



Staff Report

PLANNING DIVISION

To: Salt Lake City Planning Commission
From: Olivia Cvetko, Principal Planner
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Date: March 13, 2024
Re: PLNPCM2023-00986 Planning and Historic Landmark Commission Membership and Appeals Hearing Officer Term Limit Text Amendment

Zoning Text Amendment

PROPERTY ADDRESS: Citywide
MASTER PLAN: [Plan Salt Lake](#)

REQUEST:

Salt Lake City has initiated a petition to amend sections of the Salt Lake City Zoning Ordinance relating to the minimum required members of the Planning Commission and the Historic Landmark Commission, and the term limits for Appeals Hearing Officers. The proposed amendments are intended to eliminate the minimum required number of commissioners for both the Planning Commission and Historic Landmark Commission so that if there is a sudden exit of commissioners, both land use authorities would be able to conduct city business. Additionally, this amendment removes the language stating that the appeals hearing officer can serve no more than two (2) consecutive five-year terms. These are appointed positions and if the Mayor and City Council find that an Appeals Hearing Officer is familiar with city statutes and making sound decisions, there should be an avenue to keep them appointed. This amendment will affect chapter 21A.06 Decision Making Bodies and Officials.

RECOMMENDATION:

Forward a positive recommendation to the City Council regarding this proposal.

ATTACHMENTS:

- A. [ATTACHMENT A: Proposed Ordinance](#)
- B. [ATTACHMENT B: Zoning Amendments Considerations](#)
- C. [ATTACHMENT C: Public Process and Comments](#)

PROJECT DESCRIPTION

The purpose of this proposal is to allow the city the ability to hold public hearings and make decisions required of land use authorities in the event that the commission suddenly loses a

member, or more, from resignations and falls below the minimum number of required commissioners.

The main issue with the minimum commissioner requirements is that appointing a new commissioner to either board can take a couple months. It is not in the city's best interest to not be able to make land use decisions. As the code is written, a sudden resignation could be very problematic and not reflect well on the city in the event that we couldn't hold a commission meeting. Removing the minimum required would safeguard the city from such an event, and adequate time to find a suitable candidate to fill any commission vacancy. There is no need to establish a new minimum, as state law requires the commissions to comply with the Open and Public Meetings Act ("OPMA"), which requires commissions to have at least 2 members.

A summary of the process of becoming a commissioner is as follows. The Mayor's office collects applications from City residents. The applicant pools are reviewed as vacancies arise, the applicants are interviewed if they have a skill set that has been identified as beneficial to a board and from a district needing representation. The Mayor's office transmits recommended candidates' applications to the City Council. The Council upon receiving the transmittal then schedules interviews with potential candidates and makes the final decision to appoint the individual to either respective commission.

The main purpose of removing the Appeals Hearing Officer term limits is to allow elected officials to retain individuals who are serving the city well, familiar with land use ordinances, our city code and processes, and land use law. It has been found that the City should have several Appeals Hearing Officers appointed. The reason is because those individuals are often times attorneys working in their professional capacity as attorneys and sometimes are not able to review an appeal because they have a conflict. The city wishes to have an ample number of officers appointed to have a rotation schedule that protects against conflicts but to also retain those who have demonstrated they are willing to keep serving as an Appeals Hearing Officer.

Chapter 21A.06 of the Salt Lake City Zoning Ordinance specifies the authority and responsibility of the city's decision-making bodies and officials in implementing and administering Title 21A. Within this section, changes are being proposed to 21A.06.030 Planning Commission; 21A.06.040 Appeals Hearing Officer; and 21A.06.050 Historic Landmark Commission.

Currently, the zoning ordinance stipulates:

- a minimum of nine (9) and a maximum of eleven (11) Planning Commission members, and
- a minimum of seven (7) and a maximum of eleven (11) Historic Landmark Commission members

The proposal is to remove the minimum membership for both Commissions and retain the maximum.

