

DAYTON PLANNING DEPT.
LIST OF PUBLIC HEARING EXHIBITS FOR
ORD. 1899

Enclosed: Packet 1 of 3

Memo from Karen Scharer, Dayton Planning Director, dated 8/12/2016

Notice of Special Meeting, Public Hearing and SEPA DNS, dated 7/20/2016

Ordinance 1899 w/track changes, dated 8/10/2016

Packet 2 of 3

Ord. 1899 Exhibit Packet:

Exhibit A – Text of DMC 5-18.38, 5-18.39 and 5-18.40

Exhibit B - City Council Meeting Minutes, # 7. New Business, Motion of 2/9/2019

Exhibit C – Text of DMC 11-07.020 and 11-07.030

Exhibit D - Zoning Overlay Maps with WSHD and SSHD (proposed amendment)

Packet 3 of 3

DHPC June 29, 2016 Meeting Minutes, accepted 8/10/16

Letter from Matt Johnson, 206 E. Clay St., rec'd 7/27/2016

Letter from Greg Griffith, Deputy State Historic Preservation Officer, DAPH, rec'd 8/5/2016 Letter from Chris Moore, Executive Director, WA Trust for Historic Preservation, rec'd 8/12/16

Documents Available at: www.ezview.wa.gov - Scroll down the list to access "Dayton - Historic Preservation Code and Process Project 2016" then access the "Library".

Or, hard copies available on request.

Revised HPP2016 Sched.Res1283.pdf

SEPAChecklist LocalSSHD&WSHD.pdf

Local Nomination Forms for WSHD and SSHD see "LocalSSHD-Nom."



Date: August 12, 2016
To: Dayton City Council and Mayor Craig George
From: Karen Scharer, Planning Director
Re: August 15, 2016 City Council Public Hearing for
City Council Consideration of Ordinance 1899

Purpose of Ordinance: To dissolve the Dayton Register South Side Historic District (WSHD) and Dayton Register Washington Street Historic District (WSHD); eliminate Zoning Overlay text; and amend Zoning Overlay Maps, deleting reference to existing local register residential historic districts.

BACKGROUND

1. HPP-2016 Revised Schedule: On July 11, 2016, the City Council passed Resolution 1283, revising the schedule for the Historic Preservation Policy and Code Update Project -2016 (HPP-2016). The main purpose for revising the schedule was to allow the City Council to expeditiously act on an ordinance to dissolve the two local register residential historic districts, SSHD and WSHD.
2. Timeline Compressed: City staff coordinated with state agencies, City Council Members, and owners of the Official City Newspaper to implement a compressed timeline of just 36 days from passage of Res. 1283 to the scheduled Council Public Hearing and Council consideration of Ord. 1899.
3. No DHPC Recommendation: The Dayton Historic Preservation Commission (DHPC) was advised at their June 29, 2016 Meeting that the City was considering whether to present the "Advisory Vote" as soon as possible to the City Council, or wait until the end of year for Council consideration.

The DHPC questioned whether they needed to take any action. I explained that they are not required to provide a recommendation and that the DHPC is in a Catch 22, as they must follow DMC 5-18.20(C) justification and are required to make a finding that the district is "no longer deemed appropriate for designation to the local register". The Commissioners then shared their opinions and discussed their options. They ultimately voted 3 to 1, approving a motion to "give no opinion to the Council" regarding the results of the "Advisory Vote to the City Council".

