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CITY COUNCIL TRANSMITTAL

SCANNED TO: *mayor*
SCANNED BY: *roya*
DATE: *2/23/2010*
RALPH BECKER
MAYOR



[Signature]

David Everitt, Chief of Staff

Date Received: _____

Date Sent to City Council: 02/24/2010

TO: Salt Lake City Council
JT Martin, Chair

DATE: March 9, 2010

FROM: Frank Gray, Community & Economic
Development Department Director

[Signature]

RE: Designation of Historic Districts and Conservation Districts

STAFF CONTACTS: Pat Comarell, Assistant Planning Director
801-535-7660, pat.comarell@slcgov.com

DOCUMENT TYPE: Briefing

BUDGET IMPACT: None

Issue Origin:

In August 2009, the Council held a briefing regarding the basic preservation programs, priorities, and overview of the documents making their way to the Council for consideration and approval. The Council requested more information about the criteria for designating historic districts and more information about conservation districts.

Summary of Issues:

The City policy in the past has been that no new historic district would be considered unless staff resources increased to handle the increased workload. With the new preservation planner position in the FY 2010 budget, the Council is willing to consider a new policy indicating they are willing to receive recommendations for a new historic district. (The resolution which would establish such a policy is being submitted under a separate transmittal).

In recent meetings, the Historic Landmark Commission (HLC) has been discussing what criteria should be used to designate a new historic district. The Commission has developed a grid, which appears on the following pages.



- **The chart indicates the criteria.** The criteria are based partly on the zoning ordinance requirements for designation and other criteria which the HLC felt important to consider. The information in this chart comes from the reconnaissance level survey, intensive level surveys, or other historic documentation.
- **Presentations from community councils or area representatives.** The HLC has a second meeting in March (March 17th) for hearing from community or neighborhood representatives on why their area should be designated as an historic district.

Also, the Planning Staff indicated that as one looks at neighborhood preservation, there are numerous tools, three of which were infill ordinance, historic district, and conservation districts. A comparison of these tools follows below. **No one ordinance or tool (which includes RDA housing loans) can preserve neighborhoods by itself. It is the combination of tools which gives enough regulatory strength to address neighborhood issues.**

Tools Used to Protect Neighborhood Integrity: Historic District, Conservation Districts, & Compatible Infill Ordinance

There are multiple zoning tools used to protect neighborhoods. Which tool or tools makes the most sense depends on the goals the City has for its neighborhoods. Two tools currently available to the City to preserve neighborhoods are historic overlays and infill ordinance. A conservation district is a third tool the City may wish to consider.

The overall objective of these, used separately or together, is to preserve the essential qualities or overall character reflected in the ensemble of buildings comprising a neighborhood.

Historic Overlays

According to the National Park Service, “local legislation is one of the best ways to protect the historic character of buildings, streetscapes, neighborhoods, and special landmarks from inappropriate alterations, new construction, and other poorly conceived work, as well as outright demolition.” For more than 2,300 local historic districts throughout the country, this protection is accomplished through an historic overlay of either a single property or a collection of properties. The overlay provides for regulations in addition to those already provided by base zoning.

There are three basic components of an historic overlay: (1) standards for determination of designation, (2) the regulations used to guide change, and (3) the process for review. The regulations governing every district are a little different, but for the most part they all guide change by regulating new construction, demolition, building moves, and any exterior alteration.

What does it take to maintain and administer a district once established?

Historic overlays are stewarded by collaboration between property owners and the City. Property owners take on the responsibility of helping to educate new neighbors about the overlay and to apply for Certificates of Appropriateness any time they plan an exterior alteration. The City’s role is to provide information about the overlay, review applications, and enforce the ordinance.

Reviews vary dramatically depending on the complexity of the alteration planned. Simple projects such as a roof replacement may be reviewed quickly. Complicated or major alterations may require a site visit, historic and prior case research, written staff reports, review of building permit applications, and multiple meetings with an applicant. A few simple applications may be reviewed “over-the-counter,” however, the majority of applications require between one week and three months to process, depending on the complexity of the case, the timing of submission of the application, and how well the proposed work on the building, submitted with the application, meets the guidelines.

Although great effort is expended to educate new property owners and remind existing property owners about overlays, work still takes place without a Certificate of Appropriateness. In these cases, an enforcement officer might need to make multiple site visits and have multiple meetings with a property owner to ensure the work is done according to what was approved by the City.

What is the application process?

The application for a historic overlay begins with an application to the Planning Division for a map amendment. Application submittals include a National Register nomination and survey. If they have not already taken place, a series of public presentations should be given that explain the process and the responsibilities of the City and the property owner if the map amendment is adopted.

The map amendment process includes at least one public meeting, which may be a presentation at the appropriate Community Council meeting, or if multiple Community Council districts are affected, might be an “open house”. The first formal step in the process is a public hearing with the Historic Landmark Commission that considers the potential district against the standards of the ordinance. If they determine that the district meets the standards, they recommend designation to City Council.

The Planning Commission, which determines if designation is in conflict with any other plans for the City, holds a second public hearing. The Commission makes a recommendation to the City Council. The final public hearing is held by the City Council, which considers the recommendations and public comments, and adopts or denies the designation.

Conservation Overlay

Whereas the purpose of an **historic overlay** is to preserve *historic fabric* (including design, materials and integrity), a **conservation overlay** is used to preserve *community character* of a site or district. (The character may or may not have a connection to the area’s history.) This usually means that the two will differ in the standards for designation, the level of regulation and possibly the review process.

Conservation districts are often used when a neighborhood may not merit designation as an historic district, but the area still may need special land use standards and guidelines to ensure its distinctive character. Some cities use this as the criteria, others address only demolitions and new construction, and still in other cities, there is little distinction between historic and conservation districts. **Each city must develop a conservation district program which works best for them.**

Background on Conservation Districts

The publication “Protecting Older Neighborhoods Through Conservation District Programs” by Julia Miller has been previously distributed to the HLC Members. A few of the major thoughts from this publication are summarized below:

- Historic and conservation districts may differ is in the creation of design guidelines. For the historic overlay, design guidelines are usually based on the Secretary of Interior Standards and customized for a particular city. Conservation districts develop design guidelines for each district.
- The conservation districts guidelines may not meet the Secretary of Interior Standards, which may prevent a property owner from taking the tax credits for renovating historic resource.
- The differences between historic and conservation districts must be defined so that they are not used interchangeably, with the possible result of undermining the historic preservation program.
- Conservation overlays can have more public input where the community is charged with defining the characters to be preserved and helps to write the guidelines to regulate change.
- Conservation overlays may also differ in the review process. Some communities choose to allow all applications for alterations in a conservation district to be administratively reviewed, others allow some to be administratively reviewed and some have a group such as HLC review them.
- What is reviewed differs from community to community. Some look only at:
 - all external changes
 - substantial construction visible from a public way
 - mass and scale rather than architectural style
 - demolitions and new construction

Criteria for Conservation District Designation

The publication (mentioned above) also describes the criteria for designation by various cities, which are used when considering a proposed conservation district. Several are listed below:

- Initiated by residents within the neighborhoods, and a majority of property owners must support the designation.
- The area has a distinctive or cohesive character, but may fail to qualify for historic district designation (as outlined in the zoning ordinance)

- A “designation report” which describes the historic or neighborhood significance and the distinctive character with identifiable attributes embodied in architecture, use, urban design or history that makes it a unique and integral part of the city’s identity.
- “Some jurisdictions may insist on specific documentation regarding the area’s significance and the preparation of an architectural survey where designed-based protections are contemplated.”
- Preparation of a conservation plan and standards that will govern new projects in the area.

Demolition

Review of demolition may or may not be a component of a conservation district. If it is included, the “economic hardship” standard in the zoning ordinance may apply (which indicates that historic resources may be demolished if an economic hardship is shown to exist). (*Note:* a subcommittee of HLC has discussed possible changes to this criteria and their recommendation will be presented to the Commission at a future meeting.)

Demolition is reviewed based on standards of the ordinance, not the design guidelines, since demolition is a “yes” or “no” question as opposed to consideration of a degree of alteration. Standards of the ordinance are local law based on state enabling legislation, which provides the general criteria against which work can be measured.

The questions for a potential conservation district are (1) what standards will be used to determine whether a demolition should be approved? and (2) whether, if not allowed to be demolished, the property owner has a viable use for his/her land? Since a conservation district can be written in any manner the City wishes, the demolition standards can be as firm or as weak, as specific or as general, as the City determines to be appropriate.

Cost of Implementing Conservation Districts

Designation of a conservation district would require more time upfront since the City would need to work with the neighborhood to develop a completely new set of design guidelines. (In the case of historic overlays, the guidelines are the same for all districts and have short chapters with additional guidelines for each district.)

Each type of district requires a design review process. Conservation district may have fewer actions that would require review than an historic overlay; however, a true comparison would depend on the size of each district, the details of the conservation overlay, the design guidelines for each individual district, and the level of activity for each district.

Comparison of these tools: For a comparison of historic and conservation districts, see excerpt from the National Trust publication (on the following pages)

Infill Ordinance

The goal of the Compatible Infill Ordinance regulation is to ensure that existing development patterns are taken into consideration when constructing a new home or adding on to an existing home. For example, front yard setbacks for new development are calculated from the average of the front yard setbacks of the adjacent homes; additional building height may be obtained if it is consistent with the height of the surrounding structures; and accessory structures may be built as long as the size and location are compatible with the neighborhood.

In other words, the infill ordinance is a tool which focuses on building setbacks, height, exterior wall height, size, grade level, access to light, and lot coverage. This tool can be used, not to preserve historic resources, but to maintain some of the character and consistent patterns of the neighborhood.

Planning Staff Recommendation

No one ordinance is going to meet the expectations of Salt Lake City neighborhoods. In addition, there is a tendency in the City to go from one ordinance to another, thinking that the next will be the panacea for all the neighborhood woes.

The reality is that we need to develop all three of these tools (i.e., infill, conservation districts, and historic districts), along with zoning designations, for each to do their part in an overall approach to neighborhoods.

Recommendations:

- **Identify a new area as an historic district and pursue designation**
- **If the HLC wishes to pursue a conservation district aspect to the City's program, begin discussion on what should be in the conservation districts ordinance, e.g., the general purpose, criteria for designation, the review body and review process, conservation standards, and the appeal process. Once completed, pursue designation for a particular neighborhood. (See proposed approach below)**

Appendix 1
Background Materials & Minutes



Communication to Historic Landmark Commission

Planning Division

To: Historic Landmark Commission Members

From: Patricia Comarell, Assistant Planning Director

Date: January 6, 2010

Re: Criteria for Prioritizing Historic District Designation

At the November worksession which discussed designating historic districts, the chart prepared by Anne Oliver was distributed as a means by which to prioritize designation of districts. It was felt at the time, that the Commission did not have enough information evaluate the listed criteria, e.g., SLC Zoning criteria: Percentage of resources with significance. The staff was asked to fill in the blanks where possible.

There are two charts provided on the following pages. The **first chart** amends Commissioner Oliver's chart to include data on each district under each topic. The data was taken from National Register forms available for most areas. For those which are not on the National Register, we are asking for additional information from the consultants. Some spaces are blank as they necessitate the HLC making value judgments.

The **second chart** is Commissioner Oliver's original, which suggests ranking each criteria by district using a 1-5 priority system. The intent is for the HLC to discuss these criteria further to determine what area to pursue designation.

