



Legislation Details (With Text)

**File #:** 22-1468B      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 12/5/2022      **In control:** City Council

**On agenda:** 12/20/2022      **Final action:** 12/20/2022

**Title:** Waive the first reading and pass the ordinance amending Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) regarding the Designation of Landmarks and owner consent - PZC 22-1-113

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Pages from June 21 2022 CC Minutes (14), 3. 12.01.2022 DRAFT HPC Meeting Minutes, 4. PZC Meeting Minutes 12-7-22 DRAFT, 5. Public Comments 12.06.22

Date	Ver.	Action By	Action	Result
12/20/2022	1	City Council	waived the first reading and passed	
12/20/2022	1	City Council	conduct the first reading	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Waive the first reading and pass the ordinance amending Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) regarding the Designation of Landmarks and owner consent - PZC 22-1-113

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Allison Laff, AICP, Deputy Director

**BOARD/COMMISSION REVIEW:**

The Historic Preservation Commission (HPC) reviewed PZC 22-1-113 at their December 1, 2022 meeting and recommended approval of the proposed amendment, with minor modifications (vote 8-0). The Planning and Zoning Commission (PZC) conducted a public hearing on the proposed amendment on December 7, 2022 and recommended approval as presented (vote 7-0). Staff concurs.

**BACKGROUND:**

Under New Business at its February 15, 2022 meeting, the City Council discussed the local landmarking process, property owner rights, incentives, and possible changes to the existing landmarking procedures. At the conclusion of the discussion, City Council directed staff to prepare a report regarding these items, including research regarding best practices in historic preservation.

A report regarding the items noted above was presented to the City Council on June 21, 2022. At the conclusion of the City Council’s discussion (meeting minutes attached), the City Council directed staff to prepare an amendment to Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) requiring property owner consent in order for a landmark application to be filed. Council additionally

requested that a process be created to allow City Council to consider whether an individual landmark application should be allowed to be submitted without owner consent.

### **DISCUSSION:**

Staff has prepared an amendment to Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) based on City Council direction. The draft ordinance is attached for City Council's review (new provisions are underlined; deleted provisions are ~~stricken~~ in the attached); note: the attached draft includes the revisions recommended by HPC on 12/1/22 as further described below. In summary, the Code includes the following amendments:

#### ***Owner Consent:***

- Owner consent shall be required to file a landmark application, except as otherwise provided below.

#### ***Notice of Intent to Submit a Landmark Application:***

- If an applicant seeking to have an improvement designated as a landmark under the City Code is not the property owner, the applicant will be required to provide a Notice of Intent to Submit a Landmark Application (Notice) to the property owner.
- The Notice shall include a brief description of the improvement requested to be landmarked and which of the Criteria for Designation of Landmarks set forth in Section 6-11-3:5 of the Code the applicant believes form the basis for the designation. The Notice shall also confirm that the improvement in question is at least 50 years old.
- Within 14 days of receipt of the Notice, the property owner will provide a written response to the applicant as to whether or not they consent to the filing of the landmark application. If no response is received, owner consent will be assumed to not be given.

#### ***Landmark Applications with Owner Consent:***

- For those landmark applications which have owner consent, the application will be processed through a public meeting before the HPC with final review and approval by the City Council in accordance with the procedures established in the Code.

#### ***Request to Submit a Landmark Application without Owner Consent:***

- For those landmark applications which do not have owner consent, the applicant will have the option (but not the obligation) to make a Request to Submit a Landmark Application without Owner Consent to the City Council in accordance with the following procedures:
  - Within 45 days of the owner's denial of consent, the applicant may send a Request to Submit a Landmark Application without Owner Consent (Request) to the City Council.
  - Within 45 days of receipt of the applicant's Request, one or more City Council members may raise the Request under New Business at a regular City Council meeting.
    - *If the Request is not raised under New Business within 45 days, the Request shall be considered denied.*
  - If the Request is raised under New Business and supported by at least 3 City Council members, the Request will be added as an agenda item at a future City Council meeting. The City will provide notice of the scheduled meeting to the property owner.

- *If the Request is raised but is not supported by at least 3 City Council members, the Request shall be considered denied.*
- If the Request is considered as an agenda item at a City Council meeting, the City Council will consider any information provided in the Request and any response, comments, or materials provided by the property owner and members of the public for the limited purpose of determining whether a hearing on the landmark application is warranted without Owner Consent given the totality of the circumstances.
  - The positive vote of at least 5 City Council members shall be required to allow a landmark application to proceed without owner consent through the landmark review process.
  - *If the Request does not receive 5 positive votes, it shall be considered denied.*
- No alteration or demolition of the improvement for which the Request has been received by the City shall occur until a denial of the Request (per any of the circumstances described above) is final.
- If the Request is denied (per any of the circumstances described above), no additional Requests shall be made for the same improvement within a 3-year period.

***Landmark Applications Approved to be Submitted Without Owner Consent:***

- If City Council approves a Request to Submit a Landmark Application without Owner Consent, the applicant will have 60 days to submit the full landmark application to the City for processing in accordance with the procedures established in the Code.
  - *If the landmark application is not submitted within 60 days, it shall be considered denied.*
- Within 60 days of submittal of the landmark application, the property owner may submit a written response to any analysis or evidence presented in the landmark application.
- The landmark application will require a public hearing before the HPC with final review by the City Council.
  - The Council's positive vote to allow the application to be submitted without owner consent shall not be considered a finding that landmarking is warranted for the improvement in question.
  - The HPC will review the landmark application in accordance with the procedures established in the Code, including an analysis of the Criteria for Designation of a Landmark and the owner's response.
  - Per the existing Code, a landmark application may be denied even if there is a finding that the Criteria for Designation of a Landmark has been met. If denied, a landmark application for the same improvement cannot be submitted within a 3-year period.

**HPC Review**

Staff presented the proposed amendments to the Historic Preservation Commission (HPC) at their December 1, 2022 meeting. There were four public speakers at this meeting who noted their overall support for the proposed amendment. Two of these speakers noted minor corrections needed to the proposed ordinance (reference numbers, etc.), as well requested that the ordinance specifically note that a property owner can submit a landmark application for their property.

Following the public speakers, HPC discussed the proposed amendments and sought clarification on specific components being proposed. The Commissioners noted their overall support for the proposed changes finding that they provide a good compromise between the various interests involved in preservation discussions. Additional minor modifications were recommended to the proposed ordinance language.

At the conclusion of their discussion, the HPC made a motion to approve the proposed amendments to Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) with the inclusion of the minor modifications discussed during the meeting (approved, vote 8-0). The draft HPC meeting minutes are attached for reference.

Note: the draft ordinance attached to this agenda item includes the revisions recommended by the HPC on 12/1/2022.

### **PZC Review**

On December 7, 2022, the PZC conducted the public hearing regarding the proposed amendments to Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance). Following two public speakers, the PZC made a motion to approved PZC 22-1-113 as presented (approved, vote 7-0).

### **FISCAL IMPACT:**

None