

ORDINANCE NO. C -35807

An ordinance relating to historic preservation procedures; amending SMC sections 17D.100.040, 17D.100.080, 17D.100.100, 17D.100.200, 17D.100.210, 17G.050.310 and 17G.060.070, adopting new SMC sections 17D.100.025, 17D.100.215, and 17D.100.330 and repealing SMC 11.19.270.

WHEREAS, the City and Spokane County find that the establishment of a landmarks commission with specific duties to recognize, protect, enhance and preserve those buildings, districts, objects, sites and structures which serve as visible reminders of the historical, archaeological, architectural, educational and cultural heritage of the City and County is a public necessity; and

WHEREAS, the City Council adopted Ordinance No. C-35580 on February 12, 2018 whereby the City Council recodified the City's Historic Preservation Ordinance, part of which included the process for the formation of local historic districts; and

WHEREAS, in processing the recent application for the adoption of the Browne's Addition Local Historic District, staff from the Historic Preservation Office, the Planning and Development Services and the Legal Department compiled proposed amendments to the procedures relating to historic preservation contained in Title 17D and Title 17G, which are contained in this ordinance;

Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new section 17D.100.025 to Chapter 17D.100 SMC to read as follows:

17D.100.025 Compatibility of Historic Standards with Title 17 Development Standards

- A. All property designated by the City as a historic landmark or that is located within a historic district that has been designated by the City pursuant to this chapter, shall be subject to all of the controls, standards, and procedures set forth in Title 17 SMC, including those contained in this chapter, applicable to the area in which it is presently located, and the owners of the property shall comply with the mandates of this Title 17 SMC in addition to all other applicable Spokane

Municipal Code requirements for the area in which such property is located. In the event of a conflict between the application of this chapter and other codes and ordinances of the City, the more restrictive shall govern, except where otherwise indicated.

- B. Coordination with Underlying Zoning. In certain cases, application of the development standards, including those for height, bulk, scale, and setbacks, may conflict with historic preservation standards or criteria and result in adverse effects to historic landmarks or properties located in historic districts. In such cases, properties subject to design review and approval by the Landmarks Commission shall be exempted from the standards that conflict with the Landmarks Commission's application of the historic preservation standards adopted in this chapter. The issuance of a certificate of appropriateness for final design by the Landmarks Commission shall include specific references to any conflicts between the historic standards and those in Title 17 SMC generally, and specifically request the appropriate exemptions.

Section 2. That SMC 17D.100.040 is amended to read as follows:

17D.100.040 Procedure - Preliminary Designation

- A. Public hearings of the commission are publicly advertised. Staff causes notice, containing the time, place and date of the hearing and a description of the location of the property in nonlegal language, to be mailed to all property owners of record, and in the case of a proposed historic district, to the owners of property within the proposed historic district, by publication in a newspaper of general circulation, and to be advertised in the legal newspaper of the board or council, as appropriate, at least thirty (30) days prior to the hearing. For proposed historic districts, ~~((No))~~ no later than thirty (30) days prior to the hearing, staff shall cause the posting of a sign containing the notice provisions of this section to be posted ~~((at the property, or in the case of district,))~~ at a central location within the proposed district.
- B. At a publicly advertised hearing, the commission takes testimony concerning the nomination and formulates a recommendation as to the designation. The commission may decide to:
 - 1. recommend approval of designation of the property or district to the council or board as appropriate; or
 - 2. recommend denial of designation of the property or district to the council or board as appropriate; or
 - 3. defer the consideration of the nomination to a continued public hearing, if necessary.

