

PLANNING COMMISSION STAFF REPORT



Planning and Zoning Division
Department of Community and
Economic Development

Character Conservation Districts Text Amendment Zoning Text Amendment PLNPMC2011-00473 Citywide November 10, 2011

Applicant: Mayor Ralph
Becker

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Notification

- Notice published in the newspaper on 09/27/11
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites 10/27/11

Attachments:

- A. Draft Character Conservation District Ordinance (dated November 3, 2011)

Request

Salt Lake City Mayor Ralph Becker is requesting a Zoning Text Amendment to add a chapter to the Zoning Ordinance to allow for Character Conservation Districts. Changes would apply citywide if adopted by the City Council.

Staff Recommendation

It is the Planning Staff's opinion that overall the information supports conservation efforts in Salt Lake City and therefore, recommends the Planning Commission transmit a favorable recommendation to the City Council relating to this request.

Recommended Motion

Based on the information in the staff report, testimony and plans presented, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to this request to amend the Zoning Ordinance and allow for the creation of character conservation districts.

Background

Project Description

The draft Preservation Plan identifies several tools that are available for the City to use as part of a historic preservation program. Not all of the tools are strictly for the preservation of historic resources. Some tools are broader and are designed to encourage neighborhood stability. Character conservation districts are one of the tools that are available to staff to assist with a broader approach.

Whereas the purpose of a local historic district is to preserve *historic fabric*, including design, materials and integrity, a character conservation district is used to preserve *community character*. Because the two districts have different priorities, this usually means that they will differ in the standards for designation, the level of regulation and the review process.

Character conservation districts can be customized for specific areas and they usually have fewer restrictions than a local historic district. The focus is more on specific character defining features of a neighborhood. Character conservation districts can then help preserve and protect unique and distinctive neighborhood and commercial centers from future development which may be incompatible with the character of the area.

The character conservation district plan may also adjust current zoning regulations so they are better suited for areas within the character conservation district. The character conservation district is intended to supplement existing zoning regulations to promote development that preserves and enhances the existing character. The size of each character conservation district varies depending on each area.

Creation of character conservation districts is a land use planning tool that assists neighborhood residents to identify the qualities and characteristics that should be conserved. With input from the neighborhood residents, the content and regulations vary according to what they view as being important. Some character conservation districts focus on exterior improvements to the buildings themselves, whereas others may focus on demolition and new construction. However, character conservation districts will not change what uses are allowed in different zoning districts, they will only regulate exterior improvements. As part of the adoption of the character conservation district, the district plan will include design guidelines for the district. Any new development or modifications to the exterior of any property will need to comply with these guidelines.

Some examples of standards that could be regulated by a character conservation district include, but are not limited to:

- building orientation
- general site planning (primary or accessory structures)
- density
- signage
- architectural style and details
- building materials
- front window and dormer size and location
- landscaping
- fences and walls
- driveways and sidewalks
- location of satellite dishes and utility boxes
- street furniture
- public art in a neighborhood

It needs to be stressed that the draft ordinance (Attachment A) does not designate any areas as character conservation districts or create design guidelines. It only outlines the requirements and process for getting a character conservation district adopted.

Because the character conservation district becomes an overlay for the area which it encompasses, the process for adopting a character district is very similar to that of Zoning Map Amendment. Some highlights of the ordinance include:

- How to and who can initiate creation of a character conservation district.
- Determination of eligibility by the Planning Division.
- Conceptual or character conservation plan development by Planning Division staff in conjunction with the residents within the boundaries of the proposed character conservation district.
- Adoption of the character conservation plan by the City.

It should also be noted that the last section of proposed ordinance states that standards for demolition must be included for each character conservation district, including a process for submittal and review. The draft ordinance does not contain specific demolition standards for each character conservation district. Rather, each district will need to develop their own standards to be included in the character conservation district. Standards could vary greatly between different districts.

Comments

Public Comments

The item was presented at the September 12, 2011 Open House meeting. Several residents asked questions of staff at the open house regarding the topic of character districts, but no formal comments were received that evening.

Staff received two telephone calls as a result of the notice for tonight's meeting. One person who called lives in the area of The Avenues and was against the creation of the districts as it would only impose additional and unnecessary regulations on property owners.

On October 25, 2011, member of the Planning Division staff meet with several residents from one of the city's neighborhoods. They wanted to know more about the proposed regulations and the process. Staff welcomed their suggestions and has made some changes to the proposed ordinance as noted below.

