



Legislation Details (With Text)

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**Title:** Provide a recommendation regarding the proposed amendments to 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. Proposed Amendments to Chapter 11, 2. June 21 2022 CC Minutes

Date	Ver.	Action By	Action	Result
12/1/2022	1	Historic Preservation Commission		

**HISTORIC PRESERVATION COMMISSION AGENDA ITEM**

**ACTION REQUESTED:**

Provide a recommendation regarding the proposed amendments to 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 proposed text amendment is scheduled for a public hearing before the Planning and Zoning Commission on December 7, 2022. Following HPC and PZC review, the text amendment will be considered by the City Council.

**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 HPC's review (new provisions are underlined; deleted provisions are ~~stricken~~ in the attached). 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.

**December 1, 2022 HPC Meeting**

Per Section 2-15-3:4 (Historic Preservation Commission: Powers and Duties), the HPC shall review all proposed amendments to the Zoning Ordinance which may affect any landmark and report findings and make recommendations to the Planning and Zoning Commission. Accordingly, following any public input and HPC discussion on December 1<sup>st</sup>, the HPC should make a recommendation and vote on the proposed text amendment. The HPC's recommendation, and their meeting minutes, will be provided to the PZC and City Council for their review along with the proposed text amendment.