Other background information is attached:

- Staff Report from November which includes:
 - Criteria for Local Historic Designation in the Salt Lake City Ordinance
 - Preservation Plan Policies
 - Area analyses (taken from the Preservation Plan)
 - Summary of the Reconnaissance Level and Intensive Level Surveys by area
 - Dates of the Reconnaissance Level Surveys on file at the State Historic Preservation Office
- A map of the National and Local Register Districts
- A map of the Avenues COAs for last year
- A map of the Yalecrest Neighborhood building permits

PROPOSED CRITERIA FOR PRIORITIZING LOCAL HISTORIC DISTRICTS

<i>How does the proposed district meet the following criteria? Scale = 1 (low) to 5 (high)</i>	<i>Bryant</i>	<i>Gilmer</i>	<i>Federal Heights</i>	<i>Wells</i>	<i>University Extension</i>	<i>Yalecrest</i>
SLC Zoning criteria: Percentage of resources with significance	73.5%	88.1%		68.0%	Awaiting info from consultant	91%
SLC Zoning criteria: Percentage of resources with integrity						
SLC Zoning criteria: Percentage of resources meeting age requirement (Period of Significance)	1870-1946	1909-1943		1871-1957	1847-1946	1910-1957
Concentration of new types of resources not yet protected in SLC						
Readiness for designation (listed on NRHP; RLS and ILS surveys complete?)	Nat'l Reg	Nat'l Reg		Nom. to Nat'l Reg pending	Nat'l Reg	Nat'l Reg
Age of surveys done	RLS 1994	2006-07	RLS in 1988	RLS 2007 ILS 2009	ILS 2009	RLS 2005
Level of endangerment through demolition, inappropriate alterations/additions or infill						
Degree of public support						

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SLC Zoning criteria: Percentage of resources with significance						
SLC Zoning criteria: Percentage of resources with integrity						
SLC Zoning criteria: Percentage of resources meeting age requirement (Period of Significance)						
Concentration of new types of resources not yet protected in SLC						
Readiness for designation (listed on NRHP; RLS and ILS surveys complete?)						
Age of survey done						
Level of endangerment through demolition, inappropriate alterations/additions or infill						
Degree of public support						
<i>Subtotal</i>						
<i>Total</i>						



Communication to Historic Landmark Commission

Planning Division

To: Historic Landmark Commission Members

From: Patricia Comarell, Assistant Planning Director

Date: November 2, 2009

Re: Criteria for Prioritizing Historic District Designation

As you are aware, the Mayor and Council added a preservation planner position in FY 2010 budget. This position is presently being advertised and selection of the planner will be done sometime in November.

The Planning Division Managers requested the Mayor and Council prioritize what they wanted this position to address. The managers also emphasized their concern that often when a planner is added, the expectation is that that person can do more than one person can do and the danger of raising expectations too high.

In several meetings in August and September this was discussed. HLC discussed their own priorities in their August and September meeting, which resulted in the attached letter which was sent to the City Council.

It was clear to staff in these meetings, that eventually the Council is going to ask staff, and in turn we are asking HLC, by what criteria does the City determine the priority of district designation? In discussing this with the HLC chair and vice chair, staff suggested that the Commission discuss this at the dinner meeting on November 4th. To assist you in your deliberations, staff has provided excerpts from the preservation plan and recommendations from surveys which have been conducted.

So far, the following districts have been mentioned either by City Council or HLC members:

- Yalecrest (Council and HLC)
- Gilmer (Council)
- Federal Heights (Council)
- Bryant (HLC)
- University Extension (HLC)
- Liberty Wells (HLC)

Criteria for Local Historic Designation in Salt Lake City

(Salt Lake Zoning Code, Section 21A.34.020(C) 2)

- Significance in local, regional, state, or national history, architecture, engineering or culture, associated with at least one of the following:
 - Events that have made significant contribution to the broad patterns of history, or
 - Lives of persons significant to the history of the City, region, state, or nation, or
 - The distinctive characteristics of a type, period or method of construction; or the work of a notable architect or master craftsman, or
 - Information important in the understanding of the prehistory or history of Salt Lake City.

 - Physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the National ParkS for the National Register of Historic Places; and

 - The age of the site. Sites must be at least fifty (50) year old, or have achieved significance within the past fifty (50) years if the properties are of exceptional important
-

Preservation Plan Policies

Criteria

The Preservation Plan does not provide criteria for priority for designation, but did for surveys. Some seem relative to designation as well:

- Concentration of potential resources
- New types of resources not yet protected
- Possible endangerment of the resource/area (including encroachment from enw development);
- Presence of public support

Another criteria suggested by Planning Staff is the amount of work it would take to get the district ready for designation.

Area Analysis

The Preservation Plan also did an analysis of potential districts (pages 99-118). Below are the recommendation as they relate to the districts that have been under discussion by the Council and HLC:

- **Yalecrest**

While the Yalecrest Historic District generally continues to exhibit a good level of physical integrity relative to many other neighborhoods in the City, numerous comments received during this planning process expressed concern about teardowns and inappropriate infill. The Yalecrest neighborhood residents are committed to adopting strong local controls to prevent demolitions of historic resources and to ensure that additions and alterations are sensitive to the local historic character. Active discussions are underway at the time of this planning process to determine the most effective tool.

(**Staff Note:** The Yalecrest Neighborhood Reconnaissance Level Survey in 2005)

- **Gilmer**

The district has experienced some teardowns that have led to significant community discussion. This neighborhood might be a candidate for local district status. The **2008 survey** for this area recommended additional survey for approximately 50 properties; establishment of a local historic district; an update of the national nomination to expand the period of significance; and a verification of eligibility status for tax credit purposes.

- **Federal Heights**

This neighborhood exhibits a high degree of integrity and appears to be an excellent candidate for a future historic district on both the local and national levels. Staff notes that they have received several requests for local designation because of teardowns.

(**Staff Note:** A Reconnaissance Level Survey was conducted in 1988. The standards have changed somewhat since then and there may have been changes to the structures themselves. This survey needs to be updated, but could be done in-house with the new preservation planner position.)

- **Bryant**

While much remains intact, the district is becoming diminished by the loss of historic buildings. The area might be a candidate for a conservation district (p. 107)

Priority Local District for Resurvey. Field research as part of this planning effort identifies the following local districts as priority sites for resurvey and boundary evaluation work (p. 42)

- **University Extension**

[**Staff Note:** Although the plan does do a short analysis of the existing University District, it does not reference this extension (which was surveyed in 2008)]

- **Liberty Wells**

While the neighborhood merits the completion of a survey, it is not apparent whether it is worthy of district designation. A survey will determine whether it is district eligible, and on what level, or if individual buildings might be designated as Landmark Sites.

Essentially, the district contains the same type and quality of building stock as that found in the surrounding neighborhoods and districts. A **2007 reconnaissance-level survey** in this area also recommended that an intensive-level survey be undertaken for all “A” and “B: properties, and this survey is now underway. [**Staff note:** Intensive Level Survey (ILS) were completed for this area in **2009**. A national register nomination is being prepared by the consultant.]

Summary of RLS Survey Recommendations, 2003-2009

RLS=Reconnaissance Level Survey, ILS=Intensive Level Survey

Avenues, Broschinsky, 2008

- Complete the RLS work for NRHP resources above current landmark boundary (north)
- Conduct a standard RLS for the resources currently marked in the SHPO database as a proposed “Avenues District Extension” (between NRHP north boundary and Ninth Avenue to Thirteenth Avenue, depending on street)
- Conduct Intensive Level Surveys (ILS) of selected/representative resources built between 1930 and 1965 to determine significance and most appropriate cut-off date for newly evaluated contributing resources from RLS surveys
- Amended NRHP nomination for the Avenues Historic District

Bryant

- Determine possible boundaries for the historic district. Because there is a noticeable difference in the architecture and neighborhoods between the northern and southern sections, as well as the western and eastern sections, the problem lies in where the bounds should be placed.
- Recommended Intensive Level Survey sites: 250 So 1000 East; 945 East 100 South; 871 East 200 South; 1072 East 200 South; 335 So 700 East; 234 South 900 East; 354 So 900 East; 955 East 100 So; 975 East 100 So; 847 East 200 So; 856 East 200 So; 976 East 200 so; 805 East 300 So; 718 East 300 So.

Capitol Hill RLS, 2006

- Survey and expand district boundaries to include the Kimball and DeSoto-Cortez neighborhoods
- ILS survey of Capitol Hill
- Implement action items within the Capitol Hill Community Master Plan

East Liberty Neighborhood, 2003

- ILS for all A rated properties not already studied
- NR for entire district
- Landmark for entire district
- Create public awareness and education programs: historic home tours, historic walking tours, publicize potential for tax credits, media exposure about designation

Gilmer Park, ILS and Design Guidelines, Blaes, Broschinsky and Lufkin, 2008

- Additional survey for approximately 50 properties
- Establish a local historic district
- Pay careful attention to compatible zoning ordinances
- Updated the NRHP nomination to expand the period of significance
- Verify eligibility status for tax credit purposes

Liberty Wells RLS, SWCA, 2007 - 2009

- ILS survey for all A and B rated properties (this project has begun)
- National Register nominations for individual properties and those found to be eligible during the ILS
- Propose listing of the entire area in the NR through a series of thematic nominations.

South Temple RLS, Lufkin, 2006

- Amend the NR nomination to change the period of significance to include the importance of modern construction in the area
- Amend the NR nomination to update the boundaries which presently run through the middle of buildings and properties, cut out four Haxton Place properties and overlap with adjacent districts
- ILS for all properties not already studied

Sugar House Business District, RLS, Blaes, Broschinsky and Lufkin, 2007

- ILS for all properties not already studied
- Establish a conservation district overlay zone which would share boundaries with the proposed Sugar House Business District
- Expand on the “Business District Design Guidelines Handbook” found in the Sugar House Master Plan using the survey information

University Expansion, ILS, Broschinsky, 2009

- Update the Reconnaissance Level Survey (SHPO Database) and NRHP Status
- Establish a local historic district

Yalecrest, National Register and ILS, Lufkin, 2007

- Establish a local historic district

Salt Lake City Reconnaissance Level Surveys on file at State Historic Preservation Office

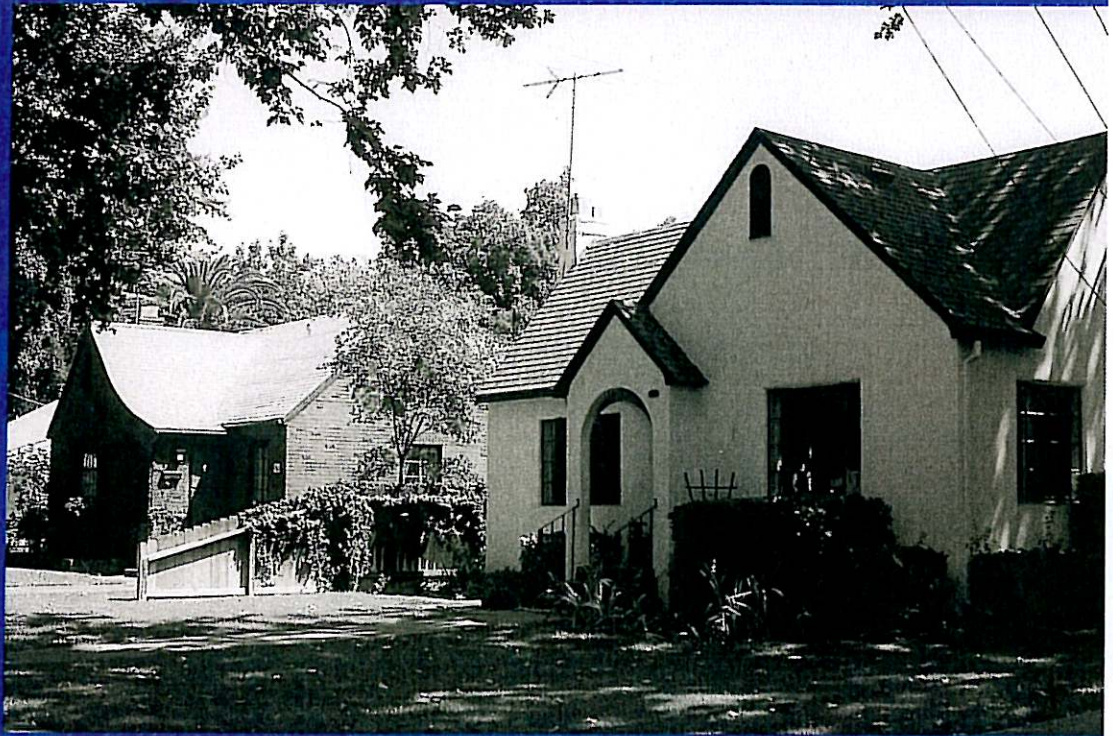
(Many of these surveys were used to establish National Register Districts. The standards have changed over the years)

- 1300 East – UDOT 2006
- Avenues Historic District 2008 (1st-6th and Aves A – Virginia)
- Capitol Hill 2006
- Central City 1994
- City Creek/South Temple 2008 – Partial Survey
- East Liberty 2003 (9th S – 13th S & 7th E – 13th/11th E)
- Eastside 2000
- Salt Lake East Area 1986 (Michigan, Yale, Normandie Heights, Upper Yale, Allen Park, Westmorland Place, Westminster Ave.)
- SL East Central 1995
- Federal Heights 1988
- Highland Park 1995
- Liberty Wells 2007 & 2009
- South Temple 2000
- Sugar House 2000
- Sugar House 2004
- Sugar House Business District 2007
- Salt Lake West Side 1991
- Yalecrest 2005
- Southwestern Area 2005
- UTA Trax West 2005
- University Extension 2009

a national trust publication

Protecting Older Neighborhoods Through Conservation District Programs

By Julia Miller



Protecting Older Neighborhoods Through Conservation District Programs

By Julia Miller

Increasingly, local jurisdictions are turning to "Neighborhood Conservation Districts" (NCDs) in an effort to address neighborhood concerns—whether incompatible new construction, the proliferation of vacant parcels of land and parking lots, disinvestment, or commercial encroachment. Through the use of a preservation-based design review process and/or special planning and zoning controls tailored to address specific development concerns, neighborhood conservation districts offer community-based solutions aimed at protecting an area's distinctive character.

