



Memorandum

Planning Division
Community & Economic Development Department

To: Historic Landmark Commission

From: Maryann Pickering

Date: November 3, 2011

Re: Character Conservation Districts Follow Up (PLNPCM2011-00473)

Background

On October 6, 2011, the Historic Landmark Commission voted to table Zoning Text Amendment PLNPCM2011-00473, a request to add a chapter to the Zoning Ordinance to allow for Character Conservation Districts. Changes would apply citywide if adopted by the City Council.

At the last meeting, several questions were raised by the members of the Historic Landmark Commission. Staff has done some research on those questions. Issues are outlined in this memo and the original staff report from October 6, 2011 is also attached for reference.

Proposal

This request is to allow for a process to create character conservation districts within the city. The proposed ordinance does not create any character conservation districts; it only outlines the framework for the creation of the districts.

Issues

Throughout the United States, there are several local agencies that utilize a form of a character conservation district. While the contents of the document may vary from agency to agency, the basic process is the same and is as follows. An area that is proposed to be designated as a conservation district and the process is initiated by either the property owners, a representative of the property owners, or a board or commission of the local agency. A plan is formulated over several months with the property owners who would be impacted by the standards of the conservation district. Most plans do not move forward until there is consensus on the contents of the document by those who would be affected if it is adopted. After there is consensus from the neighborhood, the draft plan continues through the approval process in the same manner as a zoning map amendment. That approval process may be different in each local agency, but a public hearing is typically held by the Planning Commission and then the City or Town Council or even a County Commission makes a final decision.

Initiation of a Character Conservation District by a Feasibility Study

At the last meeting, the issue of how a district is initiated was discussed by the Commission. Staff has researched several other local agencies and found that in general, the districts are initiated by at least 50% of the property owners who would be affected. In some states, there is a requirement that only 10 property owners or registered owners initiate the process. About half of the agencies that staff looked at, the city can also initiate the process and be the applicant. In those cases, there typically needs to be some authorization or approval from a majority of the property owners. Attachment A contains a summary of the different local agencies staff looked at.

The draft ordinance has been modified to require that a minimum of 50% of the property owners who would be affected by the proposed district can initiate the feasibility study. The area affected by the proposed district would need to prepare the feasibility study and submit it to the Planning Division for their review. There will be no application fee associated with the submittal of this feasibility study.

The proposed boundaries are set by the property owners who initiate the application at the time of the feasibility study. If during the review process there are other areas determined to be included or excluded, the map of the proposed character conservation district may be amended up until the start of the public hearing process.

Review of the Feasibility Study by the Planning Division

After the feasibility study has been submitted, the Planning Division will review the study to verify that it contains the items as required by the ordinance. If the Planning Division determines that the area is eligible to be considered as a character conservation district, a financial analysis will be prepared by the Planning Division.

Once the financial analysis is complete, the Planning Director will consult with the City Council member whose district encompasses the proposed character conservation district. The City Council member can then initiate a petition to create the district based on two criteria. Those criteria are: that a funding source is identified for the cost of preparing the character conservation district, and that a majority of the City Council supports the initiation of the application.

By having the City Council initiate the application, there is no application fee to the proposed character conservation district area. In addition, this addresses the concern raised at the last meeting of having multiple property owners submit a formal application.

Preparation of the Draft District Plan and Design Standards

The Planning Division will work with property owners in the proposed character conservation district area through a series of public meetings to draft the district plan and design standards. The meetings will focus on gaining consensus among those who would be affected by the proposed plan. It is anticipated that the process will take several months and consensus will need to be in place before the item goes through the public hearing and adoption process.

Approval of a Character Conservation District

Very few of the agency's staff looked at had a requirement that property owners within the boundaries had to approve the plan by an official vote. In most cases, the city or town council approves the request by a majority vote. The draft ordinance can be also written to require that a super majority of the City Council is necessary to approve the character conservation district. It is not advised to have the residents vote on the approval of the draft plan and design standards. Only the City Council can

make decisions on legislative items and that decision making power cannot be transferred to another person or group of persons.

