

Landmark Preservation Ordinance Update Task Force

Meeting #4 – July 9, 2018

Summary

Present: Mark Bowman, Amy Cole, Councilman Kevin Flynn, Charles Jordy, Adam Harding, Scott Chomiak, Annie Levinsky, Hayden Hirschfeld, Jeff Pearson, Dennis Humphries, Tania Salgado, Councilwoman Robin Kniech
Staff: Jenn Cappeto, Kara Hahn, Krystal Marquez, Becca Dierschow, Alex Foster, Adam Hernandez, Jenny Buddenborg

Meeting Objectives:

- Evaluate options for improving the process of designations that come from demolition review
 - Identify the option that has the greatest chance of meeting the criteria for success
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I. Improvements of the Demolition Process that Do Not Require an Ordinance Change – Improving Outreach

Outreach proposal

In the last meeting, the taskforce identified better outreach as one solution to the problems identified in the demo review discussion. Staff has identified several ways to reach out to the community:

- Introduce the demolition review earlier in the development review process
- Improve language on web pages for both Community Planning and Development (CPD) and Development Services (DS)
- Create a one-page Total Demolition Guide
- Encourage early application to Landmark
- Include information about demolition review in CPD, DS and Landmark e-newsletters
- Include demolition review information in the Development Services annual training
- Reach out to Registered Neighborhood Organizations (RNOs), realtors, AIA
- Look for ways to broaden reach outside the organizations staff contacts regularly
- Tie into existing CPD processes for Site Development Plans (3+ units) – when demolition is part of the project, Landmark staff will be included as referral; staff will do preliminary review and provide initial comment. If the property looks like it may be posted, will give more specific comments.
- Look for ways to tie into residential review, though these projects generally come in with complete plans rather than concept sketches; demolition permit is generally the last permit to be pulled
- Increase information in the Residential Guide as staff works to integrate demolition questions earlier in the process; encourage applications to file a demolition review application first

Taskforce Comments and Suggestions

- Add other organizations and individuals to the communication list – Homebuilders Association; Urban Land Institute; real estate brokers, including entities that provide broker continuing education; Colorado Department of Regulatory Agencies (DORA); title companies
- When a property owner uses a web search to look for zoning, floodplain, landmark regulations, etc. there should be a prompt, link or pop-up for the demolition permit requirements and demolition guide so that people find it when starting the process, not when breaking ground on a project
- Streamline the website, making it easier to find the demolition guide and put the link in multiple places
- Map active Certificates of Non-Historic Status and currently posted properties and make the map available to public
- Include a check box: ‘does your project include demolition?’ on the residential application form with submission of preliminary drawings

II. Ordinance Change Options – Demolition Review Process and Landmark Designation Applications that Stem from Demolition Review

Background

Based on the suggestions from the Task Force members in the last meeting, staff created options that imbed these things in different ways:

1. Mediation process (required for demo apps that may result in designation when notice of objection filed)
 2. Community process (to ensure that the owner, developer and neighbors meet)
 3. LPC/Staff involvement and additional analysis (e.g., economic)
 4. Changes to demolition application (e.g., owner approval, listing the owner and developer as well as demolition contractor)
 5. Timeframes/Deadlines (e.g., adding a pause so that interested parties can create options other than either demolition or designation)
- Surveyed 12 cities – looked at standard practices, best practices, what didn't work
 - Found no uniform practice, but all other cities seem to get more designations that come out of the demo process – between 1 - 4 per year – and half to two-thirds get designated
 - By the numbers, in Denver:
 - o Only 4-5% of demolition permits are posted – indicating that they may meet two of the three designation criteria
 - o Of those one or two may get a designation application in any year
 - o In 2017
 - 626 properties reviewed and released within 10 business days
 - 33 posted
 - 3 notices of intent to file
 - 0 designations received
 - 13 demolition permits withdrawn
 - o The process the Task Force discusses today, if trends continue, would apply to 4 or 5% of demolition applications, approximately

Options

✓ *Option A – Pause*

If property meets designation criteria, posted for 21 days; interested party could file Notice of Objection, extending posting period by 39 days to 60 days total. No requirement for negotiation during a pause. If designation application is submitted, 120 day clock starts at submittal of designation application to accommodate required public notice requirements.

✓ *Option B – Pause with Required Negotiation*

Like A, except the pause includes a required meeting among stakeholders facilitated by city mediator if a Notice of Objection is filed. Stakeholders could include property owner, developer, preservation partners, RNO, individual neighbors, etc. Landmark staff would be subject matter experts. Meeting to be held by day 40 of 60-day pause period. Mediator would write report on participation, outcomes, etc.

✓ *Option C – Pause with Community Meeting*

Like A and B except that during the pause a public, community meeting is required, facilitated by city mediator, hosted by owner/developer. At meeting, owner would present current proposal and could discuss options that do not include demolition.

