

**QUESTIONS AND ANSWERS**  
FROM THE HISTORIC PRESERVATION COMMISSION PRESENTATION  
**TO DATE PALM MANOR NEIGHBORS**  
AT THE INTRODUCTORY MEETING ON 08/02/2008

**Can I apply for a grant to make a non-contributing property contributing?**

The short answer is this may be possible depending on the scope of work and the probability that non-contributing conditions could be successfully reversed.

Generally, grant monies are available for properties in historic districts that are contributing properties. A contributing property is an individual property in a designated historic district that contributes generally to the distinctive character of the district. A contributing property was built during the district's historical period of significance (from 1953 to 1959 for Date Palm Manor). A contributing property also retains enough architectural integrity to be able to convey its historic significance. Districts may contain both contributing and noncontributing properties.

A noncontributing property is an individual property in a designated historic district that does not contribute to the distinctive character of the district. Properties are considered non-contributing if they were constructed outside of the period of significance. Properties constructed within period of significance which have been modified to such extent or in such manner as to have lost their historic integrity can also be non-contributing. Non-contributing properties are only subject to Tempe Historic Preservation Ordinance provisions regarding new construction and only when the amount of new construction equals or exceeds 25% of the land area.

This neighbor's question specifically asks if grant monies can be used to recover the contributing status of a property. In most cases once a property has lost its historic integrity that integrity can not be recaptured. In other words, once original building materials have been removed they are permanently lost. Imagine trying to restore a classic car that has been converted into a hot rod. You might recreate the classic form using new parts and pieces, but the original materials are either gone or substantially changed. It may be possible to recreate the look of the original property however the original materials may have been lost to changes made over time.

On the other hand, some changes may have been made to a property in ways that can be reversed. The concept of reversibility plays an important role in historic building rehabilitation projects. The Secretary of the Interior's Standards for Rehabilitation recommend that new additions and new construction be undertaken in a manner that if removed in the future, the essential form and integrity of the historic property and its environment would remain unimpaired. Another example is the property whose landscaping has grown to obscure public view of the house. If the original façade exists hidden from view, simply trimming the landscape can restore the property to contributing status. Of course, it is unlikely that grant funds would be needed to make a change this minor.

Historic preservation activities eligible for grant funding are evaluated on a case-by-case basis. Tempe Preservation staff and volunteers are committed to making ownership of historic properties as beneficial as possible and can assist owners of designated properties in locating and applying for preservation grants. Staff and volunteers provide technical assistance and can help identify options for preservation projects.

**If my property is designated can I cut down a palm tree?**

Yes – Property rights and privileges are not diminished by historic designation and listing in either the local or national registers.

It is a common misconception that historic designation impinges an owner's ability to make changes to their property. Designation and listing honors historic properties by recognizing their importance to the community, however, land use restrictions are neither increased nor decreased by historic designation and listing.

Under Federal law, owners of private property listed in the National Register are free to maintain, manage, or dispose of their property as they choose provided that there is no Federal involvement. Owners have no obligation to open their properties to the public, to restore them or even to maintain them, if they choose not to do so.

By City code, owners of private property listed in the Tempe Historic Property Register are obligated to provide ordinary maintenance and repair of their property but the standards of maintenance for historic properties are no different than those required for all properties in Tempe under the Nuisance Ordinance adopted to promote the health, safety and welfare of Tempe and its residents, and to protect neighborhoods against physical, visual and economic deterioration.

Properties in designated historic districts are provided with design guidelines which are developed to preserve and enhance the unique character of the neighborhood. Historic district design guidelines are prepared in cooperation with property owners to provide protection for significant properties and to assist owners in the preservation and restoration of their properties. Historic district design guidelines do not change zoning development standards or uses permitted by zoning. Historic district design guidelines are advisory – not regulatory.

Listing a building, site, or district affords it a certain prestige which can enhance the value of the property and raise community awareness and pride; however, it does not prevent the owner of a listed property from remodeling, repairing, altering, selling, or even demolishing a building. Listing also does not obligate an owner to make improvements to the property.