Neighborhood Conservation Districts, or "Residential Conservation Districts," are a special type of conservation district that focuses exclusively or primarily on residential properties. They are both similar to and different from local historic districts. While the desire and commitment toward the preservation of a community's physical attributes rest at the heart of both programs, neighborhood conservation district programs tend to focus more on preserving community character than preserving historic fabric. As explained by the Boston Landmarks Commission—

a wide variety of districts are eligible for designation, and an equally wide range exists in the latitude allowed for change. Some districts of truly exceptional architectural and/or historical value that are designated as Landmark Districts will permit only minor modifications, while for some other areas, designated as Architectural Conser-

vation Districts, the Commission encourages changes and additions with a contemporary approach, consistent with existing features.

In all cases, the design approach to a proposed change in a district should begin with an understanding of the fact that the overall character of a district is greater than the sum of its parts, and that a pattern exists within a district, which is made up of each building, each landscape element and each detail. It is the aggregate character which is most important.

The key is variety. No two neighborhood conservation districts are alike. Because each conservation district is tailored to address the concerns of an individual neighborhood, the means used to protect a neighborhood between jurisdictions and among neighborhoods within a particular jurisdiction can vary significantly. While historic district programs generally rely exclusively on design review to accomplish their preservation goals, neighborhood conservation districts, especially those developed under planning programs, may include development controls as well as, or in lieu of, design review.

Today, many communities are looking at neighborhood conservation districts to supplement their local historic preservation programs as a way to preserve the essential qualities of older residential neighborhoods that may not qualify for historic designation under a local preservation

This booklet is based on an article published in Volume 21 of the Preservation Law Reporter (PLR). To purchase copies of the PLR article, which includes more detailed information on the legal authority behind neighborhood conservation districts and excerpts of statutory provisions, contact the National Trust for Historic Preservation's Law Department at (202) 588-6035.

ordinance or for inclusion in the National Register of Historic Places. Or the neighborhood is simply not ready for historic designation.

This booklet explains the nuts and bolts of neighborhood conservation district programs and how they are being used around the country today. Case studies identify issues and concerns addressed by communities with conservation districts already in place that may help you in the development of your own program.

What Are Neighborhood Conservation Districts?

Neighborhood conservation districts are areas located in residential neighborhoods with a distinct physical character that have preservation or conservation as the primary goal. Although these neighborhoods tend not to merit designation as a historic district, they warrant special land-use attention due to their distinctive character and importance as viable, contributing areas to the community at large. They may include properties in neighborhood commercial centers. However, the emphasis is typically residential.

Accomplished through the adoption of a zoning overlay or independent zoning district,

Cover: Neighborhood conservation districts are generally located in residential areas with a distinctive character, such as these 1930s homes in the Old North neighborhood in Davis, Calif.

— Photo: Esther Polito, City of Davis.

neighborhood conservation districts provide a means to protect character-defining streetscapes in older areas threatened by new development or governmental policies that undermine rather than encourage neighborhood preservation. Specific objectives often include protecting a viable neighborhood against outside development pressures, whether teardowns, as in Dallas, Tex., waterfront condominiums, as in Annapolis, Md., or demand for parking lots and commercial encroachment, as in Boise, Idaho. Conservation district programs have been established to stabilize existing neighborhoods, as in Nashville, Tenn., to increase or preserve the supply of affordable housing, as in Phoenix, Ariz., and to revitalize close-in neighborhoods, as in Davis, Calif.

While individual neighborhood conservation district programs vary from jurisdiction to jurisdiction, and a significant number of programs embody attributes of either approach, conservation district programs are often described as falling within one of two categories: the "historic preservation model" or the "neighborhood planning model." Both types of programs seek to preserve an area's special character. The difference lies in the methods and kinds of protection available and the level of neighborhood involvement.

Historic Preservation Model

The historic preservation model focuses on preserving the physical attributes of a neighborhood by addressing changes that could adversely affect its architectural character. Neighborhoods protected under this approach often include a high concentration of older structures that share a

cohesive quality through a common architectural style or building form such as the row house, or because they date from a particular period of time. Sometimes a neighborhood, although historic, may not be eligible for designation as a historic district due to incompatible alterations and loss of integrity. Other times, the houses may not be architecturally significant enough or be too new to merit historic designation. In yet other situations, conservation districting may be favored over historic designation because residential support for stricter controls is lacking.

Physical changes to a neighborhood, such as the construction of additions, new houses, and demolitions are generally subject to review and approval by a historic preservation commission or a specially-appointed neighborhood commission, which may include members of a historic preservation commission. However, in contrast to historic preservation laws, alterations to existing structures tend to be subject to more lenient standards of review or, in some cases, excused from review altogether. New construction projects, including additions, are frequently evaluated under standards that emphasize compatible development in terms of size or massing rather than specific architectural features.

Often found in jurisdictions that have a historic district program already in place, neighborhood conservation districts based on the historic preservation model are generally applied to areas that have architectural and/or historical merit but cannot qualify for historic district status under a local preservation ordinance or cannot garner sufficient support for historic preservation controls. For example, an area

may not be old enough to qualify as historic; the houses in the area, although representative of a particular era of development, may be distinctive but not sufficiently noteworthy to merit full protection; or the area may have been compromised through incompatible development.

Historic Preservation Models: Nashville, Tenn., and Cambridge, Mass.

Nashville, Tenn., and Cambridge, Mass., are two cities that have established conservation districts based on the historic preservation model. In Nashville, residents of qualifying neighborhoods are able to choose whether to use conservation areas or historic districts. Although the criteria for designation as a historic or conservation district is the same, historic districts are subject to stricter standards of review. Shane Dennison, a former executive director of the Metropolitan Historical Zoning Commission (MHZC) in Nashville explained that conservation districts are "best suited for areas where buildings are fairly well-maintained, where little rehab work is needed but where demolition and incompatible new construction are threats." On the other hand, she observed that "[i]f an area's buildings need work, historic zoning is more apt to be effective. Remuddlings, horrendous remuddlings, can occur in conservation districts."

The impetus for Nashville's dual districting program arose in response to concerns raised by residents in the Lockeland Springs area of East Nashville, which is adjacent to established historic districts to the west and south that had slightly older and more high-end housing stock. The councilman who served

Lockeland Springs came to the MHZC with the neighborhood's desire to respond to a spate of teardowns in the late 1980s, but felt there would not be support for the more restrictive historic zoning. Since the neighborhood's primary problems involved demolitions and new construction, the councilman sought a compromise solution that would take care of the big problems and be more likely to garner adequate support from homeowners. Although some questioned conservation zoning because it seemed to be a less "pure" treatment of historic architecture, the ordinance secured an easy local passage with the support of the Metropolitan Planning Commission. According to Blythe Semmer, a member of the MHZC staff, the less restrictive nature of conservation zoning was considered a point in its favor as the measure made its way through the city council.

In contrast to Nashville, a distinction is made between the criteria for designation as historic districts and conservation districts in Cambridge, Mass. Historic districts are used to protect the best of the city's historic and architectural resources, while neighborhood conservation districts are used to preserve places and structures that together "constitute a distinctive neighborhood or ... have a distinctive character in terms of ... exterior features." In practice, however, the approaches by the two cities may not be too far apart. It can be very difficult to determine whether an area should be designated as a historic or conservation district, and ultimately, even in Cambridge, the choice can depend upon what a neighborhood will support.

In Cambridge, construction, demolitions, and alterations to exterior architectural features



require the issuance of a certificate of appropriateness in both historic districts and neighborhood conservation districts, and proposed work under both types of designation is bound by the same general standard of "incongruity." However, the focus of the restrictions may vary according to the concerns of the neighborhood being regulated. Guidelines for the Marsh Neighborhood Conservation District, for example, respond specifically to neighborhood desires to conserve the modest scale of its vernacular architecture while recognizing the need for change. They address concerns specific to the neighborhood such as high fences, the impact of alterations on neighboring properties that are in close proximity, and the need to preserve the area's existing streetscapes and views.

In all, Cambridge has established two historic districts and five neighborhood conservation districts under its preservation program. The historic districts include the Fort Washington Historic District, a small district that, according to the historical commission, "protects the remains

of a Revolutionary War earthwork fortification erected by soldiers of the Continental Army under the direction of George Washington," and the Old Cambridge Historic District, which includes properties dating before the Revolutionary War up through the 19th century. The conservation districts include the Avon Hill Neighborhood Conservation District, the Half Crown Neighborhood Conservation District, the Harvard Square Conservation District (composed of mixed-use buildings), the Marsh Neighborhood Conservation District, and the Mid-Cambridge Neighborhood Conservation District.

Neighborhood Planning Model

The neighborhood planning model also focuses on preserving a neighborhood's unique character. However, conservation goals are accomplished by examining matters typically addressed through zoning and neighborhood planning laws, such as lot coverage, setback requirements, and permitted uses, as well as, or in lieu of, design. Through the develop-

Guidelines for the Marsh Neighborhood Conservation District in Cambridge, Mass., seek to conserve the modest scale of its vernacular architecture while recognizing the need for change.

— Photo courtesy of the Cambridge Historical Commission.



Boise, Idaho's Near North End Conservation District encourages existing residential uses in the area while protecting historical and architectural character through adaptive use.

—Photo: Jeffery Neberman.

ment of individual plans, neighborhoods can develop and adopt restrictions that are consonant with the level of review and scope of protection desired by a majority of the residents. Neighborhood plans are typically adopted by consensus and proposed actions are reviewed by a planning or zoning commission or a specially-appointed neighborhood commission. In some cases, the impetus for neighborhood conservation may come from a community's comprehensive plan.

Conservation district programs based on the neighborhood planning model have gained tremendous popularity in recent years. By regulating new construction or even serving as a catalyst for new construction, this approach provides a neighborhood-level, land-use tool that can preserve neighborhood character, retain affordable housing, and protect an area from the potentially harmful or expulsive effects of more intensive or inappropriate development. These programs rely heavily on planning and zoning criteria and insist on a high level of neighborhood involvement and support.

Neighborhood Planning Model: Boise, Idaho

Boise, Idaho recently turned to conservation districts as a solution for protecting its Near North End, a residential neighborhood sandwiched between the city's central business district and a low-density, historic residential neighborhood to the north. Residents were concerned about the increasing number of conversions to non-residential uses in the area stimulated by high office rents in the nearby downtown and noisy street conditions in the district. Equally troubling were a number of demolitions by local churches. In order to meet the increased parking needs of growing memberships, many churches had been steadily purchasing adjacent properties and then demolishing the residential structures to create new parking lots. These purchases caused a general reduction in residential occupancy in the area and a corresponding proliferation of parking lots where there used to be houses (or houses boarded up in anticipation of demolition).

The encroachment of downtown uses and the decreasing night-time presence in the

neighborhood moved a small group of residents to action. After a contentious beginning and a series of compromises, including reducing the size of the area protected by half and removing the preservation commission from the review process, the neighborhood obtained conservation district status in 2001. In Boise, conservation districts are established as an overlay zone by the city council upon recommendation by the city's planning and zoning commission, with input from the historic preservation commission.

Boise's "Near North End Conservation District" ordinance encourages existing residential uses in the area while protecting historical and architectural character through adaptive use. Specifically, the ordinance states—

The intent of the Near North End Conservation District (CD) shall be to encourage continued residential uses; protect the historical and architectural character of the neighborhood using adaptive reuse methods; encourage redevelopment and/or renovation of established historic institutional uses; allow for adaptive reuse of existing structures for multi-family residential and office uses; minimize demolition of structures for parking lots or new office developments; and to maintain the Near North End as a transitional area between the commercial intensity of downtown and the predominant single-family residential neighborhoods of the north end.

In addition to the specific uses prohibited by the area's underlying R-3 zoning designation, the conservation district ordinance expressly bans new off-site parking

lots and places significant limitations on on-site surface parking lots larger than 2,500 square feet. It also prohibits new office construction on lots larger than 2,500 square feet, unless provided as part of an adaptive use project.

