

Landmark Preservation Ordinance Update Task Force
Meeting #7 – October 9, 2018 – Summary

Present: Mark Bowman, Tania Salgado, Jeff Pearson, Will Baker, Amy Cole, Rosemary Stoffel, Annie Levinsky, Adam Harding, Councilman Flynn, Scott Chomiak Hayden Hirschfeld Chris Cowan

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Meeting Objectives:

- Set the Stage for the Final Three Meetings
- Overview of Preservation Tools including Conservation Overlays
- Consider Criteria with Changes to Preserve Culturally Significant Properties
- Explore LDDRB Changes

I. Preservation Tools and Conservation Overlays – Staff Presentation

Kara reviewed the handout that lists different tools for character preservation, including:

- National Register of Historic Places
- State Register of Historic Properties
- Arts Districts (Colorado Creative District)
- Easements and Covenants
 - Easements managed by non-profit, often prevents demolition, includes design review from easement holder
 - Covenants - generally managed by CO State Historic Preservation Office and given as part of large grant program, can be flexible
- Street-side districts - review 100% of the front facade, or otherwise readily visible from public right of way. 100% of infill construction. Otherwise do not review additions etc
- Flexible guidelines - goal of preserving buildings but allowing more creative additions and infill – Meatpacking District in New York has a history of evolution of warehouses/ etc., so the design review is more flexible on infill and addition

Historic Signs

- Survey LA has created a historic context for signs - that recognizes them as historic monuments
- Miami designates historic signs, either for intrinsic artistic value or for their association with business/building

Conservation Overlays – Denver Zoning Code

- Form-based code defines the building envelope or form for each parcel
 - Specifies height, setbacks, bulk plane, building coverage, etc.
 - Ways to modify:
 1. Historic districts
 2. Conservation Overlays - encourage the preservation of an existing characteristic
 3. Design Overlays - reinforce a future desired characteristic
1. Historic districts - designate as is, design review, discourages demolition
 2. Conservation Overlay - Modify building form and design standards
 - Include new restrictions on building forms, site design, materials and architectural style
 - Material and style not currently used in Denver
 - Modify the limitation on the permitted uses
 - Continuation of something desired by the neighborhood
 - Does not prevent demolition
 - Cannot add new procedures, such as establishing a design review process
 - Can only have one Conservation Overlay on a parcel

Q: Has anyone tried and failed to restrict on material and style?

A: Not yet

Q: Where do ADU fit under this?

A: Cannot use either conservation or design overlay to allow ADUs in a district if it's not already a permitted use

3. Design Overlay - can have several Design Overlays on one parcel

Q: How is this different from a Use Overlay? Could you apply a use overlay to an individual landmark in a residential area?

A: Yes, however, this would be a long process; a map amendment would need to go to City Council

4. Examples

- Potter Highlands - has Historic district and a conservation overlay – this lowered the overall height limit for flat buildings, reducing overall bulk plane, while allowing dormers to pierce bulk plane to create habitable space in additions
- Krisana Park – closest to regulating architectural style. Adjusted urban house form to match existing conditions – encourages protection of historic building in front while allowing taller bulk plane in rear lot as an incentive to reuse of existing structures
- Text and Map amendments that require action of City Council
- City Council member is often the sponsor of the amendment but generally grass-roots, community-led effort
- Currently working on several across Denver - Berkeley, Park Hill, South Pearl

5. How to propose a Conservation Overlay

- Community steps
 - o Research - define and understand character of neighborhood,
 - o Develop potential solutions - brainstorm alternatives to address concerns, test alternatives, gather feedback on options, prepare application with preferred alternatives
- City steps
 - o Writes zoning code
 - o Moves application through zoning process

6. Challenges

- Blunt instrument - little room for subtlety or nuance
- 12 months of public, front end work, then a zoning process that takes at least six months
- Both CO and HD are heavy lifts for community
- Often have to hire consultants

II. Discussion – Conservation and Design Overlay

Q: What are the rates of success? Do we have data on the use of the conservation overlays?

A: There are 5 Conservation Overlays in the code already, 4 in progress across the city currently; the successful overlays are those that have a strong goal; when it was hard to decide on a couple of overarching goals, the overlays often fizzled out; identifying a few key challenges also helps galvanize community support

Q: Does a consultant need to be hired?

A: It is hard for a community to do this; though it is a community-led effort, a consultant can help get the process started; not enough city staff to take on the initial stages

- Lift seems big – not just about funding a consultant – it’s hard work to educate neighbors on zoning, bulk plane, etc.
- Currently no good roadmap for a neighborhood to follow
- Conservation overlay is often presented as the easy route, but it’s often just as hard or harder than doing a historic district

Q: Is there a better strategy to achieving the desire of so many neighborhoods to protect character?

A: Blueprint is recommending more context-sensitive building forms, as well as finding more efficient approaches; perhaps it is possible to create a single overlay that can be applied to several different areas rather than created from scratch each time

Q: Do neighborhood plans fit in some way?