✓ *Option D- Increased LPC involvement*

If staff finds potential, LPC would review for potential and approve for posting. After that, Option D could continue with the current process or could add in any of the pause options from A, B, or C. This would add one to three weeks to posting process.

✓ *Option E – Staff-Written Designations*

LPC would determine whether a property is eligible, staff would write the designation applications. The designation application would go through the regular LPC designation process.

Taskforce Discussion:

- Options that improve creativity and bring options other than the binary designation-or-demolition choice are better – Option A doesn't change things enough
- All of these seem to add too much time – we should shave time where we can
- Important to consider the wide variation in different communities' ability to take on these requirements – time, money and interest
- Need options that best bring to the surface the historic value and help us avoid using the designation process for the wrong purpose (to object to bad design, etc.); discussion in B and C should be based on whether the property has potential for designation and the merits of the buildings, not whether or not neighbors like the replacement plans – Option E may be most effective in that way
- Concern that E excludes the community
- Community meetings in Option C improve community engagement and transparency, though some worry that the meeting could be very unproductive
- In addition, it could be onerous for a homeowner to host a community meeting
- Community meetings can generate good ideas, need a chance for community to weigh in
- At the same time, community meeting can be very unrepresentative of the full public sentiment
- Dallas has been able to create productive conversations between developers and community
- To make B work, it is important to ensure that the mediation is representative
- We have a good public process in LPC hearings, so we don't need public involvement as envisioned in Option C
- It is asking a great deal to expect that individuals (some with little or no expertise) can put together a high-quality designation application in only two or three weeks
- Very concerned about E – in lean years there isn't a large staff to write designation applications; it depends on staff and the economy; could allow for an organization other than the City to write the application; could be an option to contract with other parties to write designation
- E is intriguing but too onerous for staff and LPC – we don't have the capacity to make Option E work
- Option E adds a great deal of time (staff noted that the demolition/designation processes in cities across the county can range from 6 months to a year; Denver's very short timeline is an outlier)
- The development review process is very long now
- B has more promise than A; it is important to create a productive place to release the tension so that it doesn't all get expressed at the end in the City Council meeting
- Option B works if people get notice – posting on the website, on the property, notifying the RNO, contacting known interested parties
- Can we shorten Option B – perhaps take time from the back-end – the 120 days once the application is submitted?
- Taskforce could recommend a change in the ordinance to make LPC the final arbiters – but this likely goes against the thinking of City Council – that they should have the responsibility for looking at the wider policy questions while the LPC continues with its more specific purview over to historic significance
- We could look to change the public notification for LPC to change from 25-40 to something like 15 days; would want to be consistent with other processes, but could look at all public noticing requirement, which may be archaic
- Perhaps move from 120 to something like 100 days

- It would be too onerous on those producing the designation application to shorten the front-end – it takes time for citizen groups to mobilize and for RNOs to move on these things – but the back-end may be shorter – so long as the calendar works for notice and for the fact that the LPC doesn't meet every week
- Concerned that shortening the time period could preclude community input/participation
- Important to remember that we are writing rule for the exception, and not the norm – this would be used a small number of times each year
- Our focus should be what things we can save through this process
- In B, part of the reason to include the city mediator is so that a report could be sent to City Council that could tell the story of the process and who participated.
- Important to think about how the ordinance will speak to the participants in the mediation in Option B – LPC rules and regs lay out defined roles for RNOs etc for design review – need to clarify how the mediation will work
- Important to allow for the possibility of extending the time by mutual agreement

Conclusion

Option E – too onerous

Option A – the pause doesn't accomplish enough

Option B – the most promising – staff should work on ordinance changes and respond to today's discussion

III. Additional Changes to the Ordinance – Housekeeping Items

Staff presented clean-up and clarification items from the demolition review process in the Landmark Preservation Ordinance. Staff asked the taskforce to make the following changes:

Landmark Preservation Demolition Review Expires in Three Years

Currently, demolition approval from Landmark staff never expires. Propose that demolition review approval expire after three years to align with other approvals. Certificate of Non-Historic Status (CNHS) currently expires after five years. Three-year time frame would incentivize getting a CNHS. No objection.

Application for Designation Can Mean Individual or District

Ordinance states that a “complete application for designation” halts the demolition approval process for a property. It does not make it clear whether this is an application for an individual designation or an application for a historic district. Current interpretation is that it can be either. The proposed language would make that clear. No objection.

Submission of a Complete Designation Application Begins Period of Protection from Demolition

The ordinance protects buildings from demolition “during designation proceedings” – does not state when that protection begins – at the submission of a complete application? Or at the public notice of that application? Staff recommend that “during designation proceedings” be started at the submission of a complete application. No objection.

IV. August Meeting

Incentives is the likely topic

Tuesday, August 14 – 3:00-5:30