

Landmark Preservation Ordinance Update Task Force
Meeting #5 – August 14, 2018
Draft Summary

Present: Mark Bowman, Tania Salgado, Jeff Pearson, Will Baker, Amy Cole, Rosemary Stoffel, Annie Levinsky, Chris Cowan, Adam Harding, Dennis Humphries, Councilwoman Robin Kniech, Councilman Kevin Flynn, Scott Chomiak

Staff: Jenn Cappeto, Kara Hahn, Caryn Champine, Becca Dierschow, Krystal Marquez, Abe Barge, Courtney Levingston (CPD); Adam Hernandez (COA)

Meeting Objectives:

- Explore Ways to Encourage Pro-Active Designation
- Update from Staff – Advancing the Work from Meeting 4

I. New Task Force Member

With Marilyn Quinn’s departure, Rosemary Stoffel has joined the task force.

II. Process Check

Check in with Mike – 303-941-8010 or mike@hughes-collaboration.com with any questions or suggestions now that the task force is roughly at the half-way point

III. Incentivizing Designation – Opening Presentation

- ✓ How does Denver encourage designation now?
- ✓ What do other cities do?
- ✓ What can we change?
- ✓ How can we reduce barriers for designated properties?

Note: Incentives, building-code and zoning-code relief may not be part of the Landmark Ordinance but could be part of zoning code amendments, changes to rules and regulations, etc.

- Zoning Code – any existing zoning provisions offer significant flexibility already, which leaves less room for incentives than may exist in other cities
- Current incentives
 - Parking: can change uses in a historic structure without needing to meet higher parking requirements for new use
 - Planned Unit Development: While CPD generally tries to avoid special zoning, there is a potential justification for a PUD to promote preservation
 - Zoning overlay districts: Historic Structure Use Overlay (OU-3) allows office, art studio and B&B uses in a historic structure. Parking must be provided unless adjustment granted.
 - Conservation Overlays: Curtis Park Overlay (CO-2) Allows a detached accessory to exceed height, bulk plane, and lot coverage when located on a lot within a historic district. Other existing overlays - indirect preservation incentives by aligning zoning standards to historic context.
 - Incentives in Downton Zone Districts: Downtown zoning continues to use floor area ratio. This allows for floor area bonuses and increased density as an incentive for historic rehabilitation.

- Transfer of undeveloped floor area from a historic structure (air rights): Has not been a particularly effective incentive because current allowances are large and other bonuses are more useful
- Other Specialized Incentives: No minimum parking for contributing structures in Lower Downtown Historic District
- Examples
 - Temple Emanuel in Cap Hill - is a PUD with additional development rights on parking lot
 - 17th and Pearl, Uptown Tavern - shifted density to allow for the preservation of the historic building

Q: For the transferable FAR - can it transfer FAR to another zone district?

A: No, because FAR is only used in downtown zone districts

Q: Would it be fair to say that incentives were designed for commercial buildings? Even UO3 building must be 5,000 sq ft

A: Yes, though the UO3 is for residential buildings to get commercial uses; it would be reasonable to question the sq ft threshold if the task force is interested in seeing UO# applied to more buildings

Q: Hose Company #1 did it use any zoning incentives?

A: No, it was landmarked prior to hotel project. Design review and preservation of structure was part of project.

Q: Do you think any of these incentives are effective?

A: OU-3 is effective, Conservation Overlay is as well, but it more complex than some assume it will be; Parking incentive can be very effective, but there are often competing objectives - preservation and amount parking

- Other regulatory incentives:
 - Administrative adjustment process: Waivers to height and bulk plane for designated buildings. Only allowed if LPC finds that adhering to the height or bulk plane requirements would have an adverse impact upon the historic character of the building.
 - Board of Adjustment Variance: Setbacks, stepbacks or other zoning requirements. Only allowed if LPC finds that adhering to zoning requirements would have an adverse impact upon the historic character of the building.
 - Building Code amendments: Exemption to requirements of building code if compliance would damage historic features or character or would be in conflict with locally adopted preservation policies and guidelines. Applies to both residential and commercial properties.

Q: How often is this used?

A: In the last year, Board of Adjustment or Administrative adjustments have been used about two or three times each LPC meeting and is very effective. Estimating that about one-fourth of projects that go before LPC use one or both of these adjustments.