The Boise ordinance also forbids the construction of additions to existing buildings that are modified for use as an office or multi-family unit or a historic institutional use beyond 50 percent of the square footage as of the date on which the ordinance was adopted. The addition must be “in keeping with the architecture of the existing building,” and the site must be “large enough to accommodate the required number of off-street spaces” without a variance for setbacks and/or landscape.

The Hybrid Approach

The distinctions between preservation-based and planning-based conservation districts are becoming less apparent as communities look for and develop solutions that respond to the specific needs of individual neighborhoods. Conservation district ordinances adopted in Dallas, Tex., and Boulder, Colo., for example, have incorporated both development restrictions and design controls to remove underlying pressures for incompatible development and, at the same time, encourage contextually-appropriate projects.

As in the neighborhood planning models, high emphasis is placed on neighborhood participation in both preservation-based and planning-based programs. Conservation district programs generally must be initiated by residents within the neighborhood, and a majority of property owners must support the designa-

tion. With the assistance of either planning or preservation boards, neighborhoods develop their own design guidelines and establish a neighborhood review board composed of, or with representation from, members of the community.

Indianapolis has embraced this hybrid approach. Although the city's neighborhood conservation districts are administered by the Indianapolis Historic Preservation Commission, established districts in the area rely on a full range of land-use tools to achieve the city's preservation objectives. For example, the conservation plan for the Ransom Place Conservation District, which seeks to protect the vestiges of a once vibrant African-American neighborhood near Westside, draws from both conservation and land-use measures to ensure the area's overall preservation. In addition to the use of a design review process to preserve the neighborhood's existing historic resources, specific measures include—

- modifications of existing zoning laws and policies governing use variances to support the continued use of single and double-family residences and supporting institutional uses, with a concentration of mixed commercial and residential properties on a nearby commercial street;
- the encouragement of compatible infill development on vacant lots;
- public infrastructure improvements and the use of amenities such as signage to denote the district; and
- traffic and parking concerns.

Is Conservation Districting the Right Choice for Your Community?

PROs

- Offers residents a useful tool to protect older, established neighborhoods that —
 - have a distinctive or cohesive character, but fail to qualify for historic district designation under the criteria set forth under a local preservation ordinance,
 - have some historic resources within its boundaries, but fail to qualify for historic district designation because of incompatible alterations or other visual intrusions,
 - lack sufficient support for designation as historic district, but desire protection from teardowns, incompatible development, or commercial encroachment, or
 - want to maintain affordable housing or protect against displacement.
- Enables residents to take an active role in identifying their concerns and determining what level or type of protection they want for their neighborhood.
- Offers a comprehensive solution through the adoption of both development and design-related controls.
- Enables local governments to target assistance where demand for maintaining neighborhood character is strong or the need for intervention is great.
- Enables neighborhoods to increase their visibility

within a city in order to obtain governmental assistance and services and to attract new investment.

- Enables residents to protect existing neighborhood commercial centers or encourage new investment when desired.

CONs

- Rarely insists on the preservation of historic fabric, per se and may place design-based decision making with officials or committees that lack the necessary qualifications to make informed decisions.
- Could undermine historic preservation programs and the overall integrity of a community's significant historic resources to the extent that conservation districting supplants rather than augments historic districting.
- Could cause displacement of existing residents or local businesses in instances where maintaining affordable housing or existing business is not a specific goal.
- Often requires a high level of neighborhood support, which may be impossible to obtain.

The Neighborhood Conservation District Ordinance

The primary mechanism for establishing conservation districts is the "neighborhood conservation district ordinance." As with historic preservation ordinances, authority to enact conservation district laws comes from power delegated to local communities through state enabling statutes or broad delegations of authority. In some communities, such as those in Tennessee and Texas, the authority to establish conservation district programs is derived from historic preservation enabling laws. In other situations, authority may come from an express delegation of authority to enact conservation districts, as in Connecticut, home rule authority, as in Massachusetts, or implied through a broad grant of zoning authority, as in North Carolina and Rhode Island.

Depending upon the particular circumstances within a community, a conservation district may be established as an overlay or a stand-alone zoning district. An overlay places restrictions and/or conditions on development in a specific geographic area in addition to those already in place by the underlying zoning classification. Stand-alone zoning districts combine the underlying zoning restrictions with the specific goals of an overlay into a single district. Both types of districts can address such elements as height, bulk, design, historic preservation, traffic and transportation needs, tree protection, and other factors necessary to meet the concerns and desires of a particular neighborhood.

Authority to adopt neighborhood conservation districts is generally accomplished through

the adoption of a local enabling ordinance. Individual conservation districts are subsequently established in accordance with the procedures and standards contained in the enabling ordinance.

Components of An Ordinance

A typical local enabling ordinance for a neighborhood conservation district generally includes provisions governing:

1. the underlying purpose of the ordinance;
2. the administrative review body;
3. designation of conservation districts;
4. actions subject to review;
5. conservation standards;
6. the review process;
7. enforcement; and
8. the appeals process.

1. Purpose Statement

This provision, located at the beginning of a conservation district ordinance, identifies the public purposes being served. For example, it may indicate that an ordinance was enacted to protect neighborhood character, guide future development, stabilize property values, or encourage neighborhood rehabilitation. Often expressed in list form, the purpose statement can be useful for understanding the underlying objectives of the conservation district ordinance. It can also provide guidance on the interpretation of individual provisions when the language in the ordinance is ambiguous or its meaning disputed.

For example, the zoning ordinance in Davis Calif., lists the following reasons for enacting conservation district laws:

- Conserve the traditional neighborhood character, fabric and setting, while guiding future development, reuse, and reinvestment;
- Discourage the demolition of structures consistent with the district's historic character by providing incentives for reuse of non-designated contributing structures;
- Plan for new commercial and residential infill construction that is compatible and complementary to the character of existing neighborhood areas within the district;
- Foster investment and economic development in the core that is consistent with historic conservation; and
- Provide guidelines to clarify the community's expectations for the type and quality of development within the district.

In Colorado, Boulder's Neighborhood Conservation District program places particular emphasis on retaining and fostering community character in individual neighborhoods. As James Burrus, a writer for the *Boulder County Newsletter*, explained, Boulder's Neighborhood Conservation Overlay District Ordinance was adopted in response to requests for legislation that would help preserve the character of an area or important view corridors.

In other communities, particularly those that follow the "neighborhood planning model," ordinances have been adopted to revitalize existing neighborhoods. In Phoenix, for example, the city's "special planning district" ordinance enables neighborhoods to tailor the zoning ordinance to fit particular needs through the initiation and implementation of case-specific programs for the conservation and revitalization

of neighborhoods. The purpose statement in the enabling legislation for this program reflects this intent:

The Special Planning District is intended as a means for property owners to initiate and implement programs for the conservation or revitalization of neighborhoods. The district takes effect through the adoption of a precise plan and set of regulations, called the special district plan, specifically intended, in each case, to facilitate maintenance and upgrading of the neighborhood, to encourage development of vacant or under-used lots, to ameliorate the adverse effects of incompatible mixtures of uses, and to encourage neighborhood residents and owners to take positive steps for the improvement and orderly development of the neighborhood.

2. Administrative Review Body

Conservation districts may be administered by a historic preservation commission, a zoning or planning commission, or a specially-designated neighborhood commission. Often the decision of what entity should be charged with oversight of a neighborhood conservation district depends upon the underlying purpose of the law and the legal authority upon which the conservation district program is based.

In Nashville, for example, where conservation districts are offered as an alternative to the more stringent historic district controls, authority over conservation districts remains in the hands of the Metropolitan Historic Zoning Commission (MHZC). Knoxville similarly requires that building permit applicants in Neighborhood



Conservation Overlay Districts get permission from the Knoxville MHZC before changes can be made to the property.

In Cambridge, Mass., the city may appoint a neighborhood conservation district commission to exercise authority over a conservation district. Under the city's ordinance, the city manager is directed to "appoint a neighborhood conservation district commission to consist of five members and three alternates." The members must include:

three residents of the neighborhood, not less than two of whom shall be homeowners; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one member or alternate of the Cambridge Historical Commission. The three alternates shall all be neighborhood property owners. The neighborhood conservation district commission shall act solely in the exercise of those functions described in this article which are applicable to the districts under its administration.

In Phoenix, by comparison, its special planning district program is administered by the planning department.

Designation as a conservation district in Boise, Idaho is accomplished in coordination with the city's Planning & Zoning Commission. However, upon designation, proposals for new development or redevelopment on properties or structures within a district may be reviewed by the Planning & Zoning Commission, the Historic Preservation Commission, the Design Review Committee, or another board or commission identified within the specific conservation district ordinance.

3. The Designation Process

Individual districts are generally established by the adoption of a specific ordinance that sets forth the qualifications and objectives of the district, the official boundaries, any applicable development or design restrictions, and other pertinent information. Relevant considerations include how the district meets the criteria for designation, the application process, and development of the neighborhood plan.

In general, conservation districts are used to protect the special qualities of older neighborhoods such as this early 20th-century neighborhood in Nashville.

— Photo courtesy of the Metropolitan Historic Zoning Commission.

Criteria for Designation

As with historic preservation ordinances, conservation district ordinances set forth the criteria for determining whether a particular neighborhood should be designated. Not all neighborhoods are eligible for conservation district status. Rather, the criteria for designation generally insist that the neighborhood under consideration has a unique or special character. The neighborhood must be recognizable as a distinct area with shared attributes, yet distinguishable from other parts of the city or town. Factors such as architectural and historic integrity, although not essential to designation, often become important in defining neighborhood character.

For example, the Phelps Grove Neighborhood Urban Conservation District in Springfield, Mo., contains one of the city's largest collections of turn-of-the-century bungalow houses. The Aberdeen Architectural Conservation District in Boston, a late 19th- and early 20th-century "romantic" streetcar suburb of single-family-homes and apartment buildings, is distinguished by its winding streets, hilly topography, and varied architecture.

The criteria for designation in Boise emphasize the importance of having a "distinctive" or "unique" historical or physical character.

A. Neighborhoods or areas selected for consideration for a Conservation District designation shall meet one of the following requirements:

1. Has a distinctive character with identifiable attributes, embodies in architecture, use, urban design or history that make it a unique and integral part of the city's identity.
2. Has a recognized neighborhood identity and a definable physical character that may have a high artistic value or may have a relationship to urban centers or historic districts which makes the area's conservation essential to the city's history or function.

Chapel Hill, N.C., similarly requires that an area have a "cohesive identifiable setting, character or association." In Dallas, a conservation district must also be "stable or stabilizing."

The Application Process

The process for obtaining neighborhood conservation district status varies by jurisdiction, depending, in part, on the underlying objectives of the program and the governmental/administrative structure already in place. In some communities, where a conservation district program operates as an offshoot of a preservation program, the application process tends to mimic or be substantially similar to that used for historic districting. Typically, the application process is administered by the preservation commission, which in turn, will nominate or recommend a neighborhood for designation to the city or town council.

In other communities, especially those with planning or zoning-based conservation district programs, the application process may be administered by the planning commission. Indeed, the development of neighborhood conservation district programs sometimes stem from specific requirements in a comprehensive plan. For example, Raleigh's comprehensive plan places emphasis on the conservation of sound, older neighborhoods.

The actual designation is accomplished through the adoption of an ordinance. Set forth below is a discussion on some of the key components of the application process.

Initiating the Designation Process

Step-by-step procedures for initiating designation as a neighborhood conservation district are generally set forth in the conservation district ordinance. In Cambridge, Mass., for example, which operates a historic preservation-based conservation district program, designation may be initiated by the Cambridge Historical Commission or by the filing of a petition with the commission signed by ten registered voters. A designation report is prepared by a study committee whose members include representatives from the commission and residents/owners from the district under consideration. The report should explain the significance of the area and identify proposed boundaries for the district as well as general or specific standards and guidelines that would apply, in event of designation.

Neighborhood Participation

In contrast to many historic preservation programs, most communities require that the process for initiating conservation district status include a significant level of neighborhood involvement. As Jim Anderson, a historic preservation planner with the Dallas planning department pointed out, neighborhood-initiated designation is in practice the only politically feasible route in residential areas, since ordinances like Dallas's are meant to be "tailor-made to the neighborhood and what it collectively wants to conserve." In Dallas,

the designation process must be initiated by a group of persons who collectively own more than 50 percent of the land and more than 50 percent of the building sites within the area of request.

Similarly, the Boulder County Zoning Ordinance provides that a district may be initiated only if 50 percent of the property owners within the proposed boundaries support the concept. A petition must be signed by all property owners within the proposed district indicating their support for, or opposition to, the proposed district. In addition, at least 60 percent of the owners must consent to the district before the neighborhood is officially designated.

