



**City Planning and Development Department  
Development Management Division**

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**STAFF REPORT** **October 1, 2013** \_\_\_\_\_(7)

**Re:** **Case No. 254-S-286**

**Request:** Amending Section 88-580 Historic Designation of the Zoning and Development Code regarding application filings and hearing and recommendation of the Historic Preservation Commission; and amending Section 88-810 Definitions to add a definition for “administrative official”.

**Applicant:** City Planning & Development Department

**Report:**

It has been determined by staff that certain clarifications should be made to the text of Section 88-580 Historic Designations and that a definition should be added to Section 88-810.

- 1) For an application for historic designation that is denied and subsequently appealed, current text does not specify who would hear the appeal to the decision of the historic preservation commission.
- 2) Definition of “Administrative Official” added.
- 3) Text revised to specify that mailed notice must be sent at least 13 days before the scheduled hearing.
- 4) Other minor clarifications.

**Proposed Revised Text:**

(revisions in **red, yellow highlighted font**; deletions are **struck-through**; additions are **underlined**)

## **88-580 HISTORIC DESIGNATIONS**

### **88-580-01 DESIGNATION**

#### **88-580-01-A. APPLICATION FILING**

1. Applications for designation of historic districts, landmarks, or overlay zoning districts (collectively referenced as H/O districts) may be made by the owner(s) of record of the subject property, any other person or organization with the full consent and written approval of the owner(s) of record of a subject property, a member of the historic preservation commission, a member of the city council, the neighborhood association for the area in which that property is located, a historic preservation organization, or any other person or organization where at least 51% of the owners of the affected parcels in a proposed district do not object to the nomination (exclusive of all publicly owned property, streets, and alleys).
2. Complete applications for designation of H/O districts must be filed in the office of the historic preservation commission. Applications must contain a legal description of the property and a statement describing its historic, cultural, aesthetic, or architectural significance.
3. The city planning and development director shall notify the owner of any property within a proposed H/O district application, if such person is different than the applicant. This notification shall be done within 14 calendar days of the application date for the H/O district nomination. The notification of the property owner shall include the following:
  - a. a copy of the application that was made for the nomination;
  - b. an explanation of the nomination procedure for H/O district and the consequential property restrictions;
  - c. an explanation stating that the property owner has the right to appear at the scheduled public hearing at which the nomination will be considered and the date of the hearing; and
  - d. an explanation stating that the property owner has the right to submit documentation either for or against the nomination.

#### **4. Interim Control**

Once an application has been filed, no building permit for alteration, construction, demolition, or removal of a property being considered for designation under an application for an H/O district may be issued until the historic preservation commission has dismissed or denied the application for designation, or until the city council has denied designation in accordance with the procedures established in 88-580-01-C. and 88-580-01-E., though no stay on

the issuance of a permit may be for more than six months from the filing of the application. No permit may be stayed in the following circumstances:

- a. The building has been declared dangerous according to the procedures established in Chapter 56, Article V.
- b. The director of city planning and development determines that the property does not meet the minimum requirements for historic designation under 88-580-01-F. and under the rules and regulations of the historic preservation commission. An applicant or owner may appeal the director's determination to the historic preservation commission at the next regular or special meeting. If the commission determines that there is merit to the application by a majority vote of those present, then the application will proceed under the procedures set in 88-580-01.

During this period, the applicant for the permit or property owner shall have the opportunity to explain to the historic preservation commission the reasons why a building permit should be issued promptly, and the commission may grant approval for a building permit in this interim period. Additionally, the city council may authorize such alteration, construction, demolition, or removal by adopting a formal resolution declaring ordinance, which ordinance includes a declaration that the proposed work is necessary for the public health, welfare, or safety.

#### 5. Consideration of Application

The historic preservation commission must hold a public hearing on the proposed nomination within 45 days of receipt of the application and must render a decision concerning the merits of the application within 90 days of the receipt of the application, which may be extended with the agreement of the owner of the property.

6. The director of city planning and development may extend any of the time limits in this section 88-580-01-A. for up to 90 additional days for good cause shown.

### **88-580-01-B. NOTICE OF HEARING**

#### **1. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on proposed designation of historic districts, landmarks, or overlay zoning districts (H/O districts) must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

#### **2. REQUIRED MAIL NOTICE**

Notice of required public hearings must be mailed at least 13 days before the scheduled hearing to the subject property owner, any registered neighborhood organization, and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07. The mailed notice shall provide contact information

sufficient for those interested to determine when the city council will hold its hearing on the designation.

#### **88-580-01-C. HEARING AND RECOMMENDATION—HISTORIC PRESERVATION COMMISSION**

1. The historic preservation commission must hold at least one public hearing on the designation of historic districts, landmarks, or overlay zoning districts (H/O districts). Following the close of the hearing, the historic preservation commission must act to recommend that the proposed designation be approved, approved with modifications, or denied. Five affirmative votes are required to recommend approval or approval with modifications.
2. If the proposed designation is recommended for approval or approval with modifications, the recommendation must be forwarded to the city plan commission.
3. If the proposed designation is not recommended for approval or approval with modifications, the application will be considered to have been denied and the application will not be forwarded to the city plan commission or city council for further review. The decision to deny will be considered the final administrative decision of the **historic preservation commission city** 30 days after the date of the historic preservation commissions' decision unless a request for rehearing is granted. If an application for a rehearing is denied or if, upon rehearing, the application is still not recommended for approval or approval with modifications, the decision to deny will be the final administrative decision on the date of the historic preservation commission's decision.
4. The historic preservation commission may grant a rehearing if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing. The request for a rehearing must be made within 30 days of the date of the historic preservation commission's original action. No more than one rehearing is permitted.

