

**Landmark Preservation Ordinance Update Task Force**  
**Meeting #11 – March 6, 2019 – Summary**

Present: Councilman Flynn, Councilwoman Kniech Mark Bowman, Rosemary Stoffel, Will Baker, Scott Chomiak, Charles Jordy, Hayden Hirschfeld, Annie Levinsky

Staff: Jenn Cappeto, Kara Hahn, Becca Dierschow, Jenny Buddenborg, Caryn Champine (CPD); Adam Hernandez (COA)

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Meeting Objectives:

- Finalize the Staff Proposal to Council and the Task Force Recommendations
- Clarify Areas of Consensus Support and any Areas of Ongoing Difference

Address these topics:

- Next Steps – Ordinance Update and Policy Changes
  - Economic Hardship
  - List of Criteria
  - Threshold for Designation
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**I. Next Steps – After Today’s Task Force Meeting**

Tentative Schedule:

- March 15 - Mayor’s Policy Review Committee  
Last two weeks of March - City Council Briefings  
Month of April - 30-day Public review draft released, Public Comment Period and Outreach
- April 2 – LPC meeting
- April 4 – LDDRB meeting
- April 9 – Community meeting
- April 11 – Community meeting
- April 13 – Office hours
- April 15 – Office hours

Adoption Process - May and June

- Land Use, Transportation and Infrastructure (LUTI) Committee
- Mayor Council
- City Council: First Reading
- Second Reading

Q: If public comments warrant significant changes to the task force recommendation, will you reconvene?

A: Small comments or suggestions can be conveyed via email, but if there are larger issues, we would ask the task force to reconvene

Implementation of recommendations:

- Ombudsman: Staff is currently meeting with CPD management, exploring for 2020 budget cycle (late spring)
- Additional Zoning Tools
  - Adding language about historic signage to future bundle zoning code update
  - Adding language administrative adjustments expansion to bundle
  - Working with staff to include task force recommendation in area plans
  - Will propose zoning code changes regarding ADUs

Q: Will we get notice of the hearing dates for the zoning code bundles?

A: Landmark staff will include it in newsletters, will ask the team to provide updates

Q: C-Pace (Commercial Property Assessed Clean Energy) is a financing program for green roofs and energy/sustainability improvements. Can we look into a funding source similar to [C-PACE](#) for historic buildings?

A: Landmark Staff will discuss with Sonrisa Lucero in the Sustainability Office

## II. Economic Hardship

Proposed language drawn from LDDRB Language:

“The commission shall consider the following factors in making a determination on a request for a demolition permit of a contributing structure to a historic district or an individual landmark structure:

- (1) Significant economic hardship to the property is demonstrated based on the following factors:
  - a. Structural condition of the building and/or the condition of its materials, and the cost of rehabilitation;
  - b. Significant harm to the public interest based on the following preservation factors:
    1. Age of the building.
    2. Significance of the building as related to the historic and architectural heritage of the city taking into consideration whether it is an individual landmark or a contributing structure to a historic district.
    3. Extent to which the structure maintains the continuity, scale and massing of adjacent contributing structures, and the prominence of the structure within the block.
  - c. Extent to which the rehabilitation or reuse implements the goals of the Comprehensive Plan, Blueprint Denver, or any adopted neighborhood plans.
- (2) Burden of proof and appeal.
  - a. The burden of proof as to whether the structure should be demolished is on the applicant.
  - b. The applicant may appeal the decision under the provisions of section 30-9(4), below.
- (3) Applications for demolition review of contributing structures to historic districts and individual landmark structures shall include, but are not limited to, the valuation of the property, estimates of the costs for rehabilitation of the building, estimates of the costs for new construction on the site, and reports as to the condition of the building prepared by professionals with experience in preservation and rehabilitation. The commission shall establish the submittal requirements for an application by rules and regulations under the provisions of article VI, chapter 2 of the Denver Revised Municipal Code. Such application shall be filed with community planning and development.”

Q: Is there a standard definition for “rehabilitation” in section 3?