Historic preservation grants and property tax reduction programs often contain terms and conditions for protecting public monies invested in the conservation and maintenance of private property. Public assistance for historic preservation begins with the premise that historic properties represent community cultural resources and that their preservation provides a public benefit to the community at large. The cost of maintaining these properties in such manner as to conserve their historic integrity may utilize public preservation assistance provided the public interest in such an investment is properly protected. Therefore, the contractual relationships created by public grants for private properties typically have specific requirements to maintain the preservation actions accomplished by the grant.

**What are the strongest benefits to local historic designation?**

When historically significant properties are recognized by the community through the process of historic designation and listing, everyone benefits.

Property owners benefit from historic designation and listing in many ways. Historic designation reinforces neighborhood sense of place. The historic designation and listing process calls the attention of the community to the special character of these cultural resource areas. Pride of ownership resulting from the honorific status of designation often leads to increased care and attention to property maintenance.

The market demand for designated historic properties exceeds the available supply. Particularly in the East Valley, properties in designated historic districts command higher selling prices than comparable properties not in districts. Many homebuyers seek out historic properties for their charm and character. Others are concerned that the fast pace of redevelopment may adversely affect their properties if they are not within designated districts. Local historic property designation is one of the strongest forms of protection for historic properties. Local designation applies overlay zoning to the historic property and thereby makes benefits and protections provided by the Tempe Historic Preservation Ordinance available for property conservation. Across the country, sales data shows that designated historic properties consistently command premium prices. East Valley Realtors indicate between a 15% and 30% increase in sales prices for properties located in designated historic districts.

It is the intent of the city to make historic property ownership as beneficial as possible. In addition to the intangible benefits of owning a property recognized as an important community resource, Tempe Preservation provides owners with assistance in locating potential sources of financial assistance and tax credits; assistance in preparing grant applications and potential third party sponsorship; technical information and referrals; and assistance in obtaining other benefits available through City, State, and Federal historic preservation programs.

The community benefits from maintaining tangible links to past events, people, and artistic expressions that have molded the character of Tempe and local listing reinforces these links by calling attention to historically significant properties. Listing properties has financial benefits for the community by contributing to the revitalization of neighborhoods and business districts and by promoting tourism.

State and Federal programs are in place to provide additional benefits to owners of historic properties in addition to the benefits conferred by local designation and listing.

**Do these benefits apply to rental properties?**

In general the benefits of local designation and listing affect the neighborhood as a whole. Some specific programs are available through the State for owner-occupied and for income-producing properties, however, over time, most designated historic districts trend toward increased owner-occupancy rates as sustained market demand continues to impact sales prices. Therefore contributing and noncontributing, owner-occupied and rental properties, eventually enjoy a benefit from local designation and listing.

**What are the tax benefits for historic designation?**

In Arizona, the State Historic Property Tax (SPT) program offers a substantial reduction in the state property tax assessment for eligible owners. This fifteen-year agreement requires maintenance of the property according to federal and Arizona State Parks Board standards and is limited to property used for non-income producing activities. In order to qualify for the SPT program, the property must be listed on the National Register of Historic Places either individually or as a contributor to a historic district. The program is managed by the State Historic Preservation Office (SHPO) in conjunction with Arizona's county assessor's offices. The SHPO determines program eligibility and monitors property maintenance, and the county assessor enacts tax classification changes, manages issues of property value, and tax calculation. Properties must meet the minimum maintenance standards established by the Arizona State Parks Board.

In Arizona, the State Historic Property Tax (SPT) program also has a commercial component which aids owners who rehabilitate underutilized historic commercial or industrial properties. This program also offers participants a substantial reduction in their annual state property taxes, but in a manner different from the residential component. The intent of this program is to provide an owner the opportunity to make a building presentable to tenants and allow such tenants a period to establish business without the burden of increased rent due to property tax increases.

In addition, owners of National Register income-producing properties may be eligible for special historic preservation tax incentives. The Federal Investment Tax Credit Program authorizes a 20% investment tax credit coupled with accelerated depreciation for income-producing properties. The State Historic Preservation Office is responsible for reviewing the eligibility of properties as well as rehabilitation plans to ensure their compliance with the Secretary of the Interior's Standards for Rehabilitation.