Section 3. That SMC 17D.100.080 is amended to read as follows:

17D.100.080 Procedure - Appeal of Preliminary Designation

- A. The commission's recommendation may be appealed to the Hearing Examiner pursuant to SMC 17G.050.310 by filing with an appeal with the Hearing Examiner's office with a copy to the HPO.
- B. An appeal may only be filed (i) by an owner of record whose property is the subject of the preliminary designation decision or, (ii) in the case of historic district designations, on petition of at least 25% of the owners of property located within the proposed historic district.
- C. An appeal filed under this section may only be accepted if it is filed within ~~((thirty (30)))~~ fourteen (14) days of the execution of the findings of fact set forth in SMC 17D.100.050.
- D. An appeal filed under this section must state the grounds upon which the appeal is based, such as procedural irregularities or a clear error of law.
- E. Appeals filed pursuant to this section are reviewed by the Hearing Examiner on a closed record; that is, in rendering a decision, the Hearing Examiner may only take into consideration the written record of the commission's deliberations, factual findings, and preliminary designation. No additional evidence shall be considered by the Hearing Examiner on appeal.
- F. The Hearing Examiner may either affirm the preliminary designation or remand the matter to the commission for further proceedings.

Section 4. That SMC 17D100.100 is amended to read as follows:

17D.100.100 Property Management and Design Standards - Agreement

- A. In the case of individual properties, in order for the preliminary designation to become final and the property to be designated as an historic landmark, the owner(s) must enter into appropriate management standards as recommended by the commission for the property under consideration. If the owner does not enter into a management agreement, the preliminary designation does not become final and the property is not listed on the Spokane historic register.
- B. In the case of a historic district, ~~((The))~~ the proposed ~~((management and))~~ design standards and guidelines shall only be effective if a majority of the owners of properties located within the boundaries of the proposed historic district sign a petition, on a form prescribed by the HPO, seeking the formation of the proposed historic district, under the management standards applicable to the district as a whole, within the sixty (60) day consideration period. Following the expiration of the sixty (60) day consideration period, the HPO shall report to the commission concerning the number of properties within the proposed district and the number of signatures contained on the petition. If the HPO determines that the petition contains the requisite number of signatures, the commission shall set the property management and design standards for the district. For purposes of this requirement, "owners of property" includes owners of units within a condominium association.

- C. If the commission finds that both the requisite number of signatures are present on the petition and that the ~~((property management and))~~ design standards and guidelines should be set for the district, the historic district shall be designated as such on the official City zoning map by the use of an historic district overlay zone. The Commission shall, pursuant to SMC 17D.100.050, forward its findings to the City Council for adoption of the appropriate legislation to adopt the historic district overlay zone as part of the official zoning map. Non-contributing resources within the overlay zone are subject to administrative ~~((and/))~~ or commission review for significant alterations and demolition, including the resulting replacement structures, consistent with the requirements of the design standards and guidelines. No less than every five (5) years, the commission shall review and consider amendments to the design standards and guidelines for each district established under this section and forward its findings and recommendations to the City Council for adoption.
- D. The property management agreement for individual properties and the design standards and guidelines for historic districts are not applicable to the public right of way.
- E. Local historic district design standards and guidelines are intended to provide guidance for decision making by both the property owner when undertaking work within a local historic district and the historic preservation officer and commission when issuing certificates of appropriateness in the district. Local historic district design standards and guidelines are not development regulations but are instead used to assist the HPO and commission making decisions in accordance with the Secretary of Interior's Standards for Rehabilitation. Final decisions of the HPO or the commission are based on the Secretary of Interior Standards for Rehabilitation (Department of Interior regulations, 36 CFR 67). The Standards for Rehabilitation pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards for Rehabilitation are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

Section 5. That SMC 17D.100.200 is amended to read as follows:

17D.100.200 Certificates of Appropriateness - When Required

- A. A certificate of appropriateness is required prior to the issuance of any permit for the following activities:
1. Demolition of a Spokane Register historic landmark or a contributing resource located within an historic district (National or Spokane Register);
 2. Relocation of an historic landmark or a contributing resource located within an historic district;
 3. any work that affects the exterior appearance of an historic landmark;

4. any work that significantly affects the street-facing façade of a building located within an historic district; and
 5. development or new construction located within the designated boundaries of an historic district.
 6. The HPO may administratively approve certificate of appropriateness applications for non-contributing resources within historic districts in consultation with the Design Review Committee of the Commission.
- B. ~~((The HPO may exempt ordinary repairs and maintenance from the permit requirements of this section if the work does not involve a change in design, material or exterior treatment or otherwise affect the exterior appearance.))~~

Exemptions. The following activities do not require a certificate of appropriateness or review by the HPO or the Commission.