Research

The process for initiating designation as a conservation district involves some level of research. Some jurisdictions may insist on specific documentation regarding an area's significance and the preparation of an architectural survey where designed-based protections are contemplated.

In Dallas, for example, neighborhood groups interested in obtaining conservation district status must submit a feasibility study. This study must include a justification statement that identifies the basis for eligibility and explains why and how classification would be in the best interest of the city as a whole.

Property owners seeking designation in Boulder must include a statement of purpose that addresses what the proposed district wants to accomplish and why; a description of the neighborhood character and valued features to be protected in the neighborhood; and why the proposed boundaries make sense as a defined "neighborhood" (considering things like utility and ser-

vice providers in the area, school attendance, transportation links). The application also must include a map that indicates the boundaries of the proposed district and identifies parcels, a description of the neighborhood (detailing land use, development, and distinguishing characteristics of neighborhood), and a description of the history and evolution of the neighborhood.

Development of the Neighborhood Plan

The neighborhood plan often becomes the central component of the designation process, especially in conservation districts patterned after the neighborhood planning model. Tailored to respond to the specific concerns of the neighborhood, the plan sets forth the conservation standards that will be used to govern new projects in the area. Because the neighborhood plan is generally adopted as part of the designation ordinance, it must be developed prior to designation. In Phoenix, for example, the city's planning board develops the plan, which in turn, is adopted, modified, or rejected by the city council.

The actual preparation of the plan or report is usually accomplished by the administrative body charged with overseeing the designation process. For example, Phoenix places responsibility for developing the plan with its planning department, with oversight by the planning commission.

In Iowa City, the "conservation district report" is prepared by the historic preservation commission in consultation with district property owners and residents. A report must define the boundaries of the proposed Overlay Conservation District (OCD) Zone and include a study of the characteristics of the proposed zone, including architectural

characteristics, elements of the streetscape, physical conditions of buildings, age and history of the buildings, and property ownership patterns.

In Austin, Tex., the sponsoring neighborhood organization, with assistance of the director of the Neighborhood Planning and Zoning Department, prepares the neighborhood plan. In Boulder, staff members of the Boulder County Land Use Department draft the conservation plan, based on input from at least two neighborhood meetings.

Public Participation

A key aspect of neighborhood conservation district programs is mandatory public participation. The neighborhood plan is usually developed as part of the designation process with direct input from the community through the establishment of an advisory board.

The process for establishing "special planning districts" in Phoenix is typical of many communities. The Phoenix ordinance "requires that a citizens' committee, open to all property owners and residents within the proposed district, be formed for the purpose of circulating petitions, designating the name of the proposed Special Planning District, working with city staff during preparation of the plan and conducting informational meetings within the area during preparation of the plan."

Once a plan has been produced by the planning department and distributed to all the property owners and residents in the proposed district with the help of the citizens' committee, 70 percent of those responding must indicate support for the plan before the planning commission will schedule a public hearing. If the planning commission recommends adoption of the special dis-



Neighborhood involvement is key to establishing a conservation district. Residents of Davis, Calif., participated in a series of urban design workshops which led to the development of design guidelines for a central city conservation district.

— Photo: Bruce Race, AIAA, AICP RACE STUDIO

trict plan to the city council after the hearing, the council will then hold a hearing, following which the council approves, denies or modifies the special district plan.

In Dallas, citizen participation is considered essential. Indeed, Angela Hunt, resident of the Greenland Hills neighborhood in Dallas, says that she wouldn't want to implement something in her neighborhood that does not have community consensus. Esther Polito, cultural services manager for the City of Davis, Calif., similarly attributes the city's success in pushing through the recently-enacted Davis ordinance with "no significant opposition" to planning department efforts to involve the community. She said that urban design workshops are still being held to engage the community in writing design guidelines for the central city conservation district.

Ann Bennett, historic preservation officer for Knoxville's Metropolitan Planning Commission, also considers neighborhood involvement to be critical to the designation of conservation districts. She explained that "there was no opposition among property owners" in the designation of the Tazewell Pike Conservation District because the property owners had initiated the process and influenced the content of the ordinance. By writing a neighborhood history, developing design guidelines, and participating in several meetings concerning the formulation of a district, the residents acquired a "sense of ownership" in the project, and, in the end, the designation was virtually unopposed.

The required resident input is often a time-consuming affair and could mean that neighborhoods will face long waiting periods before they are designated. Angela Hunt, a community organizer for the M Streets Conservation District in Dallas, estimates that the Dallas planning department can handle the work load for about two conservation districts a year. Despite having a code compliance officer focused on architectural regulations who spends much of his time on conservation districts, there are several applicants waiting, according to Lief Sandberg, chief zoning planner for the Dallas Department of Planning and Development.

In nearby Plano, when the city's oldest Black community was threatened by encroaching development that residents and civic leaders feared would undermine its residential character, city officials began working with the Douglass neighborhood to gather the needed signatures for designation of a conservation district and, with the help of a nonprofit

organization formed to promote preservation in Plano, obtained the signatures on their petition of more than 65 percent of the property owners in downtown Plano. However, upon realizing that the process was taking too long for the urgent situation, city officials enacted a series of zoning amendments instead.

In some situations, the requirements for neighborhood consensus can also make the adoption of a conservation overlay district virtually impossible. In Boise, for example, the diverse point of views made it very difficult to gain consensus about what needed to be done. Hal Simmons, a planner with the Boise Department of Planning & Development, explained that owners and occupants of the proposed district were deeply divided on what should be the future of the area. Some property owners felt the area was no longer suitable for residential use and they considered their property as an investment for future office development. The churches continued to need new parking lots. A smaller group of residents was committed to preserving the residential feel of the neighborhood. The adjacent neighborhood also wanted to preserve the historic character of the area. The city was concerned that opportunities were being lost for people to live within walking distance of downtown and were also diluting the demand for office development within the central business district.

4. Actions Subject to Review

The types of actions subject to review vary, depending on the underlying objective of the conservation ordinance, the specific requirements put forth in the conservation ordinance, as well as

actual controls incorporated into the neighborhood plan. Conservation district programs premised on the preservation of the physical character of existing neighborhood often establish procedures that require approval of proposed alterations, additions to existing structures, and new construction based on specific design standards and may prohibit or restrict demolitions and removals.

Conservation districts based on neighborhood planning models also tend to regulate new construction. However, they generally draw on planning and zoning tools to respond to compatibility concerns through the imposition of neighborhood specific restrictions on lot coverage, height, and setback requirements. They may also address related issues such as permissible uses, traffic concerns, infrastructure needs, and, in some cases, open space and tree preservation.

Because conservation districts are, in effect, tailored to respond to the needs and concerns of a given community, the range of tools that might be used to protect a particular neighborhood will differ from place to place and may easily include both architectural design and planning tools.

In Knoxville, Tenn., for example, a certificate of appropriateness is required for:

1. demolition;
2. construction of a primary or accessory building, structure or other additions to real estate; and
3. the addition of space to an existing primary or accessory building.

Similarly, in Napa, Calif., a certificate of appropriateness is required for proposed projects involving, but not limited to:

1. any substantial construction visible from a public way;
2. any substantial alteration or addition visible from a public way; and
3. demolition of a building or structure.

Napa's neighborhood conservation district program is administered by the city's Cultural Heritage Commission, which in turn, is housed in the city's planning department. Thus, although the program is operated in conjunction with the city's historic preservation process, it implements specific neighborhood preservation policies contained in the city's general plan. The distinction between the city's historic preservation and neighborhood conservation programs is highlighted less by procedure and more by the standards of review. In conservation districts, mass and scale, but not architectural style, is at issue. Factors for conservation include:

1. Mass and Scale—The traditional mass and scale of the area shall be maintained.
2. Building Form—A building shall have basic roof and building forms that are similar to those seen traditionally in the neighborhood.
3. Construction Materials—Building materials shall contribute to the visual continuity of the neighborhood.
4. Building Orientation—The traditional patterns of building orientation shall be maintained.
5. Building Alignment—The distance from the street or property line to the front of the building shall be similar to that seen traditionally in the neighborhood.

6. Project Context—The project shall be compatible with those neighborhood characteristics that result from common ways of building. This sense of setting shall be preserved.
7. Character-Defining Features—Major character-defining features of the property under review shall not be destroyed.

In Raleigh, N.C., where several planning-based conservation districts have been established, the actual controls on development are set forth in the neighborhood plan. Specific guidelines governing setbacks, building height, lot sizes, lot frontage, and orientation of houses to the street must be addressed in the district's neighborhood plan. Although architectural design and appearance are not required elements, they are nonetheless encouraged in neighborhoods that have a "historic scale and character."

In effect, individual neighborhoods in Raleigh enjoy considerable latitude in the development of their plans, which are intended as an instrument for guiding change, particularly in neighborhoods facing teardowns and infill development in the form of large, single-family homes or, in some cases, apartment buildings and townhouses.

Through its neighborhood planning approach, for example, Raleigh was able to tailor zoning controls to meet the historical development patterns in two distinct areas of the Brookhaven neighborhood—one area with lots larger than a quarter acre, and another area with small setbacks on small lots. In the southern part of Brookhaven, an area historically developed with 20,000 square-foot lots even though the underlying zoning is set for quarter-



The Eastport Conservation Overlay District was established in Annapolis, Md., in an effort to retain Eastport's 19th-century historic maritime character.

—Photo courtesy Department of Planning and Zoning, City of Annapolis.

acre lots, the neighborhood plan set the minimum lot size at 20,000 square feet, the minimum lot width at the setback line as 100 feet, the minimum front setback line as 50 feet, and the maximum building height as 2½ stories. In the newer, northern part of Brookhaven, an area more in line with the underlying zoning designation, a separate neighborhood conservation overlay district was created with a plan setting the minimum lot size at 14,000 square feet.

An increasing number of ordinances combine preservation and planning tools to provide comprehensive protection for older urban neighborhoods. The Dallas Conservation District Ordinance, for example, specifically requires that a designation ordinance—

contain regulations governing permitted uses, heights of buildings and structures, lot size, floor area ratio, density, setbacks, off-street parking and loading, environmental performance, signs, landscaping, and nonconforming uses and structures, and may further contain any additional

regulations, special exceptions, or procedures that the city council considers necessary to conserve the distinctive atmosphere or character of the area, or to minimize potential adverse impacts which could result from creation of the district.

While architectural review is not an essential component of conservation district regulation in Dallas, some communities have opted for design controls to ensure that new construction is compatible with the neighborhood's existing architecture. Development and architectural standards have been adopted in Dallas, for example, in the King's Highway Conservation District, the Lakewood Conservation District, the Hollywood Heights/Santa Monica Conservation District, the Bishop/8th Street Conservation District, the M Streets Conservation District, and the Greenway Parks Conservation District. Design review is accomplished by planning department staff as part of the normal application process unless a special

design review procedure has been established in the designating ordinance.

By addressing land use, a community can limit activities within the district that may be incompatible with its conservation objectives. For example, some jurisdictions may expressly prohibit surface parking lots or office buildings on large lots. In other situations, jurisdictions may want to actively promote the retention of existing types of land uses that have become part of a community's historic character. In Annapolis, Md., one of the specific objectives of its residential conservation district program is to encourage "existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community."

In 2002, Annapolis established the Eastport Gateway Conservation Overlay District in an effort to retain Eastport's 19th-century historic maritime character. Through a combination of downzoning and design review measures, the Eastport community was able to protect its maritime trade from displacement by waterfront residential development, preserve the area's view of the city's downtown historic waterfront, and ensure that new development and future redevelopment is in keeping with the scale and vernacular style of existing houses in the area. In implementing these objectives, the overlay district emphasizes the importance of pedestrian access and scale and expressly encourages residential units above the first floor in three-story commercial buildings.

5. Conservation Standards

Neighborhood conservation districts seeking to preserve the historic or unique character of a

particular area may find it necessary to establish an administrative process that reviews proposed construction on a case-by-case basis. Through the application of conservation standards, local jurisdictions can ensure that individual changes within a neighborhood are compatible in terms of size, scale, massing, and, in some cases, architectural style. Case-by-case review may be necessary to ensure, for example, that a new house or building complements rather than overwhelms neighboring structures. It can also be used to soften the impact of larger structures by shifting mass to mitigate the impact of potentially dominant features, such as a garage.

Communities seeking to regulate the size, massing, or design of structures must adopt conservation guidelines or standards for practical as well as legal reasons. The articulation of specific guidelines provides property owners with notice of the kinds of actions that most likely will be approved and gives decision makers standards on which to base their decisions.