ORDINANCE 1899

4. WSHD and SSHD Zoning Overlays: With the desire of the City Council to remove regulations from the WSHD and SSHD (dissolve the districts), elimination of the SSHD and WSHD Zoning Overlays (DMC 11.07.020 & 030) have also been included as part of Ord. 1899. These two Overlay Zones include limitations to use and design in the WSHD and SSHD, see Ord. 1899 Exhibit C.
5. Zoning Overlay Maps: Both DMC 5-18 Historic Preservation and DMC 11.07 Zoning Overlays refer to SSHD and WSHD as identified on the Zoning Overlay Maps, therefore these maps are also being amended, see Ord. 1899 Exhibit D.
6. Revised Ord. Text: Proposed Ord. 1899 attached, includes some changes to the text from the first draft published on July 20, 2016. These changes are based on internal City comments and the comments received from the WA State Department of Archeology and Historic Preservation (DAPH). The 7th whereas clause of Ord. 1899 as recommendation by DAPH, now clarifies that Ord. 1899 does not pertain to the listings on the National Register of Historic Places.

7. Purpose of Ord.1899 Exhibits: The Ord. 1899 Exhibits A-D are not essential to the ordinance, however they provide a convenient reference for the reader when questioning the actual text of ordinances, motions, and codes being repealed and the amendments (deletions) which will be made to zoning overlay maps.

RESPONSE TO WRITTEN COMMENTS (Attached)

6. Matt Johnson, 206 E. Clay St., Letter rec'd 7/27/2016: Mr. Johnson requests that the Council "repeal the districts". He believes that his current insurance carrier charges him 3 times the normal rate due to the house being located in the local SSHD.

RESPONSE: Mr. Johnson, and all property owners within the SSHD and WSHD have been advised that insurance carriers differ in their policies for historic homes. Some providers insure for replacement of costly original type materials on an historic structure while other carriers do not. Replacement with original type materials typically would not be required on a home in the Local Historic District, however, similar in appearance (like) materials are required. A prime example is the typically allowed use of replacement vinyl framed windows rather than maintaining wood framed windows.

Older homes, whether on a local register or not, may still have higher insurance rates, if there is no foundation, electrical wiring needs updating, or other risk factors associated with an older structure.

Homeowners are urged to contact local insurance carriers, compare quotes and policies; then they should decide which policy is best for them. Owners may always choose to call me for assistance locating an accommodating insurance carrier.

7. Greg Griffith, Deputy State Historic Preservation Officer, DAPH, rec'd 8/5/2016:

a. Alternative Actions (Page 1, Para. 2): City should work through issues with the public and be certain of the best course of action. What burdens to property owners have been identified?

RESPONSE: DHPC and City Planning surveyed district property owners; held multiple workshops regarding updating policy and codes. Ultimately, DHPC chose to facilitate the local WSHD and local SSHD "Advisory Vote to the City Council". Ballot #1 offered three choices and Ballot # 2 (run-off) offered two. The outcome from Ballot # 2 was clear, over 51% of all property owners in each district voted to dissolve their local historic district and 2/3's of those who returned ballots were in favor of dissolving their district.

Previously in 2008 an oversight occurred resulting in distribution of misinformation at the time ballots were sent for forming the local districts. Additionally, there is conflicting text within DMC 5-18 which has resulted in many misinterpreting code. These facts leads one to question whether the local districts would have been formed had owners better understood the codes applicable to properties within a local Dayton Register Historic District.

DMC 5-18-20(C) does not allow an owner at their own discretion, to remove their property from a district. In other words, there is no "opt out" provision. This is contrary to what many understood in 2008, when they chose to vote in favor of establishing the local historic districts. As a result, many owners, even if supportive of preserving Dayton's historic homes, find that the previous oversight now overshadows current efforts to correct and revise policies and codes. Further, the fact that the DHPC has approved all Certificate of Appropriateness requested since 2008 for exterior home projects within the local SSHD and local WSHD is viewed as of little worth.

There is a clear message that the majority of property owners are not interested in moving forward to find workable solutions by amending policies and codes and implementing “Advisory Review” in their district. Instead they have chosen to reject the concept of having any type of local historic district.

b. Recommended Actions: DAPH recommends the City:

- i. List the National Register South Side Historic District and National Register Washington Street Historic District on Zoning Maps, (Page 2, Para. 2),

RESPONSE: This recommendation will be considered under Phase 3 of HPP-2016 along with an alternative for listing the National Register Districts within the Historic Preservation Element of the Dayton Comprehensive Plan.