A: Yes, they could pair well – as a community creates a neighborhood plan, the elements that make sense for an overlay could emerge and creating an overlay could be a strategy for plan implementation

- For areas where historic district would not be the right tool, a conservation overlay may be a better fit
- A historic district can be seen as an overreach; somehow, a conservation overlay is easier to accept and gives the sense that there is more opportunity for neighborhood input

Q: What are proponents trying to accomplish; preserving the historic fabric or retaining the bulk plane or shaping new infill?

A: For some, historic fabric is more important, and a historic district protects that fabric

- Historic districts offer flexibility through design review that a conservation overlay does not, so the overlay is actually less flexible; in a historic district, the LPC looks at each house and the appropriate solution for that individual site; you can’t do that in a conservation overlay
- In Park Hill, many proponents for historic district were trying to prevent scrapes, which was something many opponents agreed on, so now both sides are working to create a conservation overlay; many neighbors like that the neighborhood gets to write its own overlay
- However, the conservation overlay is much more work; it is hard to present in a clear way and appears too ‘wishy-washy’ because it includes options, where the historic districts are very straightforward in what they are and what they propose

This agenda item did not surface any specific changes to the ordinance.

III. Criteria Change to Add Culture – Options for Amending the Ordinance

Defining culture – A definition would be added to ordinance:

- Cultural resources can include structures, objects, or districts
- Cultural heritage is rooted in a community’s history. It helps define the beliefs, customs, and practices of a particular community. Culture can encompass businesses, institutions, organizations, events, traditions, arts, crafts, and practices.

Options for introducing culture to the criteria (**changes in bold**)

Option 1. – Rename Geography category and insert culture

Option 1.A. – Category #3 would become 3. Geography **or Culture**; Under #3, item c. could be amended to add language after “character”:

- a. Have a prominent location or be an established, familiar and orienting visual feature of the contemporary city;
- b. Promote understanding and appreciation of the urban environment by means of distinctive physical characteristics or rarity;
- c. Make a special contribution to Denver’s distinctive character **or is a source of pride or cultural significance**

Option 1.B. – Criterion #3 would become “Geography **or Culture**”; Under #3, item c. could be amended to add language after “character” and a new item d. could be added:

- a. Have a prominent location or be an established, familiar and orienting visual feature of the contemporary city;
- b. Promote understanding and appreciation of the urban environment by means of distinctive physical characteristics or rarity;
- c. Make a special contribution to Denver’s distinctive character **or is a source of pride or cultural significance**
- d. **Represents an era of architectural, social, or economic history that allows an understanding of how the place or area was used by past generations**

Option 2. – Add Culture as a fourth category and create three new criteria under #4:

4. Heritage and Culture

- a. **Represents an era of architectural, social, or economic history that allows an understanding of how the place or area was used by past generations**
- b. **Be a feature of a neighborhood, community, or the city that is a source of pride or cultural significance**
- c. **Associated with social movements, groups, institutions, achievements, or patterns of growth or change that contributed significantly to the heritage, culture, or development of Denver**

Option 3. Remove Categories

Option 3.A. – Insert culture into existing criteria by amending #10

1. Have direct association with the historical development of the city, state or nation;
2. Be the site of a significant historic event; or
3. Have direct & substantial association with a person or group of persons who had influence on society.
4. Embody distinguishing characteristics of an architectural style or type;
5. Be the significant work of a recognized architect or master builder;
6. Contain elements of architectural design...which represent a significant innovation
7. Portray the environment of a group of people or physical development of an area in an era of history characterized by a distinctive architectural style.
8. Have a prominent location or be an established, familiar and orienting visual feature of the contemporary city;
9. Promote understanding and appreciation of the urban environment by means of distinctive physical characteristics or rarity;
10. Make a special contribution to Denver’s distinctive character **or is a source of pride or cultural significance**

Option 3.B. – Remove categories, leave # 1-10 as is and add new criteria that address culture:

1-10 Remain the same

- 11. Represents an era of architectural, social, or economic history that allows an understanding of how the place or area was used by past generations**
- 12. Be a feature of a neighborhood, community, or the city that is a source of pride or cultural significance**
- 13. Associated with social movements, groups, institutions, achievements, or patterns of growth or change that contributed significantly to the heritage, culture or development of Denver**