- There should be a provision to allow an outside person (not someone from the neighborhood) to initiated the feasibility study. Staff believes that the initiation of the feasibility study should come from within the neighborhood; however, the neighborhood can consult with an outside person or agency to prepare the feasibility study.
- In reference to the initiation of a district, how will joint tenants, out of state property owners or trust owners be handled in the process? Will multiple owners have multiple votes? Staff agrees that this needs to be clarified and the revised ordinance is similar to how annexations are initiated.
- It needs to be easier to get the process going. 50% buy-in from those affected is too high of a number. It will be difficult to sell something or get people to buy into a process or product before anything is developed. The group of residents wants this provision removed. Staff continues to advocate that the minimum 50% buy-in is the best way to start the process. Because of regulations in state law, there cannot be a vote by the neighborhood after the plan is developed and before a public hearing. This is considered to be a transfer of legislative authority by the City Council and cannot occur.
- The supermajority vote of the City Council in order to approve a character conservation district once the plan is prepared is of concern. There is no other zoning application that requires a supermajority and to make this one require is not equitable. Staff agrees with this suggestion and has removed the supermajority vote from the ordinance and changed it to a majority.
- A statement was made that mega or super sized homes are too much. Property owners should be allowed to rebuild the original footprint size of the house and be allowed to add an additional percentage (such as 10%) of the original footprint size to the new residence. Staff agrees that this is a legitimate concern, but feels that it would be more appropriate to be included in specific character conservation districts and not in the ordinance that outlines the adoption process.

Public Meetings

Historic Landmark Commission Meeting

At the Historic Landmark Commission meeting on October 6, 2011, members of the Historic Landmark Commission had questions or concerns with some of the proposed regulations. Staff has answered or discussed those questions or concerns in each of the topic areas below.

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.

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 agencies 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.

Planning Commission Briefing

At the October 27, 2011 Planning Commission meeting, a briefing was held with the Planning Commission to present the proposed ordinance and also clarify some of the issues that were raised at the October 6, 2011 Historic Landmark Commission meeting. Below staff has answered or discussed those questions or concerns in each of the topic areas.

- If the Planning Commission recommends changes to the standards would the process have to start all over again? The process would not start all over again. Staff would recommend if that was the case the item is continued so staff can work

with the affected area to come up with a solution that works for both the Planning Commission and the neighborhood.

- There was concern expressed regarding the regulation of landscaping and that it might not be appropriate to do so. Staff understands this concern but also recognizes that some streetscapes are important character defining features of a neighborhood and the residents may wish to preserve that streetscape.
- Some of the Commissioners felt that the initial 50% buy in was too high and that it should be lowered. After further discussion and explanation by staff, it was understood that by having a vote after the plan is developed would be delegation of authority by the City Council which is not appropriate.
- It was suggested that a handout be developed by staff that would let the neighborhood know what they could and what they could not regulate in their character conservation district.
- A statement was made that staff should incorporate some of the sustainability issues into the plans and staff is agreeable to do that.

Analysis and Findings

Options

Support: If the Commission finds that the proposed project meets the standards for general amendments in Salt Lake City, a favorable recommendation should be transmitted to the City Council.

Continuation: If the Commission finds that additional information is needed to support the creation of character conservation districts, then a final decision may be postponed with specific direction to the applicant or Planning Staff regarding the additional information needed.

Findings

21A.50.050 Standards for General Amendments.

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard.

- A. In making its decision concerning a proposed text amendment, the City Council should consider the following factors:
 - 1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;

Analysis: The community master plan's land use policies generally state that neighborhoods should be preserved. The proposed changes do not alter the various purpose statements included in the Zoning Ordinance. The proposed amendment will create a new tool that will help ensure development that is compatible with the surrounding neighborhood.

Finding: The proposed text amendment and new tools for preservation will assist in preserving character of neighborhoods which is consistent with the purposes, goals, objectives and policies of the City.

2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;

Analysis: The proposed text amendment is intended to clarify or further advance the purposes of the Zoning Ordinance by preserving neighborhood character.

Finding: No changes will be made to the specific purpose statements of the zoning ordinance. The character conservation district will enhance and clarify the purpose statements for the areas in which they will be adopted.

3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and

Analysis: The proposed text amendment will allow for the creation of overlay districts in the form of character conservation districts. Additional standards will be included in each character conservation district which is consistent with the purposes and provisions of overlay zoning districts. The creation of character conservation districts will be consistent with the provisions of other overlay zones.

Finding: Each character conservation district will become an overlay district and will therefore need to be consistent with the purposes and provisions of overlay zoning districts. Additional standards that may be imposed will be created in conjunction with the property owners who would be affected by the change.

4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

Analysis: The proposed change is a tool to implement the best current, professional practices of urban planning and design.

Finding: Character conservation districts are used throughout the country to protect the character of residential and commercial areas. Character conservation districts go beyond the standards of base zoning and neighborhood based zoning which generally regulate size, bulk and placement of development by addressing the important character defining features of a particular area.

ATTACHMENT A
Draft Character Districts Ordinance (dated November 3, 2011)

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.
4. For purposes of this section that requires the owners of private real property covering a percentage of the total private land area within an area to sign the application for a feasibility study:
 - a. A parcel of real property may not be included in the calculation of the required percentage unless the application is signed by:
 - (i) Except as provided in subsection (ii) below, owners representing a majority of ownership interest in that parcel; or
 - (ii) If the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel.
 - b. Each private real property may only be counted once towards the 50% minimum, regardless of the number of signatures for that real property.

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. Any 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 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.

- A. In making its decision concerned creation of a character conservation district, the City Council should consider the following factors:
 1. The proposed character conservation district is an established area with shared distinguishing characteristics, which may include architecture, geography, development, services, and interests.
 2. 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.