



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet, Policy Analyst

DATE: January 21, 2014

RE: Local Historic District Designation –
Property Owner Opt In Option

SPONSOR: N/A

PROJECT TIMELINE:

Briefing: January 21, 2014

Set Date: N/A

Public Hearing: N/A

Potential Action: N/A

ISSUE AT-A-GLANCE

On October 23, 2012, the City Council adopted Ordinance 72 of 2012 amending the process for designating new Local Historic Districts and Landmark Sites. As part of this action, the Council requested that the Administration explore the possibility of creating another historic preservation tool that would allow for a streamlined opt-in historic designation process for individual properties that meet the local historic district designation criteria.

Overall, the Administration’s memo expresses concern that an “opt-in for individual properties” would not add to the integrity of existing historic districts or landmark sites. Additionally, because of State law pertaining to public hearings, the opt-in process does not allow for a streamlined process beyond elimination of the City Council’s public hearing, which is required only by City ordinance.

However, the Administration’s **memo** provides three options available to property owners to preserve the character of their property:

- **Character Conservation District** – can be as small as a single block, but still requires a group of property owners with a common vision for the neighborhood
- **Private Conservation Options** – property owner could establish deed restrictions, private covenants, and conservation easement. This would limit the ability of future owners to alter the appearance or character of the property.
- **Financial Incentive** – State and Federal tax credits are available for properties listed in the National Register or within a National Register District.



The Administration's memo provides one possibility to streamline the process:

- **Streamlined process** – The Council could eliminate the City Council public hearing to reduce the process. **The Council has to approve the map amendment, though State law doesn't** require the Council to hold a public hearing.

City ordinance requires the Council to hold a public hearing, in addition to the Planning Commission public hearing ([21 A.50.040.G](#)). However, State statute does not require the Council to hold a public hearing prior to making a final decision on a zoning map amendment. **It only requires “notice of the date, time, and place of the first public hearing [before the Planning Commission] to consider the adoption or any modification of a land use ordinance.”** ([Utah Municipal Code 10-9a-205.1a](#))

cc: David Everitt, Bianca Shreeve, Karen Hale, Art Raymond, Holly Hilton, Margaret Plane, Lynn Pace, Paul Nielson, Eric Shaw, Mary De La Mare-Schafer, Wilf Sommerkorn, Cheri Coffey, Joel Paterson, Nick Norris, Neil Lindberg, City Council Liaisons, Mayors Liaisons

File Location: Community and Economic Development Dept., Planning Division, Local Historic District Designation – Property Owner Opt In Option

ERIC D. SHAW
DIRECTOR

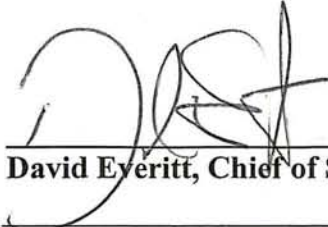
MARY DE LA MARE-SCHAEFER
DEPUTY DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

SCANNED TO: *Moya*
SCANNED BY: *hede*
DATE: *9/9/2013*

CITY COUNCIL TRANSMITTAL



David Eyeritt, Chief of Staff

Date Received: _____
Date Sent to Council: _____
By *Moya*
09/09/2013



TO: Salt Lake City Council
Kyle LaMalfa, Chair

DATE: May 28, 2013

FROM: Eric Shaw, CED Director *Eric Shaw*

RE: Local Historic District Designation – Property Owner Opt-in Option

COUNCIL SPONROR: Council initiated

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DOCUMENT TYPE: Briefing document - Information only

BACKGROUND/DISCUSSION:

On October 23, 2012, the City Council adopted Ordinance 72 of 2012 amending the process for designating new local historic districts and Landmark Sites. As part of this action, the Council requested that the Administration explore the possibility of creating another historic preservation tool that would allow for a streamlined opt-in historic designation process for individual properties that meet the local historic district designation criteria.

LOCAL HISTORIC DESIGNATION

The recent amendments to the local historic designation process clarified that Salt Lake City has three types of local historic designation options:

- Local Historic District: A geographically or thematically definable area within the H Historic Preservation Overlay District designated by the City Council pursuant to the provisions of Section 21A.34.020, which contains buildings, structures, sites, objects, landscape features, archeological sites and works of art, or a combination thereof, that contribute to the historic preservation goals of Salt Lake City.

Examples of local historic districts include the Avenues, Westmoreland Place, University and Central City.



- SEARCHED BY: [REDACTED]
INDEXED BY: [REDACTED]
DATE: [REDACTED]
- **Landmark Site:** A Landmark Site is any site included on the Salt Lake City register of cultural resources that meets the criteria outlined in subsection 21A.34.020.C.10. Such sites are of exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A Landmark Site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site.

Examples of Landmark Sites include Liberty Park, the Salt Lake City and County Building, Kearns Building, Chapman Library.

- **Thematic Designation:** a collection of individual sites, buildings, structures, or features that are contained in two or more geographically separate areas and united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

Currently, there are no locally-adopted thematic designations in the City. Potential examples of a thematic designation might be 1920's apartment block buildings or 19th century places of worship.