Enforcement of Ordinance Standards

The design standards that accompany each of the character conservation districts will be codified into the Zoning Ordinance. Whenever an application is submitted within the boundaries of a designated district, the Zoning Ordinance standards will be used to evaluate the project. The enforcement of the ordinance standards will be the same as enforcement is today. If work is done without a permit or is not done according to the approved plans, action is taken by the city to correct those deficiencies.

The standards will be written so that they are clear. For example, if every roof needs to have a slope of 4:12, the standard will be written that way and it will not allow for a different type of slope. Another example is if each residence is required to have a porch, the standard will specifically state the minimum or maximum size or dimensions required for the porch.

Because these are ordinance standards, there is the option that a property owner could apply for a variance to modify the standards. However there would have to be justification of a physical hardship that prevents the applicant from complying with the standards. Financial or personal reasons are not justification for a variance.

In addition, concern was raised about the process. Any application that needs to comply with the district plan and design standards will be reviewed administratively. As stated above, the standards will be developed so that they are specific and not open to interpretation. If there is a situation where an appeal is filed, the appeal would be forwarded to the Planning Commission. The process is the same as the one in place today for conditional building and site plan review.

Modification of Standards or Boundaries

Since the district plan and design standards would be codified into the Zoning Ordinance, any changes would require a zoning text amendment. The process of doing this would be the same as creating the district. It will start with a feasibility study and move on through the public hearing process. Because these applications in other jurisdictions take on average a year to be adopted, it is anticipated that there will be few changes once the plans and standards are codified.

Request

Staff requests that the Historic Landmark Commission review the draft ordinance and provide comments. Staff would suggest that the Historic Landmark Commission make a decision if they desire to. However, because this is a zoning text amendment, the Commission is not required to make a recommendation.

Attachments

- A. Comparison Matrix
- B. Revised Draft Ordinance

Attachment A
Comparison Matrix

**Conservation Districts
Percentages of Property Owners**

Jurisdiction	Initiate District	Approve District
Atlanta, Georgia	10 property owners can start the process.	Majority vote of Council is needed.
Boise, Idaho	One or more property owners.	None specified*
Boston, Massachusetts	10 registered voters can start the process.	2/3 of Landmarks Commission must approve the district.
Boulder County, Colorado	50% of owners within the proposed boundaries.	60% of property owners must approve before it is voted on by the County Commission.
Cambridge, Massachusetts	10 registered voters or Landmarks Commission starts the process	Majority vote of Council is needed.
Chapel Hill, North Carolina	Town Council or 51% of the landowners.	None specified*
Dallas, Texas	Petition by owners of more than 50% of property (75% or more is recommended for clear demonstration of neighborhood support)	Majority of Council, unless: 1) Landmarks recommends against it or 2) 20% or more of property owners protest. Then a ¾ majority is required.
Knoxville, Tennessee	51% of property owners within the proposed district.	None specified*
Lincoln, Nebraska	50% of residents of the neighborhood.	Majority vote, but if 33% or more of the residents are not happy, the designation is rejected.
Memphis, Tennessee	No minimum	65-72% of support is comfort level for Council, though only 51% is required.
Napa, California	Only existing HP zoning overlay areas can have a conservation area added.	None specified*
Nashville, Tennessee	60% approval of residents	None specified*
Omaha, Nebraska	A majority of property owners at all stages of the process.	None specified*
Phoenix, Arizona	50% of land owners to start	70% of land owners must approve of the plan before Council.
Portland, Oregon	Previously no owner consent.	State changed law and 100% buy in is now required.
Raleigh, North Carolina	No minimum to start process.	A majority of property owners must approve before Council.
Riverside, California	No minimum	No minimum, but Council prefers a majority.
San Antonio, Texas	10 to 12 property owners can start the process.	51% of property owners must approve of the plan before Council.

* For those jurisdictions that have ‘none specified’, the process is a zoning map overlay amendment and the typical process for that jurisdiction is followed. It is typically a majority of the Council that needs to approve.

Attachment B
Revised Draft Ordinance

Chapter 21A.XX Character Conservation Districts

21A.XX.010 Purpose

The city recognizes the substantial aesthetic, environmental and economic importance of its neighborhoods and commercial districts. The purpose of this chapter is to establish policies, regulations and standards to protect neighborhood character and to ensure that development in a character conservation district is compatible and enhances the quality and character of Salt Lake City. The intent of this chapter is to promote the general welfare of the public of the city through the protection, conservation, preservation, enhancement, perpetuation and use of structures, site and areas that are characteristic to each of the unique areas of Salt Lake City.

