



Current Planning Services
7447 E. Indian School Rd.
Scottsdale, AZ 85251

Historic Preservation Commission Meeting Memorandum

Item No. 5

Topic: Historic Preservation Program Fees and Processes

Action Requested: This is a non-action item. Staff is requesting that the Commission review information, and provide possible direction, related to Historic Preservation Program fees and processes.

Meeting Date: April 6, 2017

From: Steve Venker, Historic Preservation Officer

Background

At the February 21, 2017 City Council meeting the Council reviewed an item titled *City's Proposed Fiscal Year 2017/18 rates and fees*. At the end of the staff presentation, Councilwoman Milhaven made a motion to direct staff to work with the Historic Preservation Commission to review the fees and processes related to historic preservation and make a recommendation to the City Council. Councilmember Korte seconded the motion, which carried 7/0.

Discussion / Possible Direction

Staff has gathered comparative information from several Arizona cities. We request that the Commission review the information and provide direction to staff related to further review of Historic Preservation Program fees and processes.

Arizona Cities with Historic Property zoning fees and processes

Arizona Cities and Towns

Several Arizona cities and towns have been contacted to determine their respective application fees for a Historic Preservation zoning overlay district or property designation. Of the eleven cities and towns (Flagstaff, Gilbert, Glendale, Mesa, Peoria, Phoenix, Prescott, Surprise, Tempe, Tucson, and Yuma), only a few have application and administrative fees for Historic Property zoning overlay district or property designation. Peoria, Prescott, Tempe, and Yuma do not charge an application fee for historic property designation. These four communities define Historic Preservation as an overlay not as a rezoning case (except Peoria, which defines it as both). Only Tempe and Peoria do not charge any fees, and Prescott and Yuma only charge nominal administrative fees of \$125 and \$100, respectively. Meanwhile, Mesa and Phoenix do charge an application fee, but they waive all of their fees except for nominal administrative fees, in order to encourage more property owners to designate. The City of Flagstaff does something entirely different with respect to historic preservation. They have placed a

'Landmark' floating zone over the entire city, which means that if a property owner wishes to designate their property, some of the preliminary work has been done and they do not pay any fees for a zoning district map amendment. However the property owner does have to pay administrative fees for the Historic Preservation Commission work and for the Planning and Zoning Commission work. The City of Flagstaff policy is based on the idea of removing as many hurdles as possible between a property owner and designation.

The cities that do charge an application fee for historic preservation zoning overlay district or property designation include Glendale, Scottsdale, and Tucson. Glendale charges the most. They have a base rate of \$2,157.98 plus \$106.32 per acre. This rate is quite a bit higher than Scottsdale's fees. The City of Scottsdale charges \$1,414 plus a per acre fee depending on property size. Tucson divides their historic preservation designation into two categories. First, the Historic Preservation Zone fee is the \$330 base fee plus \$50 per acre. This designation is used for community and neighborhood districts, which also requires Public Hearing Fees of \$495, Archive Fees of \$16.50, and Aerial Photograph Fees of \$165. The second category of preservation in Tucson is the Historic Landmark Designation and relates to commercial and single properties. This fee is less expensive and it includes a zoning district map amendment base fee of \$330 and mailing labels fee of \$220.

The City of Surprise does not have Historic Preservation provisions within their municipal code. Instead, they have a heritage district that encompasses the downtown area with an opt-out approach. Finally, the City of Gilbert also has a heritage district, but it is unclear how they approach historic preservation outside of this heritage district.

City of Scottsdale

After examining the rates of other cities and towns around the area and state, we looked at the basis for how much the City of Scottsdale charges for Historic Preservation rezoning. We examined the Arizona constitution, the Scottsdale city charter, the municipal code, and the fee schedule.

The Arizona constitution gift clause is found in Article 9 §7, and reads as follows:

Neither the state, nor any county, city, town, municipality, or other subdivision of the state shall ever give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation.