LOCAL HISTORIC DISTRICT DESIGNATION PROCESS

The newly adopted historic designation process improved and clarified the city's process for creating new districts. This amendment improved the public engagement and education process, introduced provisions to allow property owners to register their support or lack of support for a proposed historic local designation and further defines the role of the City Council in the approval process. In addition to the public involvement noted above, the Local Historic District Designation Process includes public hearings before the Historic Landmark Commission, Planning Commission and the City.

New local historic districts, including Landmark Sites and thematic designations, are accomplished by amending the Zoning Map and applying the Historic Preservation Overlay zoning district over a property.

Amending the City's Zoning Map is a legislative function and, therefore, the final decision making authority is held by the City Council. Under State law, any amendment to the text of the Zoning Ordinance or to the Zoning Map must be considered by the Planning Commission during a public hearing. The Planning Commission then forwards a recommendation to the City Council. Under Salt Lake City's current practice, the City Council also holds a public hearing prior to making a decision.

The applicable State law regarding zoning map amendments requires the Planning Commission to hold a public hearing and forward a recommendation to the City Council, the final decision-making authority. Contrary to the City's current practice, State statutes do not require the City Council to hold an additional public hearing prior to making a final decision on the zoning map amendment.

ISSUES

The historic district designation process is designed to review a specific area with well defined boundaries and determine if the identified properties meet the city's standards for the creation of a local historic district. The local historic district designation provisions also include a process for amending the boundaries of existing local historic districts. Providing property owners with an option to opt-in at a later date is contrary to the current process because the property opting in may not reinforce the historic relationships between properties or add to the integrity of the existing historic district.

Under the City's current process, individual sites may be listed as Landmark Sites. As defined above, a Landmark Site provides an exceptional example of history, architecture or craftsmanship. Landmark Sites are of such importance historically or architecturally that they command the benefits of historic designation as a single property or site and do not require the association of other contributing building within a defined area that, grouped together, create a strong historical association that justifies the creation of a local historic district.

An opt-in process for individual properties that do not exhibit the qualities of a Landmark Site do not, by themselves, add to the understanding of our history nor contribute to the quality of an existing nearby local historic district. An opt-in process would essentially allow for the individual listing of a contributing site, a lesser historical classification than Landmark Site status, and would potentially diminish the perceived cultural value of Landmark Sites and possibly create public confusion about the value of historic preservation. Staff found examples of communities, such as Pueblo and Littleton, CO, that utilize an opt-in option. However, these programs are used when a new local historic district is being created and owners of property within the boundaries of the proposed district are given the opportunity to opt-in or out of the proposed district. Properties outside of the proposed historic district boundary are not allowed to opt-in.

Although examples may exist, staff did not find any communities with an opt-in program as envisioned by this proposal. If a currently existing local historic district is expanded or a new district is created, the boundaries might be drawn to exclude a structure because it did not contribute to the overall integrity of the historic district. At a later date, the property might attain historic significance or be determined to be contributing to the historic character of the area and be allowed to opt-in.

As mentioned above, because of State law provisions, the opt-in process does not allow for a streamlined process. Although the City Council could choose not to hold a public hearing, the required steps are essentially the same and the time that could be cut from the process would be minimal.

The recently amended designation ordinance clarified that the city can adopt thematic designations that protect individual properties not tied to a specific geographic boundary. However, this type of historic designation must have an identified theme that ties properties together based on a shared history, development type or style or some other specific unifying

historical element. This type of historic designation is not well suited for individual property owners who might wish to opt-in to an existing local historic district.

OPTIONS

The recently adopted Community Preservation Plan recommends developing a broader set of tools to help preserve the city's neighborhoods. The city has started to implement this recommendation by amending the historic designation process to provide more public involvement and to clarify the process. Options that may be available for property owners who wish to preserve the architectural quality and character of their property could consider the following options:

- **Character Conservation District.** While this process is not available for a single property, a Character Conservation District could encompass an area as small as a single block face. There may be a greater benefit from this approach because it helps to preserve the character of a group of properties instead of a single, isolated property. However, taking advantage of the Character Conservation District requires a group of property owners with a common vision for the area or neighborhood.
- **Private Conservation Options:** A property owner wishing to preserve the quality or character of a single property could establish deed restrictions or private covenants that would limit the ability of future owners of the property to alter the appearance or character of the property. Similarly, a property owner could grant a conservation easement to another entity which would monitor proposed alteration of the building to ensure that the proposed alteration would be appropriate. This option does not involve regulation by the City unless the City was named as a party to a conservation easement. Generally, this option would consist of some type of limitation applied to a property or a group of properties voluntarily by the participating property owners. Enforcement of the provisions would be a private matter and could require legal action.
- **Financial Incentive:** State and Federal tax credits are available for improvements made to properties that are individually listed in the National Register or located within a National Register District. While the availability of tax credits will not protect a property from alteration, it does encourage the preservation of a property by incentivizing the investment of making improvements to the property.
- **Streamlined Process:** The city could create a "streamlined" process for properties to become part of an existing historic district by modifying the adoption process. As noted above, the Council could eliminate the required public hearing with the City Council to decrease the process timeframe, although it may not significantly shorten the overall process time.