21A.XX.020 Applicability

The regulations set forth in this chapter shall apply to properties located within the boundaries designated as a character conservation district on the Salt Lake City Zoning Map. In the case of conflict between the character conservation district standards and other requirements contained in other chapters of the zoning ordinance, the standards of the character conservation district shall prevail.

21A.XX.030 General Provisions

1. Each character conservation district must be established by a separate character conservation district ordinance. The City Council shall approve a character conservation district ordinance in accordance with this chapter.
2. If the Planning Director determines that, due to the sensitivity of the area, or due to the nature of the proposed regulations for the area, a special administrative procedure needs to be established for the review of proposed work in a character conservation district, such a procedure may be incorporated into the character conservation district ordinance before it is approved by the City Council.

21A.XX.040 Request for a Feasibility Study

1. Qualifying Conditions: A character conservation district feasibility study may be initiated by a group of persons who collectively own:
 - a. More than 50 percent of the land, excluding streets and alleys, within the area of request; and
 - b. More than 50 percent of the building sites within the area of request.
2. An agent of a group that satisfies the qualifying conditions in this section may file an application for a character conservation district feasibility study with the Planning Director on an application form furnished by the Planning Division.

Each property owner listed on the application that meets the qualifying conditions stated in this section must sign the application.

3. An application for a character conservation feasibility study prepared by the proposed district area or their authorized agent must include the following:
 - a. A list of the names, site address and mailing address of all property owners in the area of request.
 - b. A list of all neighborhood associations or other organizations representing the interests of property owners in the area of request. This list should include information as to the number of members and the officers' names, mailing addresses, and phone numbers.
 - c. A statement of justification. This statement should:
 - (i) identify the factors which make the area of request eligible for character conservation district classification as per the determination of eligibility in this chapter; and
 - (ii) explain in detail how and why such a classification would be in the best interest of the city as a whole.
 - d. A description of the character defining features of the area as seen from the public right-of-way. Character defining features may include, but are not limited to, architecture or architectural features, mass and scale of buildings, streetscape, building orientation, landscaping or other items that contribute to the overall character of the area.

21A.XX.050 Review of Feasibility Study and Initiation of an Application

1. When a character conservation district feasibility study is initiated in accordance with this chapter, the Planning Director shall determine the eligibility of the area for character conservation district classification in accordance with this subsection.
2. The Planning Director's determination of eligibility must be based on a consideration of the standards in this subsection. The boundaries or designated area for a character conservation district shall satisfy all of the following criteria:
 - a. The area must contain at least one block face.
 - b. The area must be either "stable" or "stabilizing" as those terms are defined in this title.

- c. The area must contain significant character defining features as defined in this title.
 - d. The area must have a distinctive atmosphere or character which can be identified and conserved by protecting or enhancing its character defining features.
3. If the Planning Director determines that the area is not eligible for character conservation district classification, they shall notify the applicant of this fact in writing. Notice shall be mailed to the address shown on the application. The decision of the Planning Director that an area is not eligible for character conservation district classification may be appealed in accordance with Chapter 21A.16.
4. An appeal under this chapter is made in accordance with Chapter 21A.16. The request must be filed within 10 days of the date written notice is given to the applicant of the Planning Director's decision. In considering the appeal, the sole issue shall be whether or not the Planning Director erred in their determination of eligibility, and, in this connection, the commission shall consider the same standards that were required to be considered by the Planning Director in making their determination.
5. If it is determined by the final appeal authority that the area is not eligible for character conservation district classification, no further applications for character conservation district classification may be considered for the area of request for one year from the date of its decision.
6. If the Planning Director determines that the area is eligible for character conservation district classification, they shall prepare a statement of the estimated financial cost to prepare the district plan and design standards.
7. The estimated cost shall be presented to the City Council member whose district encompasses the proposed character conservation district. The City Council member can request that a petition for a zoning map amendment be initiated subject to the following:
 - a. A funding source for the preparation of the plan and design standards is identified, and
 - b. A majority of the City Council supports the application.
8. If the petition is approved by a majority of the City Council, then the Planning Director shall notify all owners of property within the boundaries of the character conservation district that the petitions for the character conservation district has been initiated.