Additionally, the current ordinance states that the Appeals Hearing Officer may serve a maximum of two consecutive five-year terms. The proposal is to allow an Appeals Hearing Officer to be reappointed if elected officials choose to do so.

APPROVAL PROCESS AND COMMISSION AUTHORITY

The proposal is for a zoning text amendment. The Planning Commission and the Historic Landmark Commission may make a recommendation to the City Council on this type of proposal per [21A.50.050.A](#). The Planning Commission may make modifications to the proposed amendments, direct staff to make recommendations, or forward a recommendation to the City Council. Staff recommends that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed text amendment.

KEY CONSIDERATIONS

The key considerations listed below were identified through the analysis of the project:

1. How the Proposal Helps Implement City Goals & Policies Identified in Adopted Plans

Consideration 1: How the Proposal Helps Implement City Goals & Policies Identified in Adopted Plans

Plan Salt Lake

Plan Salt Lake calls for “A local government that is collaborative, responsive, and transparent”. To achieve this, it is essential that the city’s decision-making bodies and officials remain efficient and able to conduct business and make land use decisions.

By eliminating the required minimum for Planning Commission and Historic Landmark Commission members, the City is reducing the likelihood that land use decisions and business items will be postponed due to unexpected resignations or changes in commission structure. This change will allow the Planning Commission and Historic Landmark Commission to function more predictably and efficiently. Additionally, eliminating the two-term limit on Appeals Hearing Officer allows the city to retain reliable and knowledgeable officers that are already familiar with city processes and ordinances.

STAFF RECOMMENDATION

As discussed in this staff report, the proposal will ensure the city’s decision-making bodies and officials remain efficient and able to conduct business and make land use decisions. Staff recommends the Planning Commission forward a motion to the City Council to adopt the proposed changes.

NEXT STEPS

The Planning Commission can provide a positive or negative recommendation for the proposal and can request that changes be made to the proposal. The recommendation and any requested changes will be sent to the City Council, who will hold a briefing and additional public hearing on the proposed changes. The City Council may make modifications to the proposal and approve or decline to approve the proposed changes. If ultimately approved by the City Council, the changes would be incorporated into the City Zoning code.

ATTACHMENT A: Proposed Ordinance

CHAPTER 21A.06
DECISION MAKING BODIES AND OFFICIALS

21A.06.010: SUMMARY OF AUTHORITY:

The City decision making bodies and officials described in this chapter, without limitation upon such authority as each may possess by law, have responsibility for implementing and administering this title in the manner described in sections [21A.06.020](#) through [21A.06.090](#) of this chapter. Other City departments also have specific responsibilities related to this title and are identified in the appropriate sections. (Ord. 56-18, 2018: Ord. 48-18, 2018: Ord. 26-95 § 2(3-1), 1995)

21A.06.020: CITY COUNCIL; JURISDICTION AND AUTHORITY:

The City Council has the following powers and duties in connection with the implementation of this title:

- A. Adopt, amend or reject a proposed general plan for all or part of the area within the City;
- B. Initiate amendments to the text of this title and to the zoning map pursuant to the provisions of section [21A.50.020](#) of this title;
- C. Consider and adopt, reject or modify amendments to the text of this title and to the zoning map pursuant to the provisions of sections [21A.50.030](#) and [21A.50.040](#) of this title;
- D. Establish a fee schedule for applications for a zoning certificate, zoning amendments, special approvals and any other type of approval required by the provisions of this title; and
- E. Take such other actions which are legislative in nature and which are not delegated to other bodies which may be desirable and necessary to implement the provisions of this title. (Ord. 83-96 § 1, 1996: Ord. 26-95 § 2(3-2), 1995)

21A.06.030: PLANNING COMMISSION:

A. General Provisions: The provisions of title 2, [chapter 2.07](#) of this Code shall apply to the Planning Commission except as otherwise set forth in this section.

B. Creation: The Planning Commission is created pursuant to the enabling authority granted by the Municipal Land Use Development and Management Act of the Utah Code.

