



STAFF REPORT

To: Eastern Summit County Planning Commission
From: Ray Milliner, County Planner
Date of Meeting: November 1, 2018
Type of Item: Code Amendment – Public Hearing, Possible Action
Process: Legislative

RECOMMENDATION: Staff recommends that the Eastern Summit County Planning Commission review the language relating to the preservation of historic structures, conduct a public hearing, and vote to forward a positive recommendation to the County Council according to the findings of fact and conclusions of law written in this staff report.

Proposal

The purpose of the amendments is to provide owners of historic structures in Eastern Summit County with opportunities to establish an adaptive reuse in the building while limiting the impacts of the use on adjacent property owners.

Background

In April of 2018 the Eastern Summit County Planning Commission reviewed changes to the Use Table in Chapter 3 of the Development Code. As part of the review, Commission members noted that the “Historic structures, preservation of, including related accessory and supporting uses” line had been removed from the table and enquired as to why. Staff responded that there was no program in the code for the use, and therefore there was no need to feature it in the table. It was noted that the Snyderville Basin Development Code does have a program that has been used on occasion and has been relatively successful. Commission members commented that perhaps it would be beneficial to have the same program available for residents of the Eastern Summit County Planning area, and directed staff to research the possibility.

Based on this direction, staff created draft language and returned to the Commission for a public hearing on October 4, 2018. Commissioners reviewed the language and provided staff with direction.

Staff has made the directed changes to the language and is now requesting that the Commission review it, conduct a public hearing and provide direction. If the Commission finds that the language is satisfactory then staff requests that it be forwarded along to the County Council. If significant changes are required, staff will make the changes and return for further review.

Proposed Language

It is important to note the proposed process is entirely voluntary. The purpose of the language is to create incentives for owners of historically significant structures, with the end goal of preserving them. There are 4 distinct sections in the language. Staff has provided a short description of each below (See Exhibit A for complete language).

1. **Determination of Significance:** This section establishes guidelines for determining what buildings are eligible for designation as “historically significant.” The Planning Commission would make that determination prior to the submittal of a Conditional Use Permit for the adaptive reuse. Criteria for Historically Significant determinations are based on language from the Secretary of the Interior’s standards.
2. **Additional Uses Allowed:** This section establishes the uses that would be allowed in a historic building above what is permitted by the underlying zone.
3. **Qualifying Provisions:** Establishes criteria that a project must meet prior to becoming eligible for Planning Commission review of a Conditional Use Permit.
4. **Use table:** This section identifies where the use is allowed, conditional or low impact.

Proposed Process

1. The owner of a historic property would submit a Conditional Use Permit application for the adaptive reuse of a historic structure.
2. Staff would review the application for compliance with the established criteria in the proposed language and prepare a recommendation to the Planning Commission.
3. The Planning Commission would be asked to:
 - a. Make findings for a determination of Historical Significance per the criteria in the proposed Code language.
 - b. Evaluate the proposal and make findings per the proposed qualifying provisions.
 - c. Evaluate the proposal and make findings of compliance with the criteria for a Conditional Use Permit.

This process can be conducted concurrently.

Analysis

Section 11-5-3 of the Eastern Summit County Development Code establishes a process for amendments to the text of the Code, it states that whenever an amendment to the Code is initiated, it must be reviewed by the Planning Commission who will deliver a recommendation to the County Council. The County Council, after holding a public hearing, can approve, approve with modifications or deny the amendment. There is no criterion.

The Eastern Summit County General Plan has specific goals related to future amendments.

Goal 2.3. b States:

“Consider development of a heritage preservation plan.”

Analysis: The proposed ordinance is a heritage preservation plan and therefore meets is compatible with the goals of the General Plan.

Recommendation

Staff recommends that the Eastern Summit County Planning Commission review the language relating to the preservation of historic structures, conduct a public hearing, and vote to forward a positive recommendation to the County Council according to the findings of fact and conclusions of law written below.

Findings of Fact

1. The purpose of the amendments is to provide owners of historic structures in Eastern Summit County with opportunities to establish an adaptive reuse in the building while limiting the impacts of the use on adjacent property owners.
2. Goal 2.3. b of the Eastern Summit County General Plan states, “Consider development of a heritage preservation plan.”
3. No Heritage Preservation plan has been adopted by Summit County.
4. On June 7, 2018 the Eastern Summit County Planning Commission conducted a work session to discuss the possibility of creating a heritage preservation plan.
5. The purpose of this language is to create incentives for owners of historically significant structures to use their property, with the end goal of preserving them.

Conclusions of Law:

1. The amendment is consistent with the goals, objectives, and policies of the General Plan.
2. The amendment will not permit the use of land that is not consistent with the uses of properties nearby.
3. The amendment will not permit the removal of the then existing restrictions which will unduly affect nearby property.
1. The amendment will promote the public health, safety and welfare of the People of Eastern Summit County.