21A.XX.060 District Plan and Design Standards Formulation and Review

1. If the area is determined to be eligible for character conservation district classification pursuant to this chapter, the Planning Director shall schedule a public meeting for the purpose of informing property owners in the proposed district of the nature of the pending request. The Planning Director shall send mailed notice of the time and place of the meeting in accordance with Chapter 21A.10 of this title.
2. The boundaries of the proposed character conservation district can be modified during the formulation of the district plan and design standards provided the following:
 - a. The property owner agrees to the addition or removal of their property from the proposed area, and
 - b. The new district boundaries continue to meet the conditions of the feasibility study and the criteria of a character conservation district.
3. The Planning Division shall prepare a draft district plan and design standards for the proposed district based on the information and character defining features found in the feasibility study with input from owners and residents of the proposed character conservation district. Once the draft plan and design standards are developed, a public hearing before the Planning Commission will be scheduled to receive public comment regarding the plan. The Planning Director shall send written notice of the public hearing in accordance with Chapter 21A.10.

21A.XX.070 Character Conservation District Plan and Design Standards Ordinance Review

1. A staff report evaluating the application for establishment of the character conservation district shall be prepared by the Planning Division.
2. The Planning Commission shall schedule and hold a public hearing on the application in accordance with the standards and procedures for conduct of the public hearing set forth in Chapter 21A.10 of this title.
3. Following the public hearing, the Planning Commission shall recommend approval or denial of the proposed amendment or the approval of some modification of the amendment and shall then submit its recommendation to the City Council.

4. The City Council shall schedule and hold a public hearing to consider the proposed amendment in accordance with the standards and procedures for conduct of the public hearing set forth in Chapter 21A.10 of this title.
5. At the public hearing, the City Council may adopt the proposed creation of a character conservation district, adopt the proposed character conservation district with modifications, or deny the proposed character conservation district. However, no additional land may be added to the boundaries of the character conservation district, without new notice and hearing.
6. In order for a character conservation district to be adopted, a super majority vote of the City Council is required.
7. Amendments to the character conservation district boundaries or standards shall be processed in the same manner as a new application according to the process in the chapter.

21A.XX.080 Character Conservation District Standards

A decision to create a character conservation district is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard.

1. In making its decision concerned creation of a character conservation district, the City Council should consider the following factors:
 - a. The proposed character conservation district is an established area with shared distinguishing characteristics, which may include architecture, geography, development, services, and interests.
 - b. The proposed character conservation district is a logical neighborhood unit with a closely settled development pattern on similar sized parcels.

21A.XX.090 Demolition

Standards for demolition within any character conservation district area shall be included within the ordinance for that specific character conservation district. There shall also be included a process for submittal and review of demolition permits.

Definitions to be added to Chapter 21A.62

“BLOCK” means an area or bounded by streets on all sides.

“CHARACTER DEFINING FEATURES” may include, but are not limited to, architecture or architectural features, mass and scale of buildings, streetscape, building orientation, landscaping or other items that contribute to the overall character of the area.

“CHARACTER CONSERVATION DISTRICT FEASIBILITY STUDY” means a study conducted by the proposed district area or their authorized agent to determine whether or not a particular area of the city is eligible for character conservation district classification.

“DISTRICT PLAN AND DESIGN STANDARDS” means proposed design standards and provide for review of site plans in character conservation districts, to ensure that the character and distinctive features of these districts are maintained and reinforced by new construction.

“STABLE” means that the area is expected to remain substantially the same with continued maintenance of the property. While some changes in structures, land uses, and densities may occur, all such changes are expected to be compatible with surrounding development and in accordance with the adopted master plan policies and adopted zoning regulations. Other items that can determine the stability of an area include, but are not limited to the following: property values, number of demolition or building permits issued.

“STABILIZING” means that the area is expected to become stable through continued reinvestment, maintenance, or remodeling.

“STREETSCAPE” means all public rights-of-way, all front yards to the plane of the front of the house, and on corner lots, all side yards to the plane of the side of the house.