While many communities are more comfortable with staffing a design review board entirely with neighborhood residents, it is important to keep in mind that the decision makers must be qualified to do the work they are being asked to perform. Good decisions are not simply a matter of good taste. Rather, they require an ability to understand the projects subject to review and the standards by which they are to be judged.

As with historic districts, some conservation programs incorporate two levels of standards: general and specific. The general legislation, which authorizes the establishment of conservation districts, sets forth broad stan-



dards of review that serve as a threshold for reviewing all actions within neighborhood conservation districts. Detailed guidelines, usually adopted as part of the neighborhood plan, govern the review of specific actions within a specific neighborhood and are developed once an area is under consideration for designation as a neighborhood conservation district. These guidelines can be tailored to the character and needs of a specific community, and usually become part of the designation ordinance. They may or may not be "architectural design guidelines."

Although standards of review in conservation districts are far less restrictive than those for historic districts, they have become quite detailed in some communities. In Dallas, Chief Zoning Planner, Leif Sandberg, says the trend is to draft fairly complex guidelines. "In some of our districts they are beginning to rival historic districts in their complexity, getting into window configurations and building materials," he says. "The interest now is in

addressing more rather than fewer things. As people are getting involved in the discussion they want the whole nine yards."

In the Hollywood/Santa Monica Neighborhood Conservation District, one of the six areas that has already been approved for designation as a conservation district in Dallas, architectural provisions cover accessory structures, street facade width, roofs, glass enclosures, facade openings, screen and storm doors, windows, and even color (a building facade may not be painted with more than one body color and three trim colors).

Likewise, in the city's Greenland Hills neighborhood, the M Streets Conservation District Ordinance requires that all new homes be built in the Tudor style with no renovations visible from the front. It also calls for modular or standard bricks (as opposed to the king-sized ones used on the newer homes), forbids metal roofs or window air conditioner units, requires porch enclosures to be done with transparent glass, and

By applying conservation standards, local jurisdictions can ensure that new houses, such as these infill structures in Nashville, Tenn., complement rather than overwhelm neighboring structures.

— Photo courtesy of the Metropolitan Historic Zoning Commission.

Conservation Standards in Cambridge, Mass.

In Cambridge, Mass., specific standards and guidelines may be developed to supplement the general standards governing the review of applications for certificates of appropriateness. In the Avon Hill Conservation District, for example, the following principles, standards, and guidelines apply:

A. Principles of Review

The Commission recognizes the capacity of certain properties in the District for additional development under applicable provision of the zoning code and affirms its consideration of proposed additions and alterations to such properties consistent with the terms of this order. The Commission seeks to achieve consensus determinations based on the available historical record, recommendations from members, alternates and staff, and comments from applicants and abutters and consistent with the terms of this order. The Commission affirms its role as a technical advisor to applicants on issues of conservation and preservation.

B. General Conservation Standards

All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape.

General conservation standards shall be to:

1. Conserve the historic development patterns of the neighborhood, including its green space, open vistas, generous setbacks, and predominately low density lot coverage;
2. Enhance the pedestrian's visual enjoyment of the neighborhood's buildings, landscapes and structures;
3. Protect structures listed in or determined eligible for listing in the National Register of Historic Places;
4. Encourage the preservation of the neighborhood's buildings, landscapes, and structures;
5. Maintain the diversity of the neighborhood's architectural styles.

C. Conservation Guidelines for Avon Hill

The following guidelines establish the conservation principles to be encouraged within any given application.

1. **Infill Construction and Additions:** In the A-2 zone, infill construction (including accessory buildings) and additions shall not cause total lot coverage to exceed 30%; in the B and C-1 zones, infill construction and additions should not cause total lot coverage to exceed 40%. In addition to considering streetscape impacts of infill construction and additions, vistas into and through the site from surrounding public ways should be conserved. Impacts on significant landscape features and mature plantings should be minimized. Additions should be compatible with the architectural character of the principal building and its surroundings, should be sited away from principal elevations, and should respect the cornice height of the original building.
2. **Parking:** Where parking between the principal front wall plane of a building and the street is proposed, curb cuts and square footage of paved area devoted to parking should be minimized. Paving in permeable materials is encouraged. Low fencing, low walls, and plant material to screen parking areas are encouraged.
3. **Fences:** Fences should be low and transparent to conserve vistas into and through properties and to enable the pedestrian's visual access to the character of the district. The desire for enclosing private spaces should be balanced against the historically-open character of vistas in the district. Fences needed for privacy should enclose the minimum area necessary to achieve their intent and should leave a portion of the premises open to view from the public way. Where safe and appropriate, privacy fences should be set back behind a planting bed to avoid creating a vertical plane directly on the public way.

insists that at least two, two-inch caliper large canopy trees must be located in the parkway area.

After a series of urban design workshops, Davis, Calif., adopted special design guidelines for the designated neighborhoods, Central East, Old North, and University Avenue/Rice Lane neighborhoods, all of which border the city's downtown area. The "Traditional Residential Neighborhood" guidelines address such issues as streetscape, open space, primary and accessory building location, driveways and parking landscaping, mass and scale, building forms and materials, as well as character-defining features such as use of materials, roof forms, arched windows and doors.

The guidelines also include specific directions for applying the guidelines in individual neighborhoods. For example, the design objectives for the Old East neighborhood include "maintain[ing] the traditional scale and character" of the area that "reflect[s] its traditional 'farmhouse' heritage while accommodating new, compatible, infill development."

In comparison, the design objectives for the Near North neighborhood emphasize the importance of retaining "the scale and character of a single-family neighborhood," which includes a large number of small one-story bungalows and cottages, and preserving elements such as the neighborhood's streetscape with character defining, uniformly-spaced trees and the "small scale rustic image" of its alleys.

In some neighborhood planning models, guidelines extend beyond design review. In Phoenix, the special district plan, prepared by the planning department in accord with direction from the citizens' committee, may indicate changes to permitted land

uses and to requirements for buildings, such as density, coverage, and height, in addition to remodeling of existing buildings and structures. Special district plans may also contain proposals for social services to be furnished in the area and plans for capital improvements by all public agencies and utilities. If the planning department ultimately recommends adoption of the plan developed after consultation with residents and property owners, then a special planning district zoning overlay consistent with the boundaries of the plan is included as well as any special zoning criteria applying within the district.

In the Greenland Hills neighborhood in Dallas, the conservation district ordinance includes both architectural and development standards. The architectural standards focus on the particular design and style of newly constructed houses in the district. The development standards govern matters that are typically covered by a zoning ordinance such as permissible uses, lot specifications, and principal and accessory building restrictions.

6. The Review Process

As with historic preservation ordinances, conservation district laws with design review typically require an application for a "certificate of appropriateness." The certificate, upon issuance, is then submitted to the building permit office for purposes of obtaining the requisite building or demolition permit. Where proposed work involves minor work or would not affect the integrity of protected resources, then the review body may issue of "certificate of non-applicability" or a "certificate for minor work." In the extremely rare event that "substantial hardship," or the denial of all reasonable or



beneficial use of the property, would result from the denial of an application for a certificate of appropriateness, a "certificate of hardship" may be issued.

The permitting process utilized in Cambridge, Mass., provides a typical example of this type of program. In Cambridge, three types of certificates are issued—the Certificate of Non-Applicability, the Certificate of Appropriateness, and the Certificate of Hardship. The certificates expire after six months following the date of issuance unless an extension (up to 90 days) is granted by the chairman of the historical commission. A building permit for work performed in a conservation district cannot be issued unless the applicant has received one of these three certificates.

The Certificate of Non-Applicability is issued for work that falls outside the scope of the city's conservation district program. The certificate must be submitted to the building permit official as proof that the commission has reviewed the proposed work and determined that a Certificate of Appropriateness is not required. The Certificate of Non-Appli-

cability may be issued for work done "in kind" (work that matches existing conditions exactly), interior alterations (which are not subject to review under the ordinance), alterations not visible from any public way (which are also not subject to regulation), and any other work that does not require review by the Neighborhood Conservation District Commission. This type of certificate is generally issued by the historical commission staff at the time the application is filed.

A Certificate of Appropriateness is granted for alterations that the Neighborhood Conservation District Commission finds are "not incongruous" to the character of the property in question. This certificate is generally issued after review by staff and a hearing by the commission on the proposed work.

On occasion, projects may be approved for work that would ordinarily not be approved to avoid substantial hardship to the applicant, financial or otherwise, provided that the work would not be a significant detriment to the district. In such cases, a Certificate of Hardship will be issued, which serves as evidence of compliance

The design objectives for the Old East neighborhood in Davis, Calif., includes maintaining the traditional scale and character of the area.

— Photo: Esther Polito, City of Davis.

with the city's preservation ordinance. The certificate, however, lasts only for the duration of the hardship. Thus, for example, a Certificate of Hardship issued for the installation of a temporary ramp for persons with disabilities may be revoked when the ramp is no longer needed.

7. Enforcement

The ability to enforce conservation district ordinances can be critical to these preservation efforts. Without the inclusion of penalties, which may range from fines to reconstruction requirements, properties may be altered or demolished without consequence.

Knoxville's experience is illustrative. Because the city failed to include adequate penalties in its preservation ordinance (which also governs conservation districts), historic properties located on increasingly valuable land were at a high risk for demolition. In June 2001, one landowner was accused of illegally razing six historic homes on his Fort Sanders property, due to an office error in the Knoxville Department of Development that allowed him to obtain demolition permits. The owner faced a maximum fine of only \$100 per home, even though each property was worth at least \$370,000. According to Knoxville development director Leslie Henderson, the fines were so small in this case because the building department had to handle them "like the normal code violations."

To avoid potential enforcement problems, the conservation district ordinance for the M Streets Conservation District in Dallas includes a penalty provision that makes offenses punishable by a fine, not to exceed \$2,000, for each day the violation occurs.

The ordinance also encourages neighborhood monitoring by including a requirement that building permit applicants must post signs on their sites, which include "an accurate, scaled, color sketch of the front facade of the completed house and the two adjacent houses, indicating the dimensions of all structures" and "an accurate, scaled sketch of the footprint of the structure, the front yard and driveway, and the two adjacent structures, indicating the front yard setbacks of all structures." For further protection, the ordinance requires that the neighborhood association be notified of any new construction.

"The ordinances I've seen often use language which is not restrictive, but simply suggestive," says Dallas resident, Angela Hunt. "For example, one Dallas ordinance has some terrific exhibits which show the proper roof form, arches, and windows for Tudors, but doesn't codify any of these as requirements. Conservation ordinances should not be confused with educational material. It's either a law or it's not. Suggestions are meaningless—builders trying to get away with doing the bare minimum will ignore such 'suggestions,' and that's exactly who we're writing these ordinances for."

8. Appeals

Appeals from the decisions of neighborhood conservation district commissions, preservation commissions, planning commissions, or other administrative review bodies are generally made to another administrative body such as a board of appeals, to the governing legislative body, such as a city council or board of supervisors, or directly to court. Issues to consider include the relative expertise of the entity conducting the appeal, the standard of review, and the level of defer-

ence to accord a neighborhood conservation district commission or other review body.

The procedure followed depends, in part, on what appellate systems are already in place within a given jurisdiction and the level of political support for conservation district programs overall. After what one official in the Memphis Landmarks Commission described as a "political witch hunt," with the Landmarks Commission "hung out to dry," the Memphis ordinance was changed to allow appeals to the city council instead of the courts. Cambridge, Mass., in contrast, provides for direct appeal to the superior court.

Napa, Calif., provides a relatively detailed appeals process that specifies the manner of appeal and the time limits for filing an appeal. Appeals of decisions of administrative officials are made to the planning commission and planning commission decisions are appealed to the city council.

Conclusion

Conservation districts are becoming an increasingly popular mechanism for protecting the character of older neighborhoods across the country. New laws have recently been enacted in cities such as Boulder, Colo., Chapel Hill, N.C., Philadelphia, Pa., and San Antonio, Tex. They are presently in use in cities across the country, including neighborhoods in Annapolis, Md., Bloomington, Ind., Boston, Mass., New Orleans, La., and Portland, Ore., to name a few. In Dallas, where the historic district program has essentially hit a plateau with no new city historic districts likely to emerge, there are more than ten areas awaiting conservation dis-

trict status and at least a dozen more neighborhoods looking into the program.

