB on minor applications. The Board notes that there is a process at the staff level by virtue of which the SPRAB Chair is asked to review applications that in the judgment of staff do not need SPRAB review, giving the Chair the option of informally waiving SPRAB review if he or she determines that its review would not be productive. This process should continue.

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The Subcommittee found this recommendation reasonable, as it is good practice to have both advisory bodies reviewing major applications.

Planning Board Recommendation 3: The Board does not recommend that consent by owners within a proposed district be required. It agreed with the concerns expressed by both HPC and ZARC that the duties of HPC and the Board itself would be hampered by this requirement.

The Subcommittee agreed that owner consent should not be required. Requiring actual consent would afford broad power to these owners over what transpires on property other than their own, which may be overreaching. Also, from a practical standpoint, it may be difficult to determine what “consent” meant; for instance, would both spouses in a household need to consent or would one be sufficient?

Planning Board Recommendation 4: The Board recommends that the Township approach be utilized when evaluating demolition of historic properties. The Borough approach is problematic in that persons seeking to demolish a property in a historic district must always satisfy the preservation plan criteria for what, if anything, will replace the demolished structure, and there are therefore no regulations covering permissible demolitions.

The Subcommittee agreed. It is important for an applicant to satisfy certain standards, as in the Township’s approach, justifying demolition of a historic structure. Consideration of what (if anything) will eventually replace a demolished structure in a historic district is important, but it should not take the place of careful consideration of the basis for demolition in the first place.

Planning Board Recommendation 5: The Board recommends that the distinctions regarding viewing area and color be retained for historic districts in the former Township and Borough. Historic districts in the former Township will be mapped on the zoning map as Historic District Type 1, to which the criteria set forth in paragraph 5a will apply, and the historic districts in the former Borough will be mapped as Historic District Type 2, to which the paragraph 5b criteria will apply.

The Subcommittee agreed with this recommendation and maintaining the two districts.

Planning Board Recommendation 6: The Board believes that the former Township’s stabilization plan requirements regarding historic features are well conceived and should be included in the new ordinance.

The Subcommittee did not agree with this recommendation, as it would appear to unnecessarily hamper the ability of a homeowner to change a home’s interior, which is generally not visible from the exterior of the structure. The Subcommittee would like to understand this requirement better and its rationale.

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Planning Board Recommendation 7: The Planning Board recommends that the new ordinance should [address sustainability] in generalized terms, but direct HPC to formulate guidelines that could be used by homeowners required to secure preservation plan approval. A number of historic preservation commissions have such guidelines.

The Subcommittee found this recommendation reasonable.

Planning Board Recommendation 8: The Board is concerned with what it sees as a trend to install front yard fencing and especially landscaping that changes the open streetscape in historic districts and limits the view of historic structures. It therefore recommends that appropriate standards to address this problem be included in the new ordinance.

The Subcommittee found this recommendation reasonable.