- International Existing Building Code exemptions
 - Transoms in historic corridors may be retained if fixed and sprinkled
 - Historically significant stairways are not required to comply with handrail and guard requirements
 - Existing stair handrails (that do not meet code) may be retained if they are not structurally dangerous

- Tax Credits
 - Colorado Historic Preservation Tax Credits (renewed in 2018) – to encourage the rehab of historic materials and to keep the building in use: Covers Interior and exterior work, including reroofing, repointing, woodwork, HVAC, electrical, plumbing, window rehab; Residential or commercial
 - o For residential: 20% of qualified cost, capped at \$50,000
 - o For commercial: 20-25% of qualified costs, capped at \$1 million
 - From 2015-2018, City of Denver had 46 applicants, project investment of \$4.4 million.
 - Tax credit awarded 880,000
 - Currently in process: 16 projects, project investments \$2,080,000, \$416,000 of tax credits awarded
 - Commercial has its own pool - \$10 million in available tax credits per year
 - Residential does not have a pool, but it is under utilized
 - National Register districts and listed homes are eligible for credit as well
 - Commercial properties can also qualify for federal tax credits - 20% for tax credits

Q: What about for non-profits, churches etc who don't pay income taxes?

A: State tax credits can be sold.

Q: Do tax credits go through LPC? Could be perceived as an onerous process for homeowners

A: All tax credits go through LPC, typically on the consent agenda

- State Historical Fund
 - Managed by History Colorado, two grant rounds per year. Grants are very competitive, and up to \$200,000
 - 75-25% matching grant for nonprofits
 - 50-50% matching grant for privately owned
 - Examples
 - o Stadium Arena HSA and economic feasibility study – funded by SHF
 - o Discover Denver survey – funded by SHF
- Downtown Historic District - tax rebate
 - Non-contiguous district
 - Approved in 2000 by City Council
 - The approval of the district included a tax rebate to offset property tax rates for historic property owners. Tied to property taxes that were paid in 1999.
 - For the preservation and maintenance of structures:
 - o Elevations must be in good repair, original in appearance, etc
 - o May not receive financing from DURA
 - o Must include tax paying entities in the structure
 - o Rebate varies each year, based on how many buildings utilize the program- pool of money set aside in mayoral budget is divided between eligible buildings.
 - o Mayor has ability to put program in abeyance in lean years.
- What other cities offer
 - Top incentives that Denver has as well
 - o Non-residential use allowances
 - o Setback, height and bulk plane

- What Denver doesn't do:
 - o Lot coverage or open space
 - o Parking and loading requirements
- Removing Barriers
 - Restoration or reconstruction of historic signs / marquees beyond current allowances - Waive or modify standards. (In Denver, these signs are often not allowed or repair must occur on site, if removed, would not be allowed to go back)
 - Density incentives (Portland): Allow multi-dwelling use in a single family zone, (like Capitol Hill, turn one large single family home into multiple units). No additional off street parking required
 - Deconstruction ordinance (Portland): If a building is 1916 or older, building must be deconstructed rather than demolished. Disincentivizes demolition. Unique circumstances: 90% frame construction in Portland, strong sustainability ethic
 - Waiver of city sales tax on construction material (Boulder): As long as 30% of material was used on exterior
 - City building permits waived for projects that went through design review (Chicago)
 - Landmark Rehabilitation 0% interest loan program (Fort Collins)
 - o Competitive loan program, matching loan for \$7,500
 - o Only have to repay if property is sold or transferred
 - o Originally started to keep people in their homes and to help maintain those homes
 - o Used primarily for window rehab, repointing etc.
 - o Contractors often help homeowners access the project
 - o Typically, 2 - 4 loans are awarded each year
 - Colorado Historical Foundation: Statewide revolving loan fund, generally for commercial projects.; has not be well utilized
 - Legacy Business Program (San Francisco): Businesses and nonprofits that are 30 years old and have made a significant impact on the history or culture of their neighborhood are considered 'legacy' business. Program gives grants to legacy businesses – either Owners or Property owners that lease to legacy businesses. Business assistance grants to put toward rent, tenant improvements, marketing or equipment. The grant amount is determined by the number of full-time employees. Grant capped at \$50,000 annually. The program also includes a rent stabilization grant, which provides \$4.50 per square foot in funding to landlords that extend leases to legacy businesses for at least 10 years. Grant capped at \$22,500 annually.
 - Historic homeowners grant program (DC): Financially assist homeowners with the preservation of their historic resources in 12 historic districts. Must be owner occupied residential properties and offered to low and moderate income families.
 - Density through ADU (Denver): Want to encourage ADUs to increase density, take pressure off historic buildings, provide income stream for homeowners. Blueprint Denver draft recommends ADU being allowed in all historic districts