While meaningful studies on the effectiveness of conservation districts as a neighborhood conservation tool have yet to come, initial reports are promising. In Phoenix, conservation districts are said to have stemmed the tide of incompatible development, particularly in neighborhoods adjacent to high-rise commercial development. Those in the Iowa City planning department say that conservation districts preserve neighborhood pride, local character, and property values. Residents in Dallas feel they retain greater control over their properties.

Some communities believe conservation districts have accomplished even more than their original goals. In Nashville, for instance, it has helped address commercial encroachment, says Blythe Semmer of the Metropolitan Historic Zoning Commission (MHZC). On two occasions, conservation zoning was used advantageously as a condition of rezoning to allow sensitive small business expansion in previously residential contexts. In the Lockeland Springs-East End area, results have included a decline in the number of absentee landlords at the same time as an increase in homeownership and property values. "In general, the MHZC staff believes that owners in the conservation zoning districts, through their enthusiasm for historic buildings, have delivered better rehabilitation and new construction projects than would be required by the letter of the law," Semmer says. Although staff experience frustration at the number of changes not reviewed under conservation zoning, "few owners have flaunted the flexibility of the guidelines by

doing work that is blatantly inappropriate," she says. "Thus, the spirit of pride in the zoning overlay has been almost as important as its legal requirements."

Today six of Nashville's neighborhood conservation zoning districts are residential. These neighborhoods are reported as generally stable and middle class in character. "The large east Nashville district has seen its fortunes improve from being a neighborhood on the borderline of decay to a thriving area where most homes have already been rehabbed by young professionals and families who enjoy its proximity to downtown," Semmer says. "One west Nashville district, Richland-West End, has by force of real estate demand in the area developed into an upper middle-class area. There, the desire for large, inappropriate additions by more affluent homeowners was an incentive for conservation zoning to pass in 1996."

The apparent success of conservation districts can be attributed in part to the program's high emphasis on neighborhood planning and outreach. Through the development of neighborhood plans, residents are required to think about the qualities of their neighborhood that makes it special. They must also think about what is wrong and how those wrongs can be corrected. By being in the driver's seat, residents have come to appreciate their own neighborhoods and, correspondingly, have chosen to accept necessary restrictions on their own properties for the benefit of the community overall.

Probably the most significant, and yet unresolved, issues from a historic preservation perspective are 1. how to distinguish conservation districts from historic preservation districts, and 2.

whether it is appropriate to designate a residential neighborhood as a conservation district when it meets the criteria for designation as a historic district. While there are numerous instances in which conservation district designation provides a viable tool for protecting the special character of older neighborhoods, conservation district laws generally do not provide the same level of scrutiny or protection for historic resources as do many historic preservation laws.

Thus far, it appears that most conservation district programs have been specifically designed to complement rather than replace historic preservation programs. Communities have worked hard to develop standards to ensure that historic areas qualifying for protection under historic preservation ordinances are designated as historic districts rather than conservation districts. In practice, however, it cannot be ignored that there are neighborhoods designated as conservation districts that are similar to other neighborhoods protected under historic preservation laws. In some cases this distinction in treatment can be attributed to differing standards for designation under local laws. In most cases, however, the differing approaches stem less from varying laws and more from the amount of grassroots support.

Case Study: The Dallas, Texas Experience

Residents of Greenland Hills, a Dallas neighborhood located in the western portion of the city's M Streets (the street names in this area begin with the letter "M") with a significant collection of 1920s Tudors, are making use of the Dallas' Conservation District Ordinance to discourage

demolition of its existing houses and limit new construction to certain architectural types. After a two-year planning process, the neighborhood obtained conservation district status on November 13, 2002.

Angela Hunt, a Greenland Hills resident, who served as the rallying force and major organizer for the M Streets Conservation District, says that the neighborhood is thrilled about the city's action. Knowing that the conservation district is in place has provided residents with tremendous "peace of mind." While the pace of new construction has not slowed down, she explained that homeowners are now assured that any new houses constructed in the area will be compatible with the neighborhood's Tudor character.

The consultation and consensus building that must take place in Dallas before the city will approve a neighborhood's conceptual plan and design guidelines and ultimately designate an area such as Greenland Hills as a conservation district is significant. Before the process of drafting the plan is even considered, the city's planning department must agree to conduct a feasibility study, which generally requires a strong showing of initial support by property owners in the neighborhood. A group of persons who collectively own more than 50 percent of the land and 50 percent of the buildings must initiate the process, according to the ordinance. In practice, a supermajority has been required to persuade the planning department to make a commitment to the designation process, says Hunt.

In Dallas, once the planning department gives a neighborhood group the green light, the group may file a "CD feasibility study" application with the direc-

tor of the City Plan Commission. The purpose behind the CD feasibility study is to assess an area's eligibility for CD (Conservation District) classification. The director is required to make a determination of eligibility, based on several requirements that include the following:

- The area must contain at least one blockface (defined as "all of the lots on one side of the street");
- The area must be either "stable" or "stabilizing" (expected to become stable or remain substantially the same over the next 20 years with continued reinvestment, maintenance, or remodeling of the property and all changes are expected to be compatible with the surrounding environment);
- The area must contain significant architectural or cultural attributes (defined correspondingly as "those physical features of buildings and structures that are generally identified and described as being important products of human thought and action characteristic of a population or community," and "those physical features of an area that, either independently or by virtue of their interrelationship, are generally identified and described as being important products of human thought and action characteristic of a population or community");
- The area must have a distinctive atmosphere or character (defined as "all those physical features of an area that, either independently or by virtue of their interrelationship, are generally identified and described as being important products of human thought and action characteristic of a population or community"), which can be

conserved by protecting or enhancing its architectural or cultural attributes.

If the director finds that an area is eligible for designation as a conservation district, he or she will direct the planning office to prepare a conceptual plan. During the planning process, neighborhood property owners are given three opportunities to object to the designation—first, at a public meeting scheduled by the city plan commission for the purpose of informing property owners in the proposed district of the nature of the pending request; next, at a public hearing before the commission to receive public comment on the conceptual plan; and finally, at a public hearing held by the city council before it makes a decision regarding the plan.

The actual designation ordinance is prepared only after the city council approves the conceptual plan. The ordinance must be based on the plan, as well as on staff recommendations and reports and public input. The ordinance must also contain regulations that address a list of specific items.

These include "permitted uses, heights of buildings and structures, lot size, floor area ratio, density, setbacks, off-street parking and loading, environmental performance, signs, landscaping, and nonconforming uses and structures." It may also contain, at the discretion of the city council, any regulations, special exceptions, or procedures that are "necessary to conserve the distinctive atmosphere or character of the area, or to minimize potential adverse impacts which could result from creation of the district."

Final adoption of the ordinance is accomplished by an affirmative vote of a majority of the city council members present unless: either (1) the plan commission

recommends against adoption; or (2) a written protest has been signed by the owners of 20 percent or more of either the land within the proposed district or within 200 feet of the proposed boundaries. Then, a favorable vote is required by three-fourths of the city council members.

Planning department officials told Angela Hunt the whole process would take five years. However, Hunt decided to go in and get the job done, and was grateful that her neighborhood was up for the challenge. Armed with digital cameras, a brigade of neighborhood volunteers photographed nearly all of the 917 homes in the proposed conservation district and compiled an inventory of the architectural styles in the neighborhood. These were organized in a database by Hunt's husband for a web site that the neighborhood maintains for their "Save-the-M-Streets" campaign. The commercial litigation law firm where Hunt works picked up the tab for the printing of 15 rounds of multi-page fliers distributed to the nearly 1,000 homes in the proposed district, and one resident underwrote the \$500 cost of signs, all to promote the conservation district to area property owners, who would cast the initial votes to determine whether the planning department would become involved in the first place. It was clearly an investment that paid off.

The M Streets Conservation District Ordinance is detailed in scope, requiring compliance with both development and architectural standards and the conservation of its tree-lined parkway. The development standards, among other things, place height limits at 30 feet, and require that the front facade of each main structure has the appearance of a one-and-a-half-story structure. The architec-

tural standards address issues such as architectural style, building materials, form, and size. New houses must be constructed in the Tudor style, in a manner that is compatible with the area's existing architecture. In addition, demolition of the neighborhood's 1920s houses designed in the Tudor style is prohibited. While the Tudor style is most prevalent, the ordinance recognizes the existence of other styles and establishes architectural standards for remodelings and reconstruction under those styles.

The M Street Conservation District Ordinance is available from the city's website at http://www.dallascityhall.com/dallas/en/html/conservation_districts.html.

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In Dallas, the M Street Conservation District Ordinance calls for new homes to be built in a manner that is compatible with the area's existing Tudor homes.

— Photo courtesy of Preservation Dallas.

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Neighborhood Conservation Districts and Historic Districts Compared

	Neighborhood Conservation Districts	Local Historic Districts
Program Objectives	Conservation of older neighborhoods through design review and/or development controls. Seeks to protect an area's character-defining qualities, with high emphasis on compatible, contextual construction. May not insist on the preservation of original, architectural features such as windows and slate roofs.	Preservation of historic structures through design review and restrictions on alterations, demolitions, and the moving of historic resources. Seeks to preserve those attributes that qualified the area for historic designation, including its architectural and historic fabric. Allows for compatible additions and new construction.
Legal Authority	General zoning powers. Sometimes state enabling law for historic preservation. May be adopted as zoning overlay or stand alone conservation district.	State enabling law for historic preservation. Sometimes general zoning powers. May be adopted as zoning overlay or stand alone historic district.
Review Body	Historic preservation commission or planning commission. May also establish neighborhood review commissions with varying authority.	Historic preservation commission. Sometimes establish advisory district commissions.
Protected Resources	Predominantly older houses that, when viewed together, embody a distinctive quality, but generally do not meet the standards for designation as a historic district due to physical encroachments, or alterations over time, or the lack of exceptional quality or significance. May include neighborhood commercial buildings.	Historically or architecturally significant structures, whether residential, commercial, or industrial, that meet the criteria for listing as a historic district under a local preservation ordinance and may be listed or eligible for listing in the National Register of Historic Places.
Criteria for Designation	Older neighborhood with a unique or special character that is recognizable as a distinct area with shared attributes, and is distinguishable from other areas of the town. Architectural or historical significance is often a key factor for establishing conservation districts.	Higher threshold of eligibility that insists on integrity of location, design, setting, materials, workmanship, feeling, and typically requires that the area: (1) be associated with historically significant events or persons; (2) be architecturally significant in that it embodies the distinctive characteristics of a type, period, or method of construction, the work of a master, possesses high artistic values, or represents a significant and distinguishable area even though individual structures may lack distinction.
Designation Process	Typically set forth in neighborhood conservation district ordinance or historic preservation ordinance. Designation made by legislative body upon recommendation of preservation or planning commission. Applications typically initiated by neighborhood. Level of research, documentation depends on program objective.	Typically set forth in historic preservation ordinance. Often requires recommendation by preservation commission with legislative approval. Process insists on a high level of research and documentation to support designation. Designation is often initiated by preservation commission rather than community.

	Neighborhood Conservation Districts	Local Historic Districts
Public Participation	High emphasis on neighborhood participation in formulation of district boundaries and controls through neighborhood plan.	Public hearing on boundaries and whether area meets standards for designation. Controls set forth in ordinance.
Neighborhood Plan	Development of the neighborhood plan that identifies the characteristics to be protected (such as architectural style and size, historic streetscapes, infrastructure, etc.), and how conservation will be accomplished. May include design guidelines and development controls, such as limits on use or height, stories, setbacks and so forth. High input from neighborhood is often required.	Development of design review guidelines based on the physical characteristics that qualified the area for historic designation may be required. Design guidelines generally embellish standards for review of proposed work set forth under ordinance. Owners of property in historic districts often have input on development of guidelines, but input is generally not required as a matter of law.
Actions Subject to Review	Varies depending upon ordinance objectives and neighborhood plan. May require preservation or planning commission approval for alterations, additions, new construction, and demolitions through a certificate of appropriateness/design review and/or construction permitting process.	Generally require review and approval by the preservation commission for alterations, additions, new construction, removals, and demolitions through a certificate of appropriateness process.
Standards of Review	Tailored to community concerns. If designation includes design review process, then individual changes within a neighborhood must be compatible in terms of size, scale, massing, and, in some cases, architectural style. Detailed guidelines may govern specific actions. Preservation of specific materials such as slate roofs or original windows is often not required.	Generally requires preservation of a structure's architectural and/or historic features and its historic fabric. Additions must not harm original structure and be compatible in terms of scale and design. New construction must be compatible with specific setting, streetscape, and district as a whole. Detailed guidelines may govern specific actions.
Review Process	Application and review by administrative staff with referral to preservation commission; planning board; neighborhood review commission; or other entity when design review or discretionary authority is involved. May provide variance process for cases of extreme economic hardship.	Application and review by staff with referral to preservation commission (and advisory board if applicable). May provide variance process for cases of extreme economic hardship.
Enforcement	Generally authorize imposition of fines.	Generally authorize imposition of fines. May impose criminal penalties and require reconstruction for illegal demolitions.
Appeals	Varies with each jurisdiction.	Varies with each jurisdiction.