A: There is a standard from the National Parks Service.

Q: This language lacks a precise definition? Will you add one?

A: Will be a narrative explanation in rules and regs, along with application materials. Language is trying to be broad enough to let LPC determine what it is, but broadly, the cost of rehabilitating the structure would exceed a reasonable economic return on the property

Discussion:

- This is a good approach; the language gives notice to property owners about what economic hardship is
- This proposed language achieves our goal and simplifies the language, and makes it consistent

- The opening sentence refers to demolition – we should not foreclose the ability of an applicant to address the cost of rehabilitation
- The definition is used for demolition
- The definition we are looking at makes sense for demolition; we need to look differently whether/how the LPC considers rehabilitation costs
- Public benefit uses – places of worship, not-for-profit organizations, schools – they should have an opportunity to work with the LPC to address the cost of rehabilitation
- It is possible to think about ways to give the LPC the ability to work with those applicants who are rehabilitating a building and need to consider the cost of rehabilitation
- There are resources available to the uses that have a public benefit; the ability to use these should be part of the discussion with the LPC
- The intent of the economic hardship proceeding is to prevent the city from enacting a regulatory taking; that’s a high standard

Conclusion:

- The Task Force agrees that staff should remove the second line in section 3 “cost associated with rehabilitation”
- Staff will provide more examples of what does and does not constitute economic hardship
- Staff will examine ways to address public-benefit rehabilitation in the design guidelines
- The Task Force agreed to use the LDDRB language as the basis for the LPC determination

### III. Criteria

The staff offered a list of ten proposed criteria without categories.

Discussion:

- Criteria should be distinct from each other and clear
- Three and five could be overlapping
- Three seems very broad
- Three is in wide use across the country – a standard in preservation – and similar to our current list
- Three means that the building is a quintessential example
- You may have multiple styles represented throughout the designations - Queen Anne, Craftsman, etc
- Even when Denver only needed one criterion to designate, people didn’t use criteria #3 to designate everything
- “Significant representation of” could make sense
- “Embody” at the start of the sentence
- To create an historic district, the district can’t be approved without integrity – not a specific number of buildings or a percentage – it’s more subtle than that
- Having one list, with no categories, we lose the reference to history, geography, architecture and culture
- For those who wanted to keep the categories, those four ideas could be imbedded in the preamble

Conclusion:

- Staff will consider “embody”
- The Task Force agreed that the ideas at the center of the four categories belong in a preamble
- The Task Force agreed to the list of ten

#### IV. Threshold for Designation

Staff suggested that 3 of 10 is the middle ground for the Task Force and is a reasonable threshold

##### Discussion

- It is good preservation policy to have standards that apply to all properties
- That approach is consistent with national-wide preservation practice
- Three-of-ten is a higher bar than most cities
- The number is much higher than national
- Littleton has a different standard for owner-opposed designations
- City Council is often in a quasi-judicial role – applying a specific test to a set of facts; however, the test in the ordinance allows for Council to consider other factors when making a determination – with that in the ordinance a Council member can decide whether owner opposition is relevant and who much weight to give to it
- City Council has wide discretion; the ordinance language is “City Council **may**”
- The ordinance should include clear guidance that City Council can look beyond criteria, taking into account the view of the owner, public opinion; it could make sense to strengthen that part of the ordinance language

##### Conclusion:

- The Task Force agreed to set the threshold at three of ten
- The Task Force agreed that the threshold would be the same for all applications and retain the language that allows Council to consider other factors
- The Task Force made it clear that there are no outstanding issues and the staff can represent to City Council that there is full support from all members of the Task Force, including the two Council members
- The Council members discussed the need to represent to their colleagues that they support the Task Force work and will stand by it throughout the formal adoption process

#### V. Next Steps

- Staff will refine final items and send them to Task Force for final review
- Mike and staff will ensure that those not present today are comfortable with today’s conclusions
- Staff expects to release a public review draft on April 1<sup>st</sup> and will come back to Task Force if that warrants changes
- Staff will post the public review draft and announce the review period