#### **88-580-01-D. HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold at least one public hearing on all historic district, landmark, or overlay zoning district (H/O) designation applications forwarded by the historic preservation commission. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed designation be approved, approved with modifications, or denied. The city plan commission may also act to continue the matter for further deliberation.

#### **88-580-01-E. HEARING AND FINAL ACTION—CITY COUNCIL**

1. After receiving the recommendation of the historic preservation commission and the city plan commission, the city council may convene its own public hearing on the proposed historic district, landmark, or overlay zoning district (H/O) designation.

2. Following the close of the public hearing, the city council may act to approve the proposed designation, approve the designation with modifications, or deny the designation.
3. The city council may act by a simple majority vote, except when a valid protest petition of H/O zoning designation has been submitted in accordance with 88-515-09, approval or approval with modifications requires a 2/3 majority vote of the full membership of the city council.
4. Immediately upon passage of an ordinance designating a particular site as an historic landmark or historic district, notice of designation must be provided to the city planning and development director.
5. Once designated by city council, the historic district, landmark or overlay zoning district (H/O) designation will remain in place until such designation is officially revoked.

#### **88-580-01-F. REVIEW CRITERIA**

In reviewing and making decisions on proposed historic landmark and historic district designations, review and decision-making bodies must consider at least the following factors:

1. the criteria used in determining eligibility for listing on the U.S. Department of Interior's National Register of Historic Places, including the historic, cultural, aesthetic, or architectural significance of the building, structure, site, object, or district;
2. the economic impact of the designation on the subject property and the surrounding area; and
3. conformance with the city's adopted plans and planning policies.

#### **88-580-02 REVOCATION OF HISTORIC LANDMARK OR HISTORIC DISTRICT DESIGNATION**

##### **88-580-02-A. APPLICATION FILING**

Complete applications for official revocation of historic landmark, or historic district designation must be filed with appropriate personnel in the office of the historic landmark commission. Applications must contain a legal description of the property and a statement describing why the historic designation should be revoked.

##### **88-580-02-B. NOTICE OF HEARING**

###### **1. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on proposed revocation of historic landmark or historic district designations must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

###### **2. REQUIRED MAILED NOTICE**

**Notice of required public hearings must be mailed at least 13 days before the scheduled hearing** ~~Mailed notice must be provided~~ to the subject property owner, any registered neighborhood organization, and/or registered civic organization whose boundaries include the subject property, and to all owners of property within 300 feet of the subject property. See 88-505-07.

#### **88-580-02-C. HEARING AND RECOMMENDATION—HISTORIC PRESERVATION COMMISSION**

1. The historic preservation commission must hold at least one public hearing on the revocation of historic landmark or historic district designations. Following the close of the hearing, the historic preservation commission must act to recommend that the proposed designation be revoked or retained. Five affirmative votes are required to recommend revocation of an historic designation.
2. If a historic landmark or district designation application is recommended for revocation, the recommendation must be forwarded to the city plan commission.
3. If the historic landmark or historic district designation is not recommended for revocation, the application will be considered to have been denied. The decision to retain the historic landmark or historic district designation will be considered the final administrative decision of the historic preservation commission 30 days after the date of the historic preservation commissions' decision unless a request for rehearing is granted. If an application for a rehearing is denied or if, upon rehearing, the revocation is still not recommended for approval, the decision to retain the historic designation will be the final administrative decision on the date of the historic preservation commission's decision.
4. The historic preservation commission may grant a rehearing if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing. The request for a rehearing must be made within 30 days of the date of the historic preservation commission's original action. No more than one rehearing is permitted.

#### **88-580-02-D. HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold at least one public hearing on all historic landmark or historic district revocation applications forwarded by the historic preservation commission. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed historic landmark or historic district designation be revoked or retained. The city plan commission may also act to continue the matter for further deliberation.

#### **88-580-02-E. HEARING AND FINAL ACTION—CITY COUNCIL**

1. After receiving the recommendation of the historic preservation commission and the city plan commission, the city council may convene its own public hearing on the proposed historic landmark or historic district revocation.

2. Following the close of the public hearing, the city council may act to approve the proposed revocation or retain the historic landmark or historic district designation.
3. The city council may act by a simple majority vote, except when a valid protest petition of H/O zoning revocation has been submitted in accordance with 88-515-09, approval or approval with modifications requires a 2/3 majority vote of the full membership of the city council.

**88-580-02-F. REVIEW CRITERIA**

In reviewing and making decisions on proposed historic district, landmark and H/O designations, and proposed revocations of such designations, review and decision-making bodies must consider at least the following factors:

1. the criteria used in determining eligibility for listing on the U.S. Department of Interior's National Register of Historic Places, including the historic, cultural, aesthetic or architectural significance of the building, structure, site, object or district;
2. whether the historic landmark or historic district has lost the historic, cultural, aesthetic or architectural significance that led to its initial designation as a historic landmark or historic district;
3. the economic impact of the revocation on the subject property and the surrounding area; and conformance with the city's adopted plans and planning policies.

**88-810-045 ADMINISTRATIVE OFFICIAL**

**The city planning and development director.**

**Recommendation:**

Staff recommends approval of revisions to 88-580 Historic Designations, as proposed.

Respectfully Submitted,

Patricia A. Elbert Noll  
Planner