- ii. Clarify that Ord. 1899 does not pertain to the listing in the National Register of Historic Places, (Page 2, Para. 2), and,

RESPONSE: Language has been added. The 7th whereas statement addresses the listing in the National Register of Historic Places.

- iii. Adopt measure to mitigate impacts, (Page 2, Para. 4).

RESPONSE: The DHPC is presently considering the addition of policies that would both encourage and support new listings on the local historic register by:

- Initially giving the property owners choices in advisory review or regulatory review at the time they form a district.
- Providing incentives to local districts through zoning overlays and other development standards.

Additionally, incentives for those properties on the National Register are also under consideration.

c. Impacts Resulting from Ord. 1899: DAHP cites the potential for the delisting of the National Register South Side Historic District and National Register Washington Street Historic District over time.

RESPONSE: This potential impact was identified in the SEPA checklist with the following statements:

“Repeal of the districts and elimination of zoning restrictions will likely diminish some local historic resources over time. Of these diminished resources, a portion may reach a point of no longer being contributing historic resources.”

“The repeal of the two local register districts will also have a probable effect on the historic resources of the South Side and Washington Street Historic Districts on the National Register of Historic Places. Incentives could also be used to encourage preservation of existing national resources.”



**PUBLIC NOTICE
CITY OF DAYTON, WASHINGTON**

**SPECIAL MEETING OF THE CITY COUNCIL & PUBLIC HEARING
AUGUST 15, 2016, 6 PM, &
NOTICE of DETERMINATION OF NONSIGNIFICANCE (DNS)**

This is a combined notice. The Dayton City Council will hold a Special Meeting and Public Hearing on August 15, 2016 at 6 pm, Dayton City Hall, Council Chambers, 111 S. 1st Street, Dayton, WA 99328.

Proposal: Proposed Ord. 1899, repealing local residential historic districts, repealing overlay zoning and amending zoning maps.

Public Hearing Testimony – Written testimony may be submitted to the Planning Director at the address below prior to the public hearing, or may be submitted during the open public hearing along with oral testimony at the hearing.

Description of Proposal: Dissolve the Dayton Register South Side Historic District (SSHD) and Dayton Register Washington Street Historic District (WSHD), repeal zoning overlay restrictions, and amend Zoning Overlay Maps, deleting the WSHD & SSHD.

Proposed Ordinance No.1899, repealing all local historic residential districts and their zoning overlays by repealing Ord. 1785 as codified in DMC 5-18.38, 5-18.39, and 5-18.40; City Council Motion of 2/9/2009; Ord 1841 Section 2 Attach. B Sections 11-07.020 and 11-07.030, and Ord. 1873a, Section 1, Subsection DR14-003 as codified in DMC 11.07.020 and 11-07.030; and Amending Ord. 1873a Section 1, Subsection DR14-007 Attach. J-1 and J-2; and deleting all local historic residential districts on zoning overlay maps, in compliance with RCW36.70a (GMA).

Location of Proposal: WSHD - Generally properties on the north side of E. Washington Ave., addressed 115 through 409). SSHD - Properties within the general area south of E. Clay St., west of S 3rd St., north of E. Park St., and, to the east and west of S. 1st St.

