



**DENVER**  
THE MILE HIGH CITY

# Landmark Ordinance Update

Task Force Meeting # 11

March 6, 2019

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# **PROBLEM IDENTIFICATION & CRITERIA FOR SUCCESS**

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1. Preserve Neighborhood Character and the Diverse History of the City
  - Ensure that Denver’s history and culture are honored and protected
  - Encourage the preservation of historic places that represent the entire city
  - Investigate how the ordinance could enhance neighborhood stability
  
2. Improve the Quality of Decision-Making and Public Processes
  - Improve timeframes and deadlines
  - Improve processes to reduce conflict
  - Revise the processes for owner-opposed designations that begin in demolition permit applications
  - Improve and formalize standards used to characterize the opinions of adjacent neighbors, neighborhood associations, and interested parties
  
3. Provide a wider range of preservation tools that homeowners, landowners, staff, advocates, and neighborhood organizations can use
  - Such as incentives and zoning
  - Ways to encourage property owners to designate
  - Investigate how the ordinance could reduce the environmental impact of demolition

- Recommended changes to the Landmark Ordinance will:
  - Retain the fundamental purpose of the ordinance
  - Advance the core values that led the city to create the Landmark Ordinance
  - Serve to protect the character of the city and the attributes of Denver that we care about
  - Make the preservation processes clear and predictable
  - Reduce conflicts over designations and demolitions
  - Provide the opportunity to identify historic resources throughout the city
  - Include a variety of tools
  - Serve property owners
  - Use best preservation practices
  - Define clearly the roles for staff, applicants, building owners, neighborhood representatives, city council, commission and design review boards
  - Bring quality information to decision-making processes
  - Balance responsibilities and benefits
  - Be effective, supported by the public, and feasible for staff to implement
  - Advance practical solutions



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# SCHEDULE

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- Mayor's Policy Review Committee
  - March 15
- City Council Briefings
  - Last two weeks of March
- 30-day Public Comment Period
  - Month of April
- Outreach Meetings
  - 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
- City Council
  - Land Use, Transportation and Infrastructure (LUTI) Committee
  - Mayor Council
  - First Reading
  - Second Reading



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Policy and Rule Making

# **NEXT STEPS**

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## Ombudsman/Concierge

Recommendation by Task Force:

- Develop Ombudsman or Concierge to guide applicants through Landmark and Development Services reviews

Process:

- Preliminary conversations with CPD management

Timeframe:

- ***Explore for 2020 budget cycle***

## Explore Additional Zoning Tools for Character Preservation

Recommendation by Task Force:

- Prioritize preservation of historic signage
- Expand administrative adjustments for designated properties
- Allow additional density not otherwise allowed outside of historic districts

Process:

- Zoning code updates for preservation of historic signage, administrative adjustment expansion
- Plan support and zoning code update for additional density

Timeframe:

- **Add historic signage to future Bundle (zoning code update)**
- **Add Administrative Adjustment expansion to future Bundle**
- **Work with Planning Services to include Task Force recommendations into upcoming plans**
- **Zoning code changes regarding ADUs**

# Density Through ADUs Historic Districts and Structures

## Incentives and reduced requirements - plan and policy support

### Blueprint Denver 2019 (Draft)

### Denver Design Guidelines

04 .....

Diversify housing choice through the expansion of accessory dwelling units throughout all residential areas.

*Accessory dwelling units (ADUs) can add variety to the housing stock in low density residential neighborhoods without significantly changing the existing character. As Denver allows ADUs throughout the city, it is important to understand impacts in areas vulnerable to displacement.*

- A.** Study and implement allowances for ADUs in all neighborhood contexts and residential zone districts. Use an inclusive community input process to respond to unique considerations in different parts of the city.
- B.** Identify strategies to prevent involuntary displacement —especially in areas that score high for Vulnerability to Displacement —in conjunction with expanding the allowance of ADUs into new neighborhoods.
- C.** Create a citywide program to expand access to the construction of ADUs as a wealth-building tool for low- and moderate-income homeowners.

- D.** Study and implement incentives to encourage income-restricted ADUs, so they are more likely to provide affordable housing options, and to encourage the use of ADUs for long-term housing options, rather than short term rentals.
- E.** A citywide approach to enable ADUs is preferred. Until a holistic approach is in place, individual rezonings to enable ADUs in all residential areas, especially where adjacent to transit, are appropriate. These rezonings should be small in area in order to minimize impacts to the surrounding residential area.



Small-Scale Residential Buildings	Garages & Secondary Structures
 <p>95. On a corner lot, set back a new garage or secondary structure from the side street to minimize impacts on the historic streetscape.</p>	 <p>96. Design a new garage or secondary structure to be compatible with, and subordinate to, the primary structure and surrounding historic context.</p>



## Update Designation Applications

### Recommendation by Task Force:

- Change designation application to require and document outreach on owner-opposed designations
- Add culture criteria to application

### Process:

- Policy

### Timeframe:

- ***Initiate process with approval of ordinance update*** (~3-6 months completion)

## Public Comment Process for Historic District Applications

Recommendation by Task Force:

- Use online survey tool for receiving public comments

Process:

- Policy

Timeframe:

- **Will use on next (and future) historic district applications** (~2-3 months)

Recommendation by Task Force:

- Change deadline for public comments submitted to CPD prior to City Council committee meetings and public hearings

Process:

- Policy

Timeframe:

- **Coordinate change with City Council staff** (~3 months completion)

## Update website - Landmark Design Review

Recommendation by Task Force:

- Provide better clarity on design review process

Process:

- Internal update of website with CPD Communications Team

Timeframe:

- ***Draft is currently under review by Landmark staff*** (~6 months completion)

## Demolition Process Changes

### Recommendation by Task Force:

- Update Total Demolition Guide with revised Landmark ordinance requirements
- Update Development Services and Landmark website

### Process:

- Internal updates with CPD Communications Team

### Timeframe:

- ***Initiate process with approval of ordinance update*** (~6 months completion)

## Demolition By Neglect

Recommendation by Task Force:

- Develop policy to add definitions and clarify roles of Landmark, ZNIS and DDPHE inspectors

Process:

- Rule making process in consultation with ZNIS and DDPHE

Timeframe:

- ***Initiate process within 9 months of ordinance update*** (~9-18 months completion)

## Tools to Encourage Proactive Designations

Recommendation by Task Force:

- Explore possible financial benefits such as waiver of city building fees or waiver of city sales tax on purchase of building materials

Process:

- Work with CPD management, Finance Office

Timeframe:

- ***Initiate discussion within 12 months of ordinance update***



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# ECONOMIC HARDSHIP

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Economic hardship is proven when the