



## Memo

To: Historic District Commission  
From: Scott E. Slagor, Preservation Planner  
Date: November 5, 2020  
Subject: Automatic Approvals after a 60 Day Window

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### Background

- The application for 527 N Huron was discussed briefly at the HDC meeting on October 27, 2020. The application was automatically approved because the 60-day period the Commission had to act had lapsed. The Commission decided to discuss the details of this unique approval at the next meeting, citing the lateness of the hour and limited quorum. Staff has prepared this memo to guide the discussion.
- Both the City's Historical Preservation Ordinance and the State Enabling Legislation. Public Act 169 require that "The commission must act within 60 calendar days after the date a complete application is filed with the commission. Failure to act shall constitute approval unless an extension is agreed upon in writing by the applicant and the commission."
- According Amy Arnold, Preservation Planner for the Michigan State Historic Preservation Office, the 60-day clock starts when a completed application is submitted and date stamped by the City Department responsible for taking applications.
- Staff has generally interpreted a "complete" application to mean on that is filled out in its entirety and includes specification sheets and attachments.
- The submission date for 527 N Huron was August 19, 2020.
- The 60-day deadline for the application was October 18, 2020.
- During that period, the item was tabled once and the Commission was not able to meet twice due to lack of quorum. The Commission could not meet on its regularly scheduled October 13 meeting due to the Michigan Supreme Court striking down the Governor's Executive Order that allowed for virtual meetings. The City did not feel safe having board and Commission meetings in-person and canceled all board and commission meetings until the Open Meetings Act could be amended to allow for virtual meetings, which occurred on Monday October 19, 2020.
- With no mechanism for the Commission to meet to either extend the application review period, or approve/deny the application, the application was automatically approved.

### How to Extend an Application Period

- As stated above, an extension of an application review must be agreed in writing between both the applicant and Commission. This would require a quorum to make the agreement and a letter or resolution to be signed.
- Staff asked Amy Arnold and City Attorney, John Barr, their opinions on how to execute such a matter, especially during a pandemic.

- Ms. Arnold suggested that the letter must be signed by both the applicant and HDC Chair, *"However, if the HDC wants to give the staff person the official authority to sign such a form, then an official transfer of authority statement should be created that defines the action and outlines the procedure—review of the request by the HDC chair before the staff person signs off would be one of the procedures to include. All HDC members should sign the "official transfer of authority statement" and it should be kept on file. Sort of like defining minor classes of work."*
- In the opinion of Mr. Barr, although the letter may be signed by the chair, based on the HDC Rules and Regulations, no one commissioner can act on behalf of the Commission. Therefore, the whole Commission must meet to formally make the extension agreement with the applicant. Mr. Barr did suggest that if the applicant is agreeable, the Chair could sign such a letter and include a stipulation that it is *"subject to approval of the Commission."*

Recommendation:

- Staff recommends development of a form letter that can serve as a template for future extensions, so one is ready in case this issue arises again.
- Staff asks the Commission to discuss how they would like such an agreement to be executed in the future:
  - Delegate extension powers to staff by resolution, or
  - Allow the chair to make agreements subject to the approval of the whole Commission
  - Consider whether such agreements should only be executed at regular or special meetings where a quorum of Commissioners are present.