1. Ordinary repair and maintenance activities, including emergency measures, which do not affect significant historic features.
 2. Ordinary repairs and maintenance which do not alter the appearance of a significant feature and do not utilize substitute materials.
 3. Repairs to or replacement of utility systems if such work does not alter a significant feature.
- C. Table 17D.100-1 sets forth the list of the types of work that are reviewed by the full commission, types of work that can be approved administratively and types of work that are exempt from the requirement of a certificate of appropriateness.

Section 6. That SMC 17D.100.210 is amended to read as follows:

17D.100.210 Certificates of Appropriateness - Procedure

- A. Any application for an action which requires a certificate of appropriateness under this chapter or which may be within the scope of agreed management standards under this chapter must meet minimum submittal requirements established by the HPO. Prior to taking action on the application, the official responsible for processing the application shall request review of the action by the commission. For non-contributing resources within a local register historic district, an administrative approval may be considered.
- B. The requests for review and issuance of a certificate of appropriateness and any supplemental information shall be transmitted by the HPO to the commission, the property owner or applicant, the neighborhood council where the property is located and interested parties of record at least fourteen (14) days prior to the next scheduled meeting of the commission. The review of requests for certificate of appropriateness which may be approved by the HPO are deemed to be ministerial permits. The HPO shall issue the administrative decision within fourteen (14) days after receipt of the application. The review of requests for certificates of appropriateness which are approved by the landmarks commission are subject to the timeline and procedures contained in this section.

- C. At its next scheduled meeting, the commission reviews the request and decides whether to issue a certificate of appropriateness. The commission transmits its findings to the property owner or applicant, the neighborhood council and interested parties of record. If the commission is unable to process the request, the commission may extend the time for its determination.
- D. The commission reviews the request for certificates of appropriateness under the following procedure:

1. The applicant for a certificate of appropriateness must provide to the commission drawings of the proposed work, photographs of the existing building or structure and adjacent properties, information about the building materials to be used, and any other information requested by the HPO or commission.
2. In making a decision on an application, the commission uses the Secretary of the Interior's Standards for Rehabilitation, historic district design standards and other general guidelines established and adopted by the commission. In adopting and using standards, the commission does not limit new construction to any one architectural style but seeks to preserve the character and integrity of the landmark or the historic district through contemporary compatible designs.

~~((4))~~3. The HPO reviews each application, certifies it complete and, within seven (7) days of certification, causes notice of application to be provided to the property owner or applicant, the neighborhood council and interested parties of record. The notice of application shall be provided electronically to the e-mail on record or by mail if there is no e-mail address. After the notice of application has been given, a public comment period is provided until the commission closes the public comment period upon completion of the public hearing. The purpose of the public comment period is to provide the opportunity for public review and comment on the application. Comments on the application will be accepted at or any time prior to the closing of the record of the open-record public hearing.

~~((2))~~4.~~((At the close of the public comment period, the HPO consults with the commission regarding a date and time for public hearing.))~~ At least ~~((fifteen (15)))~~ fourteen (14) days prior to the public hearing, the officer causes notice of hearing to be provided, which shall consist of notification to the property owner or applicant and interested parties of record of the date and time of the public hearing before the commission.

~~((3))~~5. Commission review.

- a. The HPO makes a written report regarding the application to the commission, ensures that the application is sent to appropriate other City departments, coordinates their review of the application

and assembles their comments and remarks for inclusion in the report to the commission as appropriate. The report of the HPO contains a description of the proposal, a summary of the pertinent Secretary of the Interior's Standards for Rehabilitation, findings and conclusions relating to those standards and a recommendation. If the recommendation is for approval with conditions, the report also identifies appropriate conditions of approval. At least ten (10) days prior to the scheduled public hearing, the report is filed with the commission as appropriate and copies are mailed to the applicant and the applicant's representative. Copies of the report are also made available to any interested person for the cost of reproduction. If a report is not made available as provided in this subsection, commission may reschedule or continue the hearing, or make a decision without regard to any report.