The municipal component of the Arizona State property tax is small and currently not subject to abatement for historic designation. Most tax benefits are available to properties that are listed in the National Register of Historic Places. In an effort to advocate for the conservation and enhancement of community cultural resources listed in the Tempe Historic Property Register, Tempe Preservation assists owners of locally listed properties in preparing a National Register nomination. This assistance may include financial assistance to obtain professional services for preparing a nomination.

**What are the negatives from experience with other designated districts? How historic does designation work?**

Tempe designated its first historic district on June 2, 2005. In the years following that initial designation two other local districts and one National district have been created in Tempe. Today, more than 250 properties are located within the boundaries of Tempe's four historic districts. Various local, state, and federal grants have been obtained for projects underway in each of these neighborhoods as Tempe Preservation continues to advocate for the conservation and enhancement of unique district character.

In each district some people initially expressed concern that historic district designation might result in additional government regulation or interference with their properties. As the designation process moved forward however, people became more familiar with preservation practices, questions were answered, and uncertainty generally gave way to neighborhood consensus to participate in preservation. Once designated, programmatic focus on preservation advocacy, coupled with an array of benefits and services available for neighborhood preservation has yet to provoke any negative feedback.

The Tempe Preservation program operates by authority of Tempe City Code to provide protection for significant properties to enhance the character of the community and to assist owners in the preservation and restoration of their properties. In Arizona, historic property designation occurs by applying overlay zoning to parcels of property which have been officially designated as Historic. Designation may apply to individual parcels or to districts. Overlay zoning does not change the underlying zoning, and the designation of any property or district can not inhibit uses and entitlements provided by the Tempe Zoning and Development Code. Through designation, reasonable and fair regulations provide a means of balancing the rights of property owners and the value to the community of conserving historically significant properties.

Historic designation requires that applications for building permits or other city permits necessary for new construction, alterations or demolition of properties be approved by the Tempe Historic Preservation Office or the Tempe Historic Preservation Commission, prior to standard permit processing. This enhanced permitting process brings specialized expertise to these projects as preservation professionals review applications for potential adverse impacts to historic character or significance. Standard permit processing begins when a finding of no adverse impact is made. If a determination of potential adverse impact is made, further processing may be delayed up to 30 days while alternatives are researched and recommended. As mentioned previously, owners of designated historic properties are eligible for city assistance in obtaining grants, tax credits and other incentives in addition to valuable technical advice provided through the review process. Finally, designated historic properties and districts receive special recognition and consideration in City neighborhood and redevelopment plans.

**What are the arguments for including or not including multi-family properties within district boundaries?**

Establishing historic district boundaries must consider issues other than what was originally subdivided and platted. To be successful, a candidate district must include a significant percentage of contributing properties and represent a majority of property owner support for designation. Like many historic Tempe subdivisions, the 1953 plat for Date Palm Manor included properties along the bordering arterial streets. It is interesting to note that the property located at the southwest corner of Broadway and Mill was shown as an exception on the plat map, no doubt with some future commercial use in mind.

Carefully defined boundaries are important for several reasons. The boundaries encompass the resources that contribute to district significance. Boundaries also have legal implications; for example, only the area within the boundaries may be considered part of the property for the purposes of Federal or State preservation tax incentives and charitable contributions. State and local laws that require consideration of historic resources refer to boundaries in the application of implementing regulations or design guidelines. Tempe Preservation seeks to identify district boundaries for local designation that conform to National Register practices. The National Park Service recommends including all historic features of the property, but not including buffer zones. To date local districts have been created to include that portion of the original subdivision that is currently zoned for single-family residential use. This conforms to the context applied to identify candidate districts. Adjacent multi-family zoned parcels and commercial properties along arterial streets have not been included.

In general, the higher the ratio of contributing to non-contributing properties within a proposed district the higher the probability of successful designation. Often properties on arterial streets lose aspects of their integrity more quickly. A quick look at the field data gathered so far for Date Palm Manor indicates 38 of the 47 total parcels in the original plat currently have single family zoning. There are an estimated 38 contributing properties within the original plat; 34 zoned single-family and 4 zoned multi-family. Lets look at percentages;  $34/38 = 89\%$  of properties contribute to a district limited to single-family zoning.  $38/47 = 80\%$  of properties contribute to a district which includes all parcels within the original plat. Now  $80\%$  is still very good, but remember this is just a quick preliminary estimate and other factors must also be considered.

Although all properties within historic districts receive benefits from designation, owner-occupied properties may receive the most immediate and direct benefits. Although owners of properties at the perimeter have important business investments, owner occupants may have more intimate ties to the neighborhood. Data indicate  $32/38 = 84\%$  of properties are owner occupied within a district limited to single-family zoning.  $32/47 = 68\%$  of properties are owner occupied within a district which includes all parcels within the original plat. While it is unknown what level of owner support will be required for successful designation, beginning with the highest concentration of owner-occupancy is recommended.

### **What if zoning changes along Broadway or Mill?**

The proposed Date Palm Manor Historic District is a Cultural Resource Area identified on the Tempe General Plan 2030 density map. These areas are considered culturally significant to the character of Tempe, based on the 2001 Post World War II Subdivision Study. General Plan 2030 states it is desirable to maintain the character of these areas, and specifies projected densities shall match the zoning in place at the time Tempe General Plan 2030 was adopted. Development review procedures and criteria shall conform to the Cultural Resource Area objectives established in Tempe General Plan 2030. This affords some measure of protection to the neighborhood, especially with regard to zoning reclassifications. But zoning changes can occur without changing zoning.

Although this sounds confusing, neighborhood character is often impacted as a result of changes in development standards. Building height, setbacks, and lot coverage are examples of the development standards specified for each zoning classification in the Tempe Zoning and Development Code. Although zoning classifications (single-family, multi-family, commercial etc.) may remain unchanged in any given neighborhood, development standards can continue to evolve. In Tempe, the trend has been to accomplish greater density by encouraging infill projects. One device for making infill economically attractive is to permit higher intensity land use. One mechanism for accommodating greater intensity is manipulation of zoning development standards. In potentially historic neighborhoods, this has had the unfortunate consequence of allowing properties to be redeveloped in ways that are often substantially out-of-character with the historic setting.

Historic designation and listing provides some checks and balances on infill and redevelopment. While zoning classifications and development standards will remain unchanged, historic designation provides design guidelines specifically tailored to the preservation and conservation of historic neighborhood character. By ordinance, these guidelines are not preordained but are produced uniquely for each district through a public participation process geared toward inclusivity. Property owners and stakeholders work with the commission and preservation professionals to identify the neighborhood vision for the future. Guidelines codify the consensus as policies and objectives in the form of appendices in the Tempe Zoning and Development Code.

### **Could eminent domain be an issue on Broadway Road?**

Eminent domain is the power of the state to seize private property, or rights in property with due monetary compensation, but without the owner's consent. Case law establishes the purposes for which the state may use this power, the most common uses being for construction of public utilities, highways, and railroads. Tempe has used eminent domain for widening arterial streets and improving rights-of-way. Although historic designation could not absolutely prevent use of eminent domain on Broadway Road or any other place, city code, state statutes, and federal regulations all require government planning and construction activities to take designated historic properties and districts into consideration and to avoid their disturbance or destruction, to the greatest possible extent. Historic property designation is arguably the best protection available to ensure the perpetuation of neighborhood character and sense of place.

**Who must sign a zoning waiver if a property is owned by a trust?**

After Proposition 207, a ballot initiative officially titled the "Private Property Rights Protection Act" passed in 2006, the city requires owners submit zoning waivers along with any request for any zoning action. By State statute, historic property designation in Arizona is a zoning action. Therefore zoning waivers are required from property owners wishing to be included in any newly designated historic districts. Owners wishing to opt-out of the district are similarly anticipated to be accommodated. Of course, at some point a meaningful district can no longer be created with only limited property owner support. The Tempe Historic Preservation Ordinance allows a district to be configured with as few as

Where a family trust or qualified personal residence trust is the owner of record for a property, the officers of that trust, that is the persons with the management responsibility or authority to act on behalf of the trust, will be required to execute the waiver and document their authority to take the action.