C. Jurisdiction And Authority: The Planning Commission shall have the following powers and duties in connection with the implementation of this title:

1. Prepare and recommend to the City Council for adoption, a comprehensive, general plan and amendments to the general plan for the present and future needs of the City and the growth and development of the land within the City or any part of the City;
2. Make comprehensive surveys and studies of the existing conditions and trends of growth and of the probable future requirements of the City and its residents as part of the preparation of the general plan;
3. Initiate amendments to the text of this title and to the zoning map pursuant to the provisions of [chapter 21A.50](#) of this title;
4. Review, evaluate and make recommendations to the City Council on proposed amendments to this title pursuant to the procedures and standards set forth in [chapter 21A.50](#) of this title;
5. Review, hear and decide applications for conditional uses, including planned developments, pursuant to the procedures and standards set forth in [chapters 21A.54](#), "Conditional Uses", [21A.55](#), "Planned Developments", and [21A.59](#), "Design Review", of this title;
6. Hear and decide appeals from administrative hearing decisions of the Planning Director;
7. Hear and decide applications for subdivision amendments and approvals pursuant to the Municipal Land Use Development and Management Act, title 10, chapter 9a of the Utah Code;

D. Membership: The Planning Commission shall consist of ~~at least nine (9)~~ up to a maximum of no more than eleven (11) voting members, appointed from among qualified electors of the City in a manner providing balanced geographic, professional, neighborhood and community interests representation.

1. The Director of the Planning Division (or the Planning Director's designated representative) shall serve as an ex officio member without vote.

2. Appointment to a position created by any vacancy shall not be included in the determination of any person's eligibility to serve two (2) consecutive full terms.

E. Meetings: The Planning Commission shall meet at least once each month.

F. Commission Action: A simple majority of the voting members present at the meeting at which a quorum is present shall be required for any action taken. The decision of the Planning Commission shall become effective upon the posting of the record of decision.

G. Public Hearings: The Planning Commission shall schedule and give public notice of all public hearings pursuant to the provisions of [chapter 21A.10](#), "General Application And Public Hearing Procedures", of this title.

H. Conflicts Of Interest: The Planning Commission may, by majority vote of the members present, allow a member, otherwise required to leave due to a conflict, to be present if required by special or unusual circumstances.

I. Removal Of A Member: Any member of the Planning Commission may be removed by the Mayor for violation of this title or any policies and procedures adopted by the Planning Commission following receipt by the Mayor of a written complaint filed against the member. If requested by the member, the Mayor shall provide the member with a public hearing conducted by a Hearing Officer appointed by the Mayor.

J. Policies And Procedures: The Planning Commission shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning. (Ord. 14-19, 2019: Ord. 10-16, 2016: Ord. 56-14, 2014)

21A.06.040: APPEALS HEARING OFFICER:

- A. Creation: The position of appeals hearing officer is created pursuant to the enabling authority granted by the Municipal Land Use, Development, and Management Act, Section 10-9a-701 of the Utah Code.
- B. Jurisdiction and Authority: The appeals hearing officer shall have the following powers and duties in connection with the implementation of this title:
1. Hear and decide appeals from any administrative decision made by the zoning administrator in the administration or the enforcement of this title pursuant to the procedures and standards set forth in Chapter 21A.16, "Appeals of Administrative Decisions", of this title;
 2. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in Chapter 21A.18, "Variances", of this title;
 3. Hear and decide appeals of any decision made by the historic landmark commission, or the planning director in the case of administrative decisions, pursuant to the procedures and standards set forth in Section 21A.34.020, "H Historic Preservation Overlay District", of this title;
 4. Hear and decide appeals from decisions made by the planning commission concerning subdivisions or subdivision amendments pursuant to the procedures and standards set forth in title 20, "Subdivisions and Condominiums", of this code; and
 5. Hear and decide appeals from administrative decisions made by the planning commission

pursuant to the procedures and standards set forth in this title.