The language of the gift clause is clear that a city cannot give money to any individual or corporation. Currently the requirement for the applicant to pay the application fee precludes a waiver of such fee. To do so would be a violation of the gift clause. If, on the other hand, the application fee for historic property designation would be eliminated, similar to the elimination of the fee for an application for a Certificate of No Effect, a mitigation plan, a Certificate of Economic Hardship, or a Certificate of Approval, then there would be no violation of the gift clause.

Scottsdale City Charter, Article 1, Section 3 Powers of the City, Paragraph O, states:

The city shall not give or loan its credit in aid of, nor make any donation, grant or payment of any public funds, by subsidy or otherwise, to any individual, association, or corporation, except where there is a clearly identified public purpose and the city either receives direct consideration substantially equal to its expenditure or provides direct assistance to those in need.

Chapter 46, Article VI of the Scottsdale municipal code outlines the protection of archaeological resources, which includes historic preservation. Within Article VI, Section 46-136, the code states, “No fee is required for an application for a Certificate of No Effect, a mitigation plan, a Certificate of Economic Hardship, or a Certificate of Approval.” This section of the municipal code that mentions fees that should not be charged with regard to archaeological resources, which are defined as, “any material remains of past human life or activities which are at least fifty (50) years old and of historic or pre-historic significance or preservation. Such materials include, but are not limited to... structures or portions of structures.” Furthermore, mitigation plan is defined as, “a plan for the preservation, recovery, excavation, archiving, monitoring and/or documentation of one (1) or more significant archaeological resources or sites.” These two definitions could be broadly interpreted to include any research or documentation of a historic property or properties.

In addition to Chapter 46, the municipal code addresses the basic zoning ordinance in Appendix B. Within, Appendix B, Article I, Section 1.206. - Processing of development applications, states in part:

B. The Historic Preservation Officer shall process the following development applications: Historic Property (HP) District designation, Certificates of No Effect, Certificates of Appropriateness, Certificates of Demolition Approval, and Certificates of Economic Hardship relating to development of historic and/or archaeological resources.

Section 1.301. - Initiation of development application, states in part:

Applications shall be initiated as described below.

B. Zoning district map amendments:

2. An application to have an historic resource zoned HP District may be initiated by the Historic Preservation Commission, the Planning Commission, the City Council, or by property owner of real property which is the subject of the application.

Sec. 1.307. - Development applications for historic property, states in part:

Development applications for property zoned or to be zoned (HP) Historic Property are subject to the rules, regulations, and procedures set forth in Section 6.100 (HP) Historic Property in addition to the requirements of article I of this Zoning Ordinance.

Finally, Appendix B, Article VI, Section 6.118 - Additional procedures for designating property HP District, states in part:

An application to designate property as historic is a request for overlay zoning on the property by applying the (HP) Historic Property zoning overlay district to the subject area. All rezoning notice and public hearing requirements of state law and Article I of the Zoning Ordinance must be followed for any HP District rezoning in addition to the requirements of this section. The additional procedures for designating property historic and for placement of the property on the Scottsdale Historic Register are as follows:

- A. *Upon receipt of the proper forms, and, where required, payment of the application fee, the Historic Preservation Officer shall...*

Value of Local Historic Property Designation

Finally, research on the value of local designation was completed by the City of Scottsdale staff. Several blogs and news articles provide anecdotal evidence to the benefits of local designation. For example, the *New York Times* published an article on February 21, 2014 titled "Argument over a Brownstone Neighborhood." This article highlighted the debate over designating a specific neighborhood within New York City. While a localized article, some of the proponents' arguments can be generalized. Preservation can protect a sense of community while defending against demolition. The opponents in this article discuss the fact that not all of the buildings within the proposed district are worth saving. They also argue that designation may make repairs prohibitive and costly because of requirements to conform to specific, historical standards. Several of the other articles divide the pros and cons along the same lines.

In the midst of reading various articles on local designation, we also found a dissertation written in March 2008. The dissertation is titled, "The Impact of Local Historic Designation on Residential Property Values: Analysis of Three Slow-Growth and Three Fast-Growth Central Cities in the United States," and written by Akram M. Ijla. This report highlights six historic districts and compares them with six non-historic districts of similar type within the same city (the six cities studied are divided up into three fast-growth: Dallas, Atlanta, Phoenix; and three slow-growth: Cleveland, Cincinnati, and Pittsburgh). Ijla goes outlines his methodologies and the regression models he used to determine answers for three hypotheses. First, determine if historic designation has an economic impact on property values. Second, find out if historic designation had a larger impact within slow-growth cities versus fast-growth cities. Finally, understand how much spillover, if any, historic districting had on adjacent neighborhoods. In conclusion, he finds that all six selected cities had statistically significant effect on property values increasing. Slow-growth cities experienced higher rates of increased values, but all six saw a positive effect. Additionally, the data showed that neighborhoods adjacent to historic districts also saw a greater rate of value increase when compared to neighborhoods farther away from the historic district. Ijla also recommends policy initiatives alongside his conclusions. These policy initiatives include a note about removing barriers and fast-tracking the local designation process. While, Ijla did not mention fees specifically, one could surmise that a fee to change the zoning could be considered a barrier to historic property designation.

Table 1: Arizona Cities with Historic Property zoning fees and processes

City Name	Historic Preservation Office - Phone Number	Fees
Chandler	No Historic Preservation Office	n/a
Flagstaff	928-213-2969	Landmark Zone is a floating zone over the whole city – simple zoning change – they charge for Historic Preservation Commission work and Planning and Zoning Commission work – usually process internally and the applicant does not get charged “interdepartmental” – opinion is that if the property owner wants to designate property as historic then they shouldn’t have to pay
Gilbert	480-268-3188	No Historic Preservation office but they have a 'Heritage District' in Downtown Gilbert. Talked to Amanda Elliott – she is looking into what they charge in terms of zoning and will send me the info. They do have a conventional rezoning without an overlay that costs \$5495 but it is unclear if that applies to HP Left Message
Glendale	623-930-2585	Historic Property Zoning District Overlay costs \$2157.98 + \$106.32/acre
Mesa	480-644-4273	Waived the rezoning fee to encourage people - \$52 administrative fee (Certificate of Appropriateness)
Peoria	623-773-7200	In order to encourage preservation of historic properties, the City of Peoria does not charge a fee for Local Register designation/Historic Preservation Overlay Zoning (we tie the two together). However, we have a relatively small stock of eligible properties since we don’t have numerous post-war subdivisions like some valley cities. In general, our eligible properties are focused in our Old Town core, which is a manageable area.
Phoenix	602-261-8699	\$870 plus \$25 per acre or portion thereof; applicant typically submits to the Historic Preservation Department which initiates the case therefore no application fee is charged
Prescott	928-777-1309	\$125 to go to Historic Preservation Commission – fee covers administrative costs etc. No other fees
Scottsdale	480-312-2831	Historic Property Zoning District Overlay costs \$1,414 + per acre fee (varies)
Surprise	623-222-3134	Original downtown of Surprise – designated a heritage district with two overlays SHD1 or SHD2 (residential and commercial) chose an opt-out method more efficient – No HP provisions within their code

Tempe	480-350-8870	Because it's an overlay and not a rezone there is no fee – no administrative fee either
	520-837-6968 Jonathan Mabry – HPO	Historic Preservation Zone Fee is Rezoning Base Fee \$330.00 plus \$50.00 per acre Public Hearing Fees \$495.00 Legal Ad and Mailing Labels Archive Fee \$16.50 Aerial photograph fee \$165.00
Tucson	520-837-6966 John Beall – rezoning manager	Historic Landmark designation Fee is Rezoning base fee \$330.00 Mailing Labels \$220.00
Yuma	928-373-5000 x5189 Bob Blevins – Robert.blevins@yumaaz.gov	In their Zoning Ordinance Section 154-14.04(B)(3), there is a fee of \$100.00 to add either a new historic site or new historic district designation. No new requests since (at least 2005). They do many Historic Review cases for new construction in those historic districts or changes to existing historic sites. These go through our Design and Historic Review Commission (DHRC) at one public hearing. There is staff research, a report, public notice, etc. just like other public hearing cases; however there is no fee for DHRC cases. No additional rezoning fee as it is not a zoning district, only an overlay