IV. Discussion – Task Force – Generating Ideas

- Completing the designation application is the largest barrier for neighborhoods – need support service to complete applications and nominations
- Design assistance – homeowners may not be sure what to do or what is allowed – they could use help before deciding whether to hire an architect

- A design concierge who can help homeowners understand the permit process, where to go, what programs may apply to them
- In owner opposed designation, the City could step in to help bring the property up to code as an incentive for the property owners to designate
- A local loan program or fund similar to Phoenix; they use demolition fees as a preservation fund
- Provide information – a pool of trusted contractors, low interest loan programs, architect assistance, an incentives frequently-asked-questions document, advertising the existing incentives, etc.
- A revolving loan program similar to the program in Syracuse, NY
- Parking and off street loading are most difficult hurdles – it makes sense to consider changing these requirements as an incentive to designate
- A single point-person, one person on the staff who can talk owners through the incentives
- Density bonus for designating your property to combat demolition for higher and better use; offset the perceived loss of value by adding value; ADU allowance for example
- Because historic structures can look like single family structures while still housing more people, allow division into multi-family, then you don't have to rebuild your city every time the market demands changes; change parking, loading etc at the same time
- Lower or remove 5,000 sq ft requirements for UO3
- Promote more conservation overlays (Remember that we are talking about incentives to designate not necessarily ways to preserve the city, etc. Conservation Overlays are alternatives to designation, but now we are talking about incentives to designate a property)
- Incentivize through honoring neighborhood identity - signs, plaques, streetscape improvements, street signs
- Senior property tax rebate program – use this for property owners who have been in their building for a certain time, of a certain level of income
- Similarly, currently have a program for seniors that are very poor \$15-23,000, no tenancy requirements; city is looking at expanding to families (state program exists but is not means-based)
- Focus on projects fall through the gaps - small condo buildings, churches, too small projects that are not big enough to qualify for tax rebates, etc., or projects that are stuck between departments
- Need an ombudsman, advocate, etc. – someone who is cross-trained on different departments who can guide people through the process – should not be a regulator – needs to be independent of the process – would be helpful for it to be someone who was an architect etc, who could help identify design problems, too – may be only be for single family homeowners because commercial projects can afford the professional help they need
- Removing disincentives by making the process more streamlined, straight forward, less subjective
- Create a legacy business program because the historic businesses are central to neighborhood character
- Zero interest loan for seniors (Need to think about which programs should be tied to should be tied to income and age, and which should be universal)
- Expedite the permitting process if you designate – you move to top of queue
- Fee waivers
- Phoenix is using an adaptive reuse program that leverages minimal funds to maximum reuse
- Parking is a barrier to a lot of projects; trend is moving away from parking minimums; Denver is slow on that, but historic properties could be a place to lead

V. Next Steps for this List

- ✓ Sort ideas – which are actually incentivizing designation, which are mitigating demolition, which are commercial only, which are best for residential designation incentives
- ✓ As we evaluate and select, we have to focus on the most pressing problem – loss of neighborhood character in rapidly changing neighborhoods, for example

VI. Meeting Four Recap

1. After meeting four it became clear to staff that we needed to talk through day counting, so created a calendar to show how the 120 days may play out
2. The exercise of creating calendars demonstrates that meeting the 120-day deadline as the ordinance is written would be very difficult
3. If using the pause button as the Task Force outlined it in the last meeting, staff looked at shrinking down to 110 days, if counting from designation application and change public notice period for LPC
4. Internally, landmark staff are hearing that changing for owner-opposed designations means changing the approach for all designations
5. In example, 60-day pause added approximately three weeks to the total calendar.

Task Force Reaction:

- Some Task Force members may be interested in challenging the assumption that changing the notice requirement for owner-opposed designation has to trigger a change for other designation public notice requirements; rules needn't be the same for individual building designations and districts – they should have different notice requirements (#4 above)
- Three-to-four weeks seems much better than expected, though the whole process still seems arduous
- Need to review these calendars to fully assess

VII. Next Steps

- Sort the brainstormed list – which are incentives for designation and which are tools for a different purpose, which are commercial-only and which residential, which address the most pressing needs
- Evaluation comes next
- Review the calendar information