- C. Qualifications: The appeals hearing officer shall be appointed by the mayor with the advice and consent of the city council. The mayor may appoint more than one appeals hearing officer, but only one appeals hearing officer shall consider and decide upon any matter properly presented for appeals hearing officer review. The appeals hearing officer shall be appointed to a term of five (5) years and may serve continuous consecutive terms upon reappointment. ~~may serve a maximum of two (2) consecutive full terms of five (5) years each.~~ The appeals hearing officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.
- D. Conflict of Interest: The appeals hearing officer shall not participate in any appeal in which the appeals hearing officer has a conflict of interest prohibited by Title 2, Chapter 2.44 of this code.
- E. Removal of The Appeals Hearing Officer: The appeals hearing officer may be removed by the mayor for violation of this title or any policies and procedures adopted by the planning director following receipt by the mayor of a written complaint filed against the appeals hearing officer. If requested by the appeals hearing officer, the mayor shall provide the appeals hearing officer with a public hearing conducted by a hearing officer appointed by the mayor.

21A.06.050: HISTORIC LANDMARK COMMISSION:

- A. General Provisions: The provisions of Title 2, Chapter 2.07 of this code shall apply to the historic landmark commission except as otherwise set forth in this section.
- B. Creation: The historic landmark commission was created pursuant to the enabling authority granted by the Historic District Act, Section 11-18-1 et seq., of the Utah Code (repealed), and continues under the authority of Utah Code Section 10-8-85.9 and the Land Use Development and Management Act, Utah Code Chapter 10-9a.
- C. Jurisdiction and Authority: The historic landmark commission shall:
 - 1. Review and approve or deny an application for a certificate of appropriateness pursuant to the provisions of Chapter 21A.34 of this title;
 - 2. Participate in public education programs to increase public awareness of the value of historic, architectural and cultural preservation; Communicate the benefits of historic preservation for the education, prosperity, and general welfare of residents, visitors and tourists;
 - 3. Review and approve or deny applications for the demolition of contributing principal structures in the H Historic Preservation Overlay District pursuant to Chapter 21A.34 of this title;
 - 4. Review designations, amendments to and boundaries of a local historic district, thematic designation and landmark sites, and make a recommendation to the planning commission and the city council;
 - 5. Make recommendations on applications for zoning amendments involving properties within the H Historic Preservation Overlay District when requested by the applicant, planning director, planning commission or the city council;
 - 6. Review and approve or deny certain modifications to dimensional standards for properties located within an H Historic Preservation Overlay District. This authority is also granted to the planning director or designee for applications within the H Historic Preservation Overlay District that are eligible for an administrative decision by the planning director or zoning administrator. The certain modifications to zoning district specific development standards are listed as follows and are in addition to any modification authorized elsewhere in this title:

- a. Overall building and accessory structure height;
 - b. Building and accessory structure wall height;
 - c. Accessory structure square footage;
 - d. Fence and retaining wall height;
 - e. Signs pursuant to Section 21A.46.070 of this title; and
 - f. Any modification to bulk and lot regulations, except density, of the underlying zoning district where it is found that the proposal complies with the applicable standards identified in Section 21A.34.020 and is compatible with the surrounding historic structures;
7. Make recommendations to the planning commission in connection with the preparation of the general plan of the city;
 8. Make recommendations to the city council on design guidelines, policies and ordinances that may encourage preservation of buildings and related structures of historical and architectural significance;
 9. Review historic resource surveys for designations and all subsequent updates and make recommendations to the planning commission and the city council;
 10. Review National Register of Historic Places nominations or amendments and make a recommendation to the Utah Board of State History; and
 11. Recommend to the city council development of incentive programs, either public or private, to encourage the preservation of the city's historic resources.
- D. Membership: The historic landmark commission shall consist of ~~not less than seven (7) nor more than~~ no more than eleven (11) voting members appointed in a manner providing balanced geographic, professional, neighborhood and community interests representation. ~~In situations where a member resigns or is removed as prescribed in this code and adopted policies and procedures and as a result, the number of members drops to less than seven (7), the commission may still function until a 7th member is appointed.~~ Appointment to a position created by any vacancy shall not be included in the determination of any person's eligibility to serve two (2) consecutive full terms.
- E. Qualifications of Members: Each voting member shall be a resident of the city interested in preservation and knowledgeable about the heritage of the city. Members shall be selected so as to ideally provide representation from the following groups of experts and interested parties whenever a qualified candidate exists:
1. At least two (2) architects, and
 2. Residents at large possessing preservation related experience in archaeology, architecture, architectural history, construction, history, folk studies, law, public history, real estate, real estate appraisal, or urban planning.
- F. Meetings: The historic landmark commission shall meet at least once per month or as needed.
- G. Commission Action: A simple majority of the voting members present at a meeting at which a quorum is present shall be required for any action taken.
- H. Public Hearings: The historic landmark commission shall schedule and give public notice of all