- b. The commission makes a decision regarding the application within ten (10) days of the date the record regarding the application is closed. The time for decision may be extended if the applicant agrees. In making the decision, the commission may approve, approve with conditions, or deny the permit application. The decision is in writing.

~~((4))~~6. Within seven (7) days of making the decision, the permit authority causes a notice of decision to be provided to the property owner or applicant, the neighborhood council and interested parties of record.

~~((5. The applicant for a certificate of appropriateness must provide to the commission drawings of the proposed work, photographs of the existing building or structure and adjacent properties, information about the building materials to be used, and any other information requested by the HPO or commission.)~~

~~6. In making a decision on an application, the commission uses the Secretary of the Interior's Standards for Rehabilitation, historic district design standards and other general guidelines established and adopted by the commission. In adopting and using standards, the commission does not limit new construction to any one architectural style but seeks to preserve the character and integrity of the landmark or the historic district through contemporary compatible designs.)~~

Section 7. That there is adopted a new section 17D.100.215 to Chapter 17D.100 SMC to read as follows:

17D.100.215 Vesting Project Permits

A complete application for a project permit that is entitled to vesting under Washington law and that is subject to a certificate of appropriateness shall be considered under the

land use codes and other land use control ordinances in effect on the date a complete application for a certificate of appropriateness as set forth in chapter 17D.100 SMC is submitted to the HPO, provided that a complete project permit application is filed within one hundred eighty days of the landmark commission's final decision.

Section 8. That there is adopted a new section 17D.100.330 to Chapter 17D.100 SMC to read as follows:

17D.100.330 Project Permit Exclusion

Pursuant to RCW 36.70B.140, and subject to SMC 17D.100.025, the City Council finds that the certificates of appropriateness required under this chapter warrant a review process different from that provided in RCW 36.70B.060 through 36.70B.080 and 36.70B.110 through 36.70B.130 and Chapter 17G.060 SMC, and hereby excludes such certificates of appropriateness from the review processes provided for therein.

Section 9. That SMC 17G.050.310 is amended to read as follows:

17G.050.310 Right of Appeal

- A. The applicant or a person with standing as defined in chapter 17A.020 SMC may appeal to the hearing examiner a decision of the director of planning services, engineering services, the building official, the responsible official under SEPA as provided in SMC 17G.060.210 and the landmarks commission related to applications for certificate of appropriateness and determination of eligibility under Chapter 17D.100 SMC (~~(17D.040.230)~~) by filing with the permit application department a written appeal within fourteen days of the date of the written decision. For purposes of this section, the neighborhood council in which the property to which the decision being appealed is located shall have standing, subject to the neighborhood council demonstrating that it adhered to established bylaws in making the decision to bring the appeal.
- B. The applicant, a person with standing, or a City department may appeal decisions of the hearing examiner as provided in SMC 17G.060.210.

Section 10. That SMC 17G.060.070 is amended to read as follows:

17G.060.070 Application Requirements

- A. Application requirements for Type I, II, and III project permit applications shall contain the following:

1. Predevelopment meeting summary as provided in SMC 17G.060.050(B), if required in Table 17G.060-3.
2. Application documents provided by the department specifically including:
 - a. General application;
 - b. Supplemental application;
 - c. Environmental checklist, if required under chapter 17E.050 SMC;
 - d. Filing fees as required under chapter 8.02 SMC;
 - e. A site plan drawn to scale showing:
 - i. property dimensions;
 - ii. location and dimensions of all existing and proposed physical improvements;
 - iii. location and type of landscaping;
 - iv. walkways and pedestrian areas;
 - v. off-street parking areas and access drives;
 - vi. refuse facilities; and
 - vii. significant natural features, such as slopes, trees, rock outcrops including critical areas.
 - f. Required number of documents, plans, or maps (as set forth in the application checklist);
 - g. Written narrative identifying consistency with the applicable policies, regulations, and criteria for approval of the permit requested;
 - h. Other plans, such as building elevations, landscaping plans, or sign plans, which are determined by the permitting department to be necessary to support the application; and
 - i. Additional application information may be requested by the permitting department and may include, but is not limited to, the following:
 - i. geotechnical studies,
 - ii. hydrologic studies,
 - iii. critical area studies,
 - iv. noise studies,
 - v. air quality studies,
 - vi. visual analysis, and
 - vii. transportation impact studies.
3. A certificate of appropriateness if required by chapter 17D.100 SMC.

B. The following Type II and III applications shall meet the requirements in this subsection in addition to the provisions of subsection (A) of this section:

1. Shoreline – Substantial Development Permit, Conditional Use Permit and Variance.
 - a. Name, address, and phone number of the applicant.
The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

- b. Name, address, and phone number of the applicant's representative if other than the applicant.
- c. Name, address, and phone number of the property owner, if other than the applicant.
- d. Location of the property.
This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute.
- e. Identification of the name of the shoreline (water body) with which the site of the proposal is associated.
- f. General description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
- g. General description of the property as it now exists, including its physical characteristics and improvements and structures.
- h. General description of the vicinity of the proposed project, including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
- i. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - i. the boundary of the parcels(s) of land upon which the development is proposed;
 - ii. the ordinary high-water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high-water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high-water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high-water mark of a shoreline;
 - iii. existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area;
 - iv. a delineation of all wetland areas that will be altered or used as a part of the development;

- v. the dimensions and locations of all existing and proposed structures and improvements, including but not limited to: buildings, paved or graveled areas, roads, utilities, material stockpiles or surcharge, and stormwater management facilities;
 - vi. an inventory of the existing vegetation on the proposed project site, including the location, type, size, and condition, pursuant to SMC 17E.060.240, Shoreline Vegetation Inventory;
 - vii. a landscape plan prepared and stamped by a licensed landscape architect, registered in the state of Washington;
 - viii. where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included;
 - ix. quality, source and composition of any fill material that is placed on the site, whether temporary or permanent;
 - x. quantity, composition and destination of any excavated or dredged material;
 - xi. vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties;
 - xii. where applicable, a depiction of the impacts to views from existing residential uses;
 - xiii. on all variance applications, the plans shall clearly indicate where development could occur without the approval of a variance, the physical features and circumstances of the property that provide a basis for the request, and the location of adjacent structures and uses.
2. Certificate of Compliance.
 - a. Site plan is to be prepared by a licensed surveyor; and
 - b. Copies of building permits or other data necessary to demonstrate the building was erected in good faith and all reasonable efforts comply with the code.
 3. Plans-in-lieu of Compliance.
 - a. Alternative development plan designed in conformance with the applicable development regulations; and
 - b. A written narrative of how the proposed development plan is superior, or more innovative, or provides greater public benefit.
 4. Preliminary Plat, Short Plat, and Binding Site Plan.
As provided in chapter 17G.080 SMC.
 5. PUD.
 - a. Profiles of any structures more than one story, shown in relation to finished grade.
 - b. Location, dimension, and boundary of proposed open space.

- c. Site plan demonstrating compliance with chapter 11.19 SMC including signs, off-street parking, structure height, building coverage, yards, density, screening, buffering, and lighting.
 - 6. Skywalk.
 - a. A legal description of airspace to be occupied.
 - b. Architectural and engineering plans.
 - c. Artist's rendering of the proposed skywalk; and
 - d. Written narrative of the access for the public from the street, other buildings, and other skywalks.
 - 7. Floodplain – Floodplain Development Permit and Variance. As provided in chapter 17E.030 SMC.

Section 11. That SMC 11.19.270 is repealed.

PASSED BY THE CITY COUNCIL ON _____, 2019.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date