Jurisdictions with Conservation District Programs

Set forth below is a list of jurisdictions that currently operate conservation district programs.

Annapolis, MD: The city's residential conservation district program is administered by the city's Department of Planning & Zoning. Enabling legislation for the program is located under Title 21 of the Code and Charter of the City Annapolis. See <http://municipal.codes.lexisnexis.com/codes/annapolis/>. Legislation governing its residential overlay districts is promulgated under chapters 21.69 and 21.69A. The Eastport Conservation District Overlay is promulgated as Chapter 21.69B. (The Annapolis zoning code is currently undergoing revision and therefore these citations are likely to change.)

Atlanta, GA: The city's conservation district program is operated by the Urban Design Commission as part of its preservation program. See <http://www.atlantaga.gov/government/urbandesign.aspx>. Information governing the Brookwood Hills Conservation District is located at <http://www.brookwoodhills.com/ARP.htm>. The city's preservation ordinance is available at www.municode.com. See the Atlanta Code of Ordinances, part 16: Zoning; chapter 20: HC Historic and Cultural Conservation Districts; and subpart. 6: Budget and Planning, article D: Historic Preservation Program.

Austin, TX: Older neighborhoods in Austin may seek protection from incompatible development through the adoption of a Neighborhood Conservation Combining District overlay. See <http://www.ci.austin.tx.us/zoning/npcd.htm>. The Hyde Park neighborhood, for example, uses the NCCD designation to protect its historic character through development and historic preservation measures. See http://www.ci.austin.tx.us/zoning/hyde_park1.htm.

Boise, ID: Boise's Neighborhood Conservation District program is administered by the Department of Planning and Development Services. The city's "Neighborhood Conservation District" law and an ordinance establishing the "Near North End Conservation District" may be viewed at http://www.cityofboise.org/city_clerk/citycode/1119.pdf and http://www.cityofboise.org/city_clerk/citycode/1120.pdf, respectively. For further information on Boise's program, visit the Boise website at <http://www.cityofboise.org>.

Boston, MA: The Boston Landmarks Commission designates architectural conservation districts, in addition to individual landmarks, landmark districts, and protection areas (which must be contiguous to a landmark or district). Architectural conservation districts have a lower threshold for designation than historic districts and may be governed by more flexible standards. The city's preservation ordinance is posted at http://www.cityofboston.gov/environment/pdfs/BLC_Preserv_Act.pdf. Guidelines for individually-des-

ignated districts may be viewed at <http://www.cityofboston.gov/environment/downloads.asp#historic>. For detailed information on the Aberdeen Architectural Conservation District, see <http://brighton02135.tripod.com/arca/id8.html>.

Boulder County, CO: Boulder created a conservation district program, administered by the county's land-use department, in 2002. The Neighborhood Conservation District Overlay zoning amendment is reproduced at <http://www.co.boulder.co.us/lu/lucode/amendments/dc0201approved.pdf>. Although efforts have been made to establish a district, no districts have been approved to date. Proponents have not been able to secure the necessary approval of 60 percent of the affected owners.

Cambridge, MA: Cambridge has one of the longest operating neighborhood conservation district programs in the country. Administered by the Cambridge Historical Commission, the program seeks to preserve the historic and architectural character of its distinctive neighborhoods. Legislation governing the city's neighborhood conservation districts is located at <http://www.ci.cambridge.ma.us/~Historic/ordinances.html>. Specific information about the program is located at the Cambridge Historical Commission's website at <http://www.ci.cambridge.ma.us/~Historic/districts.html>.

Chapel Hill, NC: Chapel Hill used its newly enacted conservation district law to prevent the construction of duplexes in Northside, described as an established working-class neighborhood near the University of North Carolina campus. The city's conservation district law, codified as § 3.6.5 of the Land Use Management Ordinance, may be viewed at www.municode.com. Go to Article 3 of the city's Land Use Management Ordinance. For specific information on Chapel Hill's conservation district program, which is administered by the city's planning department, see <http://townhall.townofchapelhill.org/planning/ncd/NCD.html#1>.

Dallas, TX: At least 12 conservation districts have been established in Dallas, with the more recent districts being used to address concerns about teardowns in the city's older neighborhoods. These districts generally include restrictions on size and design to ensure that new construction is compatible with existing homes. The city's conservation district ordinance is codified at § 51A.4.505 of the Dallas Development Code, Part 11. The code may be viewed online at <http://www.amlegal.com>. For information on the city's conservation district program, contact the Long Range Planning Division of the Department of Development Services. See http://www.dallascityhall.com/dallas/eng/html/development_services_office.html#LRPlanning. Individual ordinances are posted at http://www.dallascityhall.com/dallas/eng/html/conservation_ordinances.html.

Davis, CA: Davis protects its downtown neighborhoods by discouraging demolition while encouraging compatible development in areas designated as a "Traditional Neighborhood Overlay District." The ordinance provision establishing the program is set forth at § 40.13A of the city's zoning code, which may be viewed at <http://www.cityofdavis.org/cmof/citycode>. Design guidelines for designated areas may be viewed at <http://www.city.davis.ca.us/pb/design/>.

Huntington Beach, CA: Designation as a neighborhood conservation district in Huntington Beach requires the support of at least 51 percent of the owners. The city's enabling law for its neighborhood conservation district program is available at http://www.ci.huntington-beach.ca.us/files/users/city_clerk/chp224.htm.

Indianapolis, IN: Three conservation districts have been designated under the city's preservation program, including two African American communities and a 19th-century, railroad town that falls within the city's jurisdiction. Individual plans for these districts are highly detailed, providing recommendations for housing, public infrastructure, zoning, and traffic as well as design review. Information on the city's conservation district program, including individual conservation plans, is available at <http://www.indygov.org/histpres/districts.htm>.

Iowa City, IA: Iowa City has adopted several conservation districts through its historic preservation program. The city's "Conservation District Overlay Zone" law can be viewed at <http://www.sterlingcodifiers.com/IA/Iowa%20City/index.htm>. See Title 14, Art. J, § 14-6J-4 of the Unified Development Code. Detailed information on the city's conservation districts is available in the "Historic Preservation Handbook," which is posted on the web at <http://www.icgov.org/documents/HPChandbook.pdf>. For an interesting discussion on the differences between historic districts and conservation districts, see the Historic Preservation Commission's minutes for its May 23, 2002 meeting, which is posted at <http://www.icgov.org/board-minute/219>.

Jackson, TN: Conservation districts in Jackson are administered by the Jackson-Madison County Historic Zoning Commission. Conservation District Design Guidelines are posted at <http://www.cityofjackson.net/departments/planning/GConsrv.PDF>. The guidelines address compatible new construction and demolition.

Jefferson, LA: A neighborhood conservation district has been established for a portion of the Old Maitairie neighborhood in Jefferson. Major residential development proposals, subdivision, and rezoning requests, and applications for variances are reviewed by an advisory neighborhood commission. Final decisions are made

by the governing regulatory body. A summary of the process is posted at <http://www.jeffparish.net/index.cfm?DocID=1214>. The city's zoning ordinance (chapter 40, article 10) establishing the district may be viewed at www.municode.com.

Knoxville, TN: Conservation districts in Knoxville are established under article 2, section 22 of the city's zoning ordinance, and may include development guidelines that support design objectives. See <http://www.knoxmpc.org/zoning/cityzone/a4s22.htm>. As with other conservation district programs in Tennessee, districts are designated by the city and administered by the Historic Zoning Commission.

Memphis, TN: The city designates conservation districts as part of its historic preservation program. Information on the Memphis Landmark Commission's conservation districts is located at http://www.co.shelby.tn.us/county_gov/divisions/plann_dev/planning/landmark/index.htm.

Miami, FL: In Miami, Neighborhood Conservation Districts are established through the adoption of a master plan or design controls in accordance with Article 8 of the city's zoning ordinance. NCDs are administered by the Department of Planning & Zoning. Special reviews may be required by other departments, including the Historic and Environmental Preservation Board. See www.municode.com.

Napa, CA: In Napa, the city's neighborhood conservation program is operated under its historic preservation program in accordance with its Historic Preservation and Conservation Ordinance. See <http://www.cityofnapa.org/MunicipalCode/Title15.htm>. As with many conservation districts, the standards governing the review of applications for certificates of appropriateness focus on mass and scale, construction materials, building orientation and alignment, and the preservation of "major character-defining features."

Nashville, TN: Nashville's six conservation districts are administered by the Metropolitan Historic Zoning Commission (serving both Nashville and Davidson County) under its historic preservation program. Specific information on the conservation district program is located at the Commission's website at <http://www.nashville.gov/mhc/cv.htm>. Neighborhood Conservation District Overlays are established under § 17.36.110 of the Code of Laws of the Metropolitan Government of Nashville and Davidson County, Tennessee. See http://municipalcodes.lexisnexis.com/codes/nashville/_DATA/TITLE17/Chapter_17_36_OVERLAY_DISTRICTS/17_36_110_Historic_overlay_dis.html.

Oklahoma City, OK: Oklahoma City operates an Urban Conservation District program. The city's conservation district ordinance is promulgated as § 59.4300 of the city's municipal code, which is located under article 4, chapter 59. The city's code may be viewed at www.municode.com.

Oregon City, OR: Conservation districts in Oregon City are established through the city's preservation program. Authority to establish a conservation district overlay is established under Chapter 17.40 of the city's municipal code. See <http://ordlink.com/codes/oregonci/index.htm>.

Philadelphia, PA: Adopted in 2004, Philadelphia's neighborhood conservation district program requires that applications for NCD status be initiated by a neighborhood association or by petition containing signatures of at least 20 percent of the owners in the proposed district. If 51 percent or more of the owners file a written objection to the designation, then the proposed district may not be established. Design guidelines are developed with the assistance of the city's planning department and Certificates of Compliance are required for demolitions, alterations, and construction. See <http://www.preservationalliance.com/bill.pdf>.

Phoenix, AZ: Phoenix operates a neighborhood conservation district program through its planning office. Legislation providing authority to establish "Special Planning Districts" is located under § 402 of the Phoenix Zoning Ordinance. See www.municode.com. Information on the city's program is available at <http://www.ci.phoenix.az.us/ZONING/ch004.html>. A list of publications on individual districts is located at <http://www.ci.phoenix.az.us/PLANNING/phpubs.html>.

Portland, OR: Portland has adopted seven conservation districts under its historic preservation program. Ordinance provisions governing the designation of conservation districts and the review of properties within such districts are located at http://www.planning.ci.portland.or.us/zoning/ZCTest/400/445_Historic.pdf and http://www.planning.ci.portland.or.us/zoning/ZCTest/800/846_Historic_reviews.pdf. Design guidelines for individual districts may be viewed at http://www.planning.ci.portland.or.us/bop_library.html. Maps of each conservation district may be viewed at http://www.planning.ci.portland.or.us/mp_hist.html.

Raleigh, NC: Development controls for individual conservation districts in Raleigh are set forth in the neighborhood plan. Raleigh's conservation district enabling legislation may be viewed at www.municode.com. See the Raleigh Code of Ordinances, Div. II, part 10, chapter 2, article C, § 10-2054. Information on the city's "Neighborhood Conservation Overlay District" program is available at <http://www.raleighnc.org/planning/CP/Neighborhoods2.htm>.

San Antonio, TX: Neighborhood Conservation Districts are used in San Antonio to address the appropriateness of new and infill construction in residential and commercial areas. The program is operated by the planning department and projects are reviewed as an administrative process. See <http://www.sanantonio.gov/planning/neighborhoods/north%20central/Appendix%20H.PDF>.

Springfield, MO: Springfield operates an urban conservation district program through its planning department. The ordinance governing the establishment of conservation districts is located at § 4-2300 of the city's zoning ordinance. See www.municode.com. Individual plans may be viewed at <http://www.ci.springfield.mo.us/egov/planning/nco/orgs.html#pna>.

Wilmington, DE: Authority to establish a neighborhood conservation district program in the city's Forty Acres neighborhood is currently under consideration. Legislation establishing the program and specific design guidelines for conservation districts may be viewed on the city's website at <http://www.ci.wilmington.de.us/departments/planning.htm>.

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