public hearings pursuant to the provisions of Chapter 2IA.10 of this title.

- I. **Removal of a Member:** Any member of the historic landmark commission may be removed by the mayor for violation of this title or any policies and procedures adopted by the historic landmark commission following receipt by the mayor of a written complaint filed against the member.
- J. **Policies and Procedures:** The historic landmark commission shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning.

ATTACHMENT B: Zoning Amendments Considerations

ZONING TEXT AMENDMENTS

21A.50.050: 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. In making a decision to amend the zoning map, the City Council should consider the following:

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;

Plan Salt Lake

Complies. As discussed in consideration 1, the proposed amendments are consistent with the goals in Plan Salt Lake surrounding the city’s ability to remain collaborative, responsive, and transparent.

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

21A.02.030 Purpose and Intent : *The purpose of this title is to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Salt Lake City, to implement the adopted plans of the City, and to carry out the purposes of the Municipal Land Use Development and Management Act, title 10, chapter 9, of the Utah Code Annotated or its successor, and other relevant statutes. This title is, in addition, intended to:*

- A. *Lessen congestion in the streets or roads;*
- B. *Secure safety from fire and other dangers;*
- C. *Provide adequate light and air;*
- D. *Classify land uses and distribute land development and utilization;*
- E. *Protect the tax base;*
- F. *Secure economy in governmental expenditures;*
- G. *Foster the City's industrial, business and residential development; and*
- H. *Protect the environment. (Ord. 26-95 § 2(1-3), 1995)*

Complies. One intent of title 21A is to “foster the city’s industrial, business, and residential development”. Allowing both commissions to function uninterrupted in the case of unexpected resignations promotes timely land-use decisions which fosters new development. Additionally, allowing the city to retain appeals hearing officers that are familiar with city processes and ordinances promotes consistent and efficient decisions on development.

21A.50.010 Purpose Statement *The purpose of this chapter is to provide standards and procedures for making amendments to the text of this title and to the zoning map. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.*

Complies. The proposed amendment is not intended to relieve a particular hardship or confer special privileges or rights upon any person.

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

Complies. The proposed amendments will not affect any overlay districts.

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

Complies. The proposed amendments will allow Planning Commission, Historic Landmark Commission to continue to conduct business in the face of unexpected resignations or changes to commission structure, thus promoting equitable representation and allowing for continued growth with timely land-use and business item decisions. Furthermore, there is no justification for term limits for Appeals Hearing Officers. If an Appeals Hearing Officer is willing to serve a third term, and the Mayor is interested in reappointment and the Council is ready to appoint, they should have the ability to make that decision.

ATTACHMENT C: Public Process & Comments

Public Notice, Meetings, Comments

Notice of the public hearing for the proposal included:

- February 28, 2024 | Public hearing notice sign posted at the following locations:
 - Salt Lake City Public Library – Main Branch
 - Salt Lake City Public Library – Marmalade Branch
 - Salt Lake City Public Library – Chapman Branch
- February 29, 2024:
 - Public hearing notice mailed
 - Public notice posted on City and State websites and Planning Division list serve

Public Input:

No public input was received at the time of this staff report.