IV. Discussion

- Staff – 3b - remove categories, add criteria – is the most similar to other cities
- In 3.b. it seems possible that a property that fits 11, also fit 12 and 13
- If we remove categories, would need to increase the number of criteria you meet – a new x-of-10
- Criteria #13 would be a better guide for lay people to understand what culture is - when writing application, it would be easier to write to that criterion
- Not interested in making it easier to designate whole historic districts
- We should be looking to underrepresented cultures - Latino history, Jewish history
- These could apply to non-contiguous districts as well - Chicano Movement, LGBT
- The term ‘source of pride’ doesn’t feel right for more contentious history; we need to continue to work on wording of criteria
- #13 could be too broad – every application may include #13 because it is so broad
- Leaning toward removing categories because can envision a property that met all criteria in only one category but can’t be a landmark because it doesn’t meet two of three
- Adding a new category makes sense – the best applications meet more than one category – Keeping the categories feels more rigorous
- Make culture a valid category that stands on its own
- If Option 2 (adding a fourth category) keep the threshold at 2 out of 4
- If we make these changes to the ordinance – R&R Bar could likely be designated as an individual landmark
- House on Mariposa - Adding culture could help the house meet the threshold
- The ordinance would need the meatier definition of culture to help lay people identify it as significant
- Could have different threshold for owner-opposed designations to make them harder
- Legally, you could make that distinction
- Whatever standards you think up, have to be able to apply them
- Leaning toward keeping categories - otherwise it may be too easy to designate
- It shouldn’t just be easier, should have a good reason to make something a Denver Landmark
- Signs – needs to be a separate discussion
- Informal poll of participants:
 - 2
 - 1A
 - 1A or 2
 - 1A
 - 1A
 - 1B or 2
 - 3A
 - 2
 - 1B or 2
 - 1A
 - 2

V. Potential Changes to Lower Downtown Design Review Board

1. Membership requirements

- Currently has 7 members with specific membership requirements
- Proposal: 9 members, to match LPC, the additional two members would be at-large
- Remove the requirement that 'two shall not live in the district' requirement - confusing and difficult to fulfill

Discussion

- o It has been very difficult to fill these requirements in the last few years – the small # of board members make it hard to maintain a quorum – hard to tell applicants that they cannot be heard because there isn't quorum
- o LoDo also has 4 special review districts, which require supermajority votes – with 7 it's hard to reach the threshold
- o What is the legislative history? Why were these categories added? It's very specific and may have had a very intentional purpose
- o A little uncomfortable making these decisions without more LoDo constituencies in the room - the LoDo ordinance was crafted with the district constituents at the table

Conclusion: Taskforce members ask for more research into the history of the ordinance and consultation with LoDo constituencies

2. Commission vs Board

- Commissions are generally regulatory, can approve or deny design review or demolition. Designation - Boards are advisory
- Currently LDDRDB operates as a commission, but is called a board
- Would like to rename it to Commission, to align with LPC and with its function

Conclusion : Taskforce members support this proposal

3. Review Purview

- LDDRDB only reviews projects in Lower Downtown Historic District - reviews mostly commercial
- Proposal – Change purview of LDDRDB to include other downtown historic districts - LoDo, Downtown and Larimer Square
- These areas have similar architectural styles, commercial projects, etc - storefront alterations, signs, rooftop additions

Discussion

Q: Does it add more agenda?

A: Yes. Currently LPC has a very heavy schedule. LDDRDB has slowed down; this would balance the workload

Q: Would this give the board purview of all buildings in downtown?

A: Yes

Q: What about Ballpark and Welton which are also commercial?

Q: Is now the time to change with things happening in Larimer Square?

A: Any change to an ordinance would still go to LPC, this would only be for design review

- o Would need to learn a new set of design guidelines
- o LDDRDB has talked about it - seems to make sense – the design guidelines are different, but that is workable
- o LPC members had different views about including Ballpark
- o Ballpark is more similar in character to LoDo in architecture, district makeup etc.
- o It is a workload issue - LDDRDB has less, LPC has more

Q: How does the workload intersect with the attendance/quorum issue? Would it hold up owners?

A: Paired with other change to membership, it would be easier to meet quorum and avoid delay for property owners

Q: Where is this coming from?

A: Workload primarily, and align with CPD, which is looking at Downtown as whole, looking to align property/project types

- LPC commission provides broad scope of expertise for broad scope of projects. LDDR has a narrower focus and narrower professional requirements

Conclusion: Taskforce members ask for more research into the history of the ordinance and consultation with LoDo constituencies

VI. Other Items for November Meeting

We need to spend more time on non-owner applications for individual structures

- Option – Limit non-owner applications to those properties that have a demolition permit application or an application for a Certificate of Non-Historic Status
- Option – Non-owner application should not be able to come from a non-resident – so a business owner who does not live in Denver could not file an application for designation
- Option – City should consider buying property if the City approves a historic designation over the objection of the owner

Discussion

- It would be unworkable and impractical for the City to buy a designated property
- There are better options than having the City buy – in recent designation applications, we had buyers in line, so we didn't need the city to buy the property – we needed the opportunity, the 'pause' to allow the negotiations to happen
- Designations from the demolition process happen very rarely, but once there is a demolition application or an application for a certificate of non-historic status, it is now the 11th hour and it becomes contentious; if the community is worried about a property and gets involved very early, there would be time to negotiate with the property owner
- We addressed the need for more time in the pause clause
- There is expertise that lives outside the city who should be able to write a designation application – not all the expertise is inside the city
- There needs to be a recognition of community rights as well as individual rights
- With the idea that the city would buy the property - that's under the assumption that property loses value when it is designated, and that is not always the case
- In the recent examples, people were willing to match the price but needed more time for negotiation

VII. November Meeting

The goal is to complete all topics in November so that the group can review all recommendations in draft between November meeting and the final meeting in December.