Exhibits

Exhibit A. Proposed Ordinance

**SUMMIT COUNTY, UTAH
ORDINANCE NO.**

AMENDING THE EASTERN SUMMIT COUNTY DEVELOPMENT CODE TO CREATE SECTION 11-6-21, PRESERVATION OF HISTORIC STRUCTURES AND SECTION 10-3-16, CHART OF ALLOWED AND PERMITTED USES

PREAMBLE

WHEREAS, goal 2.3. b of the Eastern Summit County General Plan states, “Consider development of a heritage preservation plan.”; and

WHEREAS, the purpose of the amendments is to provide owners of historic structures in Eastern Summit County with opportunities to establish an adaptive reuse in the building while limiting the impacts of the use on adjacent property owners.”; and

WHEREAS it has been shown that small commercial businesses, such as bookstores, restaurants, antique stores, and small office uses thrive in historic structures; and

WHEREAS, the preservation of historic buildings allows residents and visitors to see the aesthetic and cultural history of Eastern Summit County; and

WHEREAS, no comprehensive Heritage Amenities and Cultural Arts Plan has been adopted by Summit County; and

WHEREAS, the preservation of historic buildings is a one-way street, meaning there is no way to save or renovate a historic building once it has been torn down; and

WHEREAS, The Summit County Council finds there is a compelling public interest that justifies the proposed amendments to the Eastern Summit County Development Code.

WHEREAS, The Eastern Summit County Planning Commission reviewed the proposed language at a work session on June 7, 2018.

Whereas, The Eastern Summit County Planning Commission conducted public hearings for the proposed language on October 4, and November 1, 2018.

Whereas, The Eastern Summit County Planning Commission forwarded a positive recommendation to the County Council on November 1, 2018.

WHEREAS, a public hearing was held to receive public comment and allow for the planning staff to make presentations to the public and County Council in regard to the application on _____;

NOW, THEREFORE, the County Legislative Body of the County of Summit, the State of Utah, hereby ordains the following:

Section 1. EASTERN SUMMIT COUNTY DEVELOPMENT CODE The Eastern Summit County Development Code is amended as depicted in Exhibit A.

Section 2. Effective Date. This Ordinance shall take effect immediately after publication.

Enacted this ___ day of _____, 2018.

ATTEST:

SUMMIT COUNTY COUNCIL

Kent Jones
Summit County Clerk

Kim Carson, Chair

APPROVED AS TO FORM

David L. Thomas
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Carson	_____
Councilmember Robinson	_____
Councilmember Wright	_____
Councilmember Armstrong	_____
Councilmember Clyde	_____

EXHIBIT A

11-6-21: ADAPTIVE REUSE OF HISTORICALLY SIGNIFICANT STRUCTURES:

Historically significant buildings are valued in Summit County based upon their contribution to the general welfare, aesthetics and values of property and historical education of Summit County. Historically significant buildings tell the story of Summit County and provide architectural and/or cultural significance. The purpose of these regulations is to provide for the adaptive reuse of a historically significant building with a new use that meets the criteria set forth in this code.

A. No Increase In Density: No increase in density above what is allowed by the underlying zoning district is or shall be granted through these provisions.

B. Use Must Be Contained Within The Historic Structure: The adaptive reuse of a historically significant building must be confined to the building itself.

- a. Exception: The adaptive reuse may include exterior patios and decks, provided they are associated with the use, and the patios and decks do not detract from the historical character of the building.

C. Determination Of Historic Significance Required: Prior to any review for an adaptive reuse of the property, the property owner must demonstrate that the Structure is "historically significant". Determinations of historical significance shall be made by the Planning Commission, who must find that the Structure or Building meets at least one of the following definitions set forth in subsection D of this section.

D. Historically Significant Is Defined As:

1. A building or structure associated with events that have made a significant contribution to the broad patterns of Summit County's history; or
2. A building or structure associated with the lives of significant persons in the past; or
3. A building or structure which embodies the distinctive characteristics of a type, period, or method of construction, or that possess high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
4. A building or structure which has yielded or may be likely to yield, information important in history or prehistory.

E. Additional Uses Allowed: In addition to the allowed, conditional and low impact uses designated in the underlying zoning district, the following uses may be approved as a conditional use in a historically significant building in any zoning district:

- Professional Office;
- Restaurant; and

- Retail Commercial Establishments.

F. Qualifying Provisions: In order to qualify for conditional use review under section 11-4-7, "Conditional Use Permit", of this title, the applicant must first demonstrate compliance with all of the following to the planning commission:

1. The building is designated as historically significant by the Planning Commission. The designation process must be completed prior to the county accepting a conditional use application for the structure unless the Community Development Director determines that it is in the best interest of the County to process the designation and conditional use applications together.
2. The adaptive reuse will require minimal physical change to the building as these features are important in defining the overall historic character of the building and environment.
3. The adaptive reuse is contained entirely within the historically significant structure, unless specifically excepted in Section 11-6-21 B.a of this Chapter.
4. Significant archaeological resources affected by the project shall be protected and preserved. If such resources, for the adaptive reuse, must be disturbed, mitigation measures may be undertaken and approved by the Community Development Director. Disturbances to archaeological resources shall be kept to a minimum.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the property shall be preserved.
6. The proposed adaptive reuse will not have a material net cumulative adverse impact on the neighborhood or the county due to:
 - a) Traffic;
 - b) Parking;
 - c) Signs;
 - d) Lighting;
 - e) Removal of landscaping; and
 - f) Noise, fumes or odors.

G. Deed Or Restrictive Use Covenant Required: As a condition of the adaptive reuse Conditional Use Permit approval, the property owner shall record a deed or restrictive use covenant to benefit the County, which protects the historical structure from demolition and changes contrary to the intent of the preservation of historical structures provision herein.

11-3-16: CHART OF ALLOWED AND PERMITTED USES:

Permitted Uses	R-2.5	AG-5	AG-10	AG-20	AG-40	AG-80	CA	C	LI	I	Additional Reference
Adaptive reuse of a historically significant structure	C	C	C	C	C	C	C	C	C	C	See Section 11-6-21 for additional information