Proponent/Lead Agency: City of Dayton

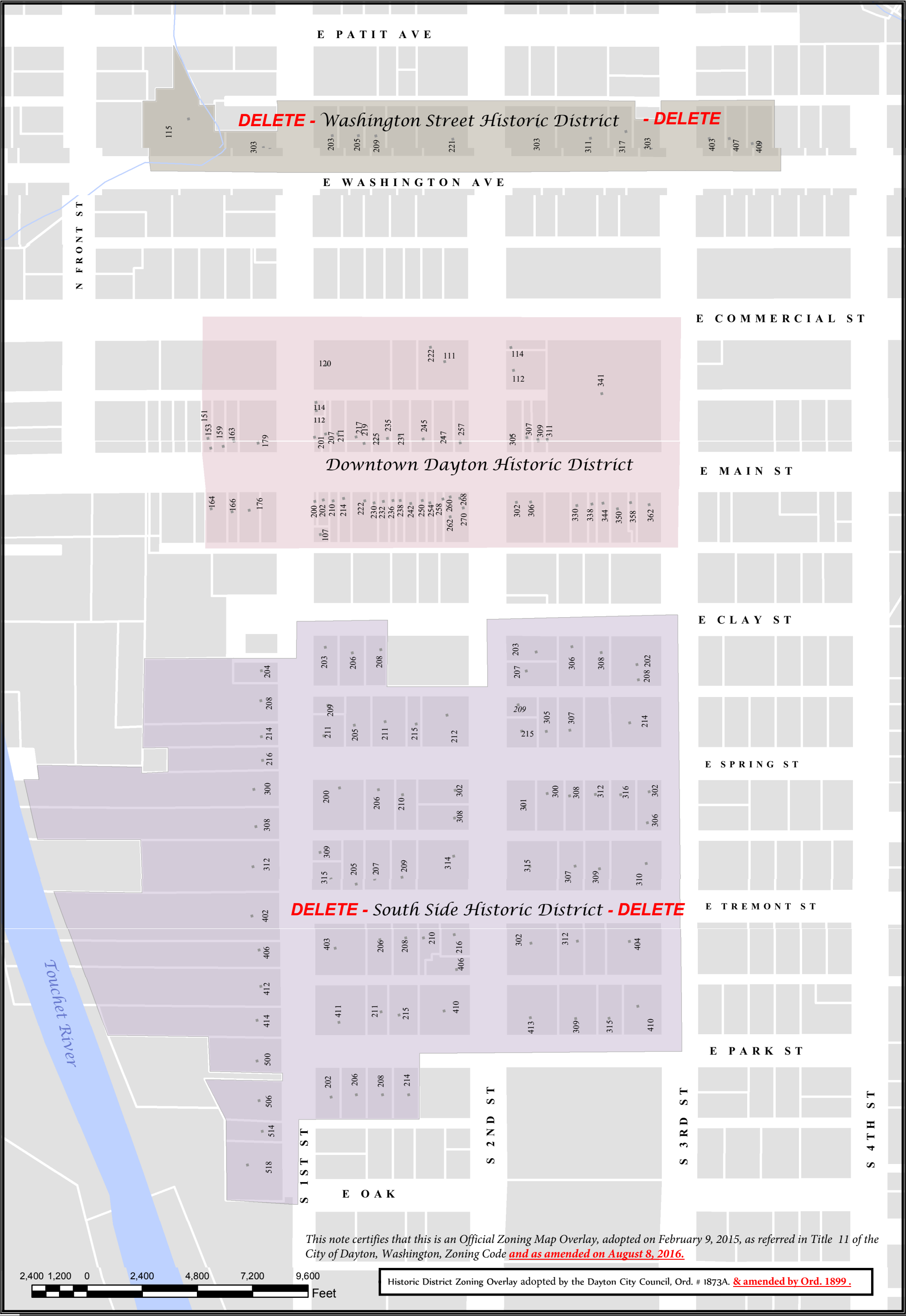
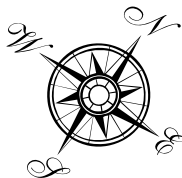
SEPA DNS: Under the State Environmental Policy Act (SEPA) and WAC 197-11-340(2) a DNS was issued on 7/20/2016 by the responsible official. After review of the environmental checklist and information on file with City of Dayton, the responsible official determined the proposal does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). The City will not act on the proposal until close of the comment/appeal periods, and appeals are concluded.

Comments and/or appeals of the DNS must be filed before 4 pm, 8/4/2016 at the Dayton City Hall, address below. See DMC 10-06.040 for appeal procedures.

Documents available: Proposed Ord. 1899, Environmental checklist, National and Local Historic Inventories and Nominations, SMP Inventory, district survey and other relevant documents are available at City Hall and city website www.daytonwa.com. Refer questions to the contact below.

Contact/Responsible Official: Karen Scharer, Planning Director, Dayton City Hall, 111 S. 1st St., Dayton, WA 99328 (T) 509-540-6747 Email: kscharer@daytonwa.com.

Dayton Historical Districts



ORDINANCE NO. 1899
CITY OF DAYTON, WASHINGTON

AN ORDINANCE REPEALING ALL LOCAL HISTORIC RESIDENTIAL DISTRICTS AND THEIR ZONING OVERLAYS BY REPEALING ORD. 1785 AS CODIFIED IN DMC 5-18.38, 5-18.39, AND 5-18.40; CITY COUNCIL MOTION OF 2/9/2009; ORD 1841 SECTION 2 ATTACH. B SECTIONS 11-07.020 AND 11-07.030, AND ORD. 1873A, SECTION 1, SUBSECTION DR14-003 AS CODIFIED IN DMC 11.07.020 AND 11-07.030; AND AMENDING ORD. 1873A SECTION 1, SUBSECTION DR14-007 ATTACH. J-1 AND J-2 DELETING ALL LOCAL HISTORIC RESIDENTIAL DISTRICTS ON ZONING OVERLAY MAPS, IN COMPLIANCE WITH RCW 36.70A (GMA).

WHEREAS, the City Council did consider the following findings, and having fully considered all agency comments, public testimony and the entire public record; and,

WHEREAS, in November 2015, the Dayton Historic Preservation Commission (DHPC) and Dayton Planning Department surveyed the property owners of the Dayton Register South Side Historic District (SSHD) and Dayton Register Washington Street Historic District (WSHD) to better understand opinions regarding the process for obtaining a Certificate of Appropriateness, restrictions of Zoning Overlays and how the DHPC might better serve owners of historic property; and,

WHEREAS, the DHPC held five workshops in February 2016, examining options for policy, code and procedures in regards to local register historic properties, districts, and overlay zones; and,

WHEREAS, between March 31, 2016 to June 14, 2016 the DHPC facilitated the “Advisory Vote to the Dayton City Council” by the Dayton Register South Side Historic District (SSHD) and Dayton Register Washington Street Historic District (WSHD) property owners. Property owners of each district had opportunity to cast two sets of ballots advising the City Council whether to retain or dissolve the two local register historic districts; and,

WHEREAS, the property owners of the SSHD voiced their desire to have the City Council dissolve the SSHD with a vote of 40 out of 61 returned ballots to dissolve; and,

WHEREAS, the property owners of the WSHD voiced their desire to have the City Council dissolve the WSHD with a vote of 9 out of 13 returned ballots to dissolve; and,

WHEREAS, the “Advisory Vote to the Dayton City Council” by the SSHD and WSHD property owners and this resolution pertain to the Dayton Registry of Historic Places. Neither the “Advisory Vote” nor this resolution relate to the listing of individual properties and districts on the National Register of Historic Places.

WHEREAS, under Resolution 1283, the Dayton City Council amended the Historic Preservation Project-2016 schedule to facilitate City Council consideration of whether to dissolve the SSHD and WSHD and Zoning Overlay restrictions in the most expeditious manner; and,

WHEREAS, the City as lead agency issued a State Environmental Policy Act (SEPA) threshold determination of non-significance (DNS) on July 20, 2016, stating that the proposed repeal and amendments codes would not have a probable significant impact on the environment. The comment ~~and appeal~~ period ended on August 4, 2016 without comment; and,

WHEREAS, on July 20, 2016, the City of Dayton published a notice in the Dayton Chronicle ~~for a~~ notice of the SEPA DNS ~~and~~ notice of the City Council Special Meeting and City Council public hearing scheduled for August 15, 2016 at 6 pm. ~~Newspaper notice~~ Additionally, notice was sent to agencies, tribes ~~and~~ community groups and property owners; ~~a notice was~~ posted on the City website; and, was available for review at City Hall; and,

WHEREAS, on July 20, 2016, the City of Dayton requested that the Washington State Department of Commerce provide an expedited review of the notice of intent to repeal and amend development regulations. Expedited review was officially granted on August 8, 2016; and,

WHEREAS, the City Council held a public hearing on August 15, 2016, to receive public testimony regarding dissolving of the SSHD and WSHD and eliminating Zoning Overlay restrictions and maps for SSHD and WSHD. The public hearing closed on August 15, 2016, after interested persons in attendance had opportunity to testify; and,

WHEREAS, while the Dayton Comprehensive Plan (DCP) Goal HP-1 is to “Preserve and enhance the buildings and properties in Dayton that are historically significant or of architectural importance”, DCP Page 74 states “Preservation is to be approached in a positive nonrestrictive manner. The rights of property owners as well as cost to owners should be respected”; and,

WHEREAS, the repeal and amendment of City ordinances, motion, and Dayton Municipal codes under this ordinance have been found consistent with the Dayton Comprehensive Plan; and,

WHEREAS, the City considers it in the best interest of the City to dissolve the SSHD, dissolve the WSHD; remove the SSHD and WSHD zoning overlay restrictions; and, delete the WSHD and SSHD from the Zoning Overlay Maps; and,

WHEREAS, the repeal and amendment of the development regulations under this ordinance are necessary to protect the health, safety and general welfare of the community and its residents; and,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. REPEAL OF ORDINANCE 1785.

~~Under substantive authority of SEPA, Ch. 36.70 RCW Planning Enabling Act, and Ch. 36.70A RCW GMA;~~ Ordinance 1785 as codified in Dayton Municipal Code Section 5-18.38. - Designation of Southside Historic District and boundary description; Section 5-18.39. - List of properties within the Southside Historic District and ownership thereof; and, Section 5-18.40. - Southside Historic District boundaries on the official zoning map; is hereby repealed.

Text as was codified under DMC 5-18.38, 5-18.39 and 5-18.40 is documented in Exhibit A attached to this Ordinance.

SECTION 2. REPEAL OF CITY COUNCIL MOTION OF FEBRUARY 9, 2009

~~Under substantive authority of SEPA, Ch. 36.70 RCW Planning Enabling Act, and Ch. 36.70A RCW GMA;~~
Dayton City Council Motion of February 9, 2009, to “accept the Dayton Historic Preservation Commission's recommendation creating the Washington Street Historic District” is hereby repealed.

City Council Motion of 2/9/2019 is documented in the City Council Meeting Minutes # 7. New Business, included as Exhibit B attached to this Ordinance.

SECTION 3. REPEAL OF ALL ZONING OVERLAYS OF LOCAL HISTORIC RESIDENTIAL DISTRICTS.

~~Under substantive authority of SEPA, Ch. 36.70 RCW Planning Enabling Act, and Ch. 36.70A RCW GMA;~~
The following Sections and Subsections of codified Dayton Ordinances are repealed:

Ordinance No. 1841, Section 2, Attachment B, Sections 11-07.020 and 11-07.030 as codified under DMC 11-07.020 - South Side Historic District (SSHD) Overlay Zone, and DMC 11-07.030 – Washington Street Historic District (WSHD) Overlay Zone.

Ordinance No.1873A, Section 1, Subsection DR14-003 as codified under DMC 11-07.020 - South Side Historic District (SSHD) Overlay Zone and DMC 11-07.030 – Washington Street Historic District (WSHD) Overlay Zone.

Text as was codified under DMC 11-07.020 and 11-07.030 is documented in Exhibit C attached to this Ordinance.

SECTION 4. AMENDING ORD 1873A, DELETING ALL LOCAL HISTORIC RESIDENTIAL DISTRICTS ON ZONING OVERLAY MAPS.

~~Under substantive authority of SEPA, Ch. 36.70 RCW Planning Enabling Act, and Ch. 36.70A RCW GMA;~~
Ord. # 1873A, Section 1, Subsection DR14-007, Attachment J-1 Historic District Zoning Overlay Map and Attachment J-2 Zoning Overlay - Dayton Local Registered Historic Properties and Districts Map, are hereby amended by deleting the “South Side Historic District” and “Washington Street Historic District”.

Amendments to Zoning Overlay Maps are displayed on Exhibit D attached to this Ordinance.

SECTION 5. ORDINANCE TO BE TRANSMITTED TO DEPARTMENT.

Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

SECTION 6. VALIDITY.

If any section, paragraph, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases may subsequently be found by competent authority to be unconstitutional or invalid.

SECTION 7 EFFECTIVE DATE.

A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of its publication.

PASSED by the City Council of the City of Dayton this _____ day of August, 2016.

City of Dayton

By: Craig George, Mayor

Authenticated By:

Trina Cole, City Clerk-Treasurer

Approved as to form:
Menke Jackson Beyer, LLP

Quinn Plant, City Attorney

Attachments:

Exhibit A – Text of DMC 5-18.38, 5-18.39 and 5-18.40

Exhibit B - City Council Meeting Minutes, # 7. New Business, Motion of 2/9/2019

Exhibit C – Text of DMC 11-07.020 and 11-07.030

Exhibit D - Zoning Overlay Maps with WSHD and SSHD (proposed amendment)

ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES
ORDINANCE NO. 1899

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON,
WASHINGTON, REPEALING ALL LOCAL HISTORIC RESIDENTIAL
DISTRICTS AND THEIR ZONING OVERLAYS BY REPEALING ORD.
1785 AS CODIFIED IN DMC 5-18.38, 5-18.39, AND 5-18.40;
CITY COUNCIL MOTION OF 2/9/2009; ORD 1841 SECTION 2
ATTACH. B SECTIONS 11-07.020 AND 11-07.030, AND ORD.
1873A, SECTION 1, SUBSECTION DR14-003 AS CODIFIED IN
DMC 11.07.020 AND 11-07.030; AND AMENDING ORD. 1873A
SECTION 1, SUBSECTION DR14-007 ATTACH. J-1 AND J-2
DELETING ALL LOCAL HISTORIC RESIDENTIAL DISTRICTS ON
ZONING OVERLAY MAPS, IN COMPLIANCE WITH RCW 36.70A
(GMA).

- SECTION 1. REPEAL OF ORDINANCE 1785.
SECTION 2. REPEAL OF CITY COUNCIL MOTION OF FEBRUARY 9, 2009
SECTION 3. REPEAL OF ALL ZONING OVERLAYS OF LOCAL HISTORIC RESIDENTIAL
DISTRICTS.
SECTION 4. AMENDING ORD 1873A, DELETING ALL LOCAL HISTORIC RESIDENTIAL
DISTRICTS ON ZONING OVERLAY MAPS
SECTION 5. ORDINANCE TO BE TRANSMITTED TO DEPARTMENT.
SECTION 6. VALIDITY.
SECTION 7. EFFECTIVE DATE.

The full text of Ordinance _____ adopted the _____th day of
_____, 2016 is available for examination at the
City Clerk's Office, 111 S. 1st St., Dayton, WA during normal
business hours, 8:00 a.m. to 4:00 p.m.

By: /s/ Craig George, Mayor
Attest: /s/ Trina Cole, City Clerk-Treasurer
Approved as to form: /s/ Quinn P. Plant, City Attorney

Published: _____
Dayton Chronicle