



Date: September 19, 2011

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Steven L. Medlin, AICP, City-County Planning Director

Subject: Durham Historic Landmarks Program Update

Summary. The City Council and Board of County Commissioners raised concerns during the 2009 Historic Landmark designation process and directed staff to provide additional information and research possibilities for revisions to the program. The 2009 applications were continued to, and approved on, May 3, 2010. Concerns that surfaced during the 2009 designation process were the criteria for landmark designation and the accompanying tax abatement. Staff researched these issues engaging the Historic Preservation Commission, the City Attorney's Office, other jurisdictions, and local preservation stakeholders. This memo provides a summary of actions that Planning staff are undertaking to implement recommendations received from the Joint City/County Planning Committee (JCCPC).

Recommendation. This is an informational item to update the City Council on the steps that Planning staff are taking to revise the landmark program. No action is required.

Background. As a result of elected official concerns with the landmark program, in April of 2011 the JCCPC made the following recommendations:

1. Establish an inventory or study list for potential landmark designations.
2. Establish a cap of five or fewer landmark designations allowed each year between both the City and the County.
3. Establish specific maintenance requirements for landmark properties.
4. Seek special legislation for:
 - The ability to remove landmark status for no fault of the owner without the owner being required to pay back taxes foregone.
 - Establishing a time limit to the validity of the tax break of approximately 10 years.
 - The ability to tie designations to rehabilitation of structures.
5. Be proactive in assisting with the establishment of local historic districts, where applicable, and supporting National Register nominations, working with Preservation Durham and neighborhood groups. Disseminate information on state and federal tax credit availability to applicable property owners.
6. Establish a plaque program that provides recognition to the landmarks designated.

7. Change our local policy to apply tax deferral to the structure only unless the land itself has historic significance. Explore with the tax office the possibility of applying the tax deferral only to the facade of the structure when the interior is gutted or completely modernized.

Issues. As a result of research and follow up on those recommendations, Planning staff is undertaking the following actions:

1. Establishing an inventory or study list for potential landmark designations.
 - Establishing a study list for potential designations will encourage the nomination of properties deemed landmark-worthy by the community rather than just by an individual property owner seeking a tax exemption. This process will lead to the designation of more qualified properties as local landmarks. Planning staff has developed a pre-application process to nominate properties to be on the study list for landmark application. A pre-application can be submitted by anyone in the community and will go before the Historic Preservation Commission (HPC) for initial assessment of the integrity and significance of the property. The HPC will have to approve the pre-application before the property owner can submit an application for landmark designation. Planning staff will draft a text amendment to the Unified Development Ordinance to codify the inclusion of the study list application in the overall landmark designation process.

2. Establishing specific maintenance requirements for landmark properties.

Creating maintenance standards for landmark properties will ensure that designated properties will either remain at, or be brought up to, a physical integrity standard worthy of a landmark. This will remove the disincentive of designating properties that have not been renovated, and would require renovated properties to continue to be maintained for the length of the designation. Establishing these standards will require the creation of a regular inspection program to ensure these standards are upheld and will require additional staff time. Planning staff will implement this recommendation through the adoption of a text amendment that revises Sec. 3.17 of the Unified Development Ordinance (UDO) to incorporate both maintenance and enforcement standards.

3. Not seeking special legislation for establishing a time limit for the validity of the tax break of approximately 10 years:

Planning staff has consulted the City Attorney's office and has been informed that local legislation cannot be sought for tax statutes. Therefore, this is not something staff will pursue further.

4. Establishing a plaque program that provides visible recognition to the landmarks designated.

Creation of a plaque program for designated landmarks would make landmark designation more visible to the public, and could help promote Durham's best historic properties. Planning staff has been working with Preservation Durham to develop a preliminary plaque design that can work on its own or in combination with existing Preservation Durham plaques. Planning staff will revise the landmark application to indicate that all future landmark designations will be responsible for installing a landmark plaque. The preliminary cost estimate for the plaque is approximately \$160.

5. Changing our local policy to apply tax deferral to the structure only unless the land itself has historic significance.

Application of the landmark status, and therefore the tax deferral, to the structure only will result in decreasing the foregone tax dollars to the City and County each year. In all future cases, when the land does not have historical significance Planning staff will recommend the application of the designation to the structure only.

Fiscal Impact. The recommended action to apply landmark status in most cases to the structure only, and not the land, would result in fewer City and County dollars in tax deferral each year for landmark designations going forward, but would not have a detrimental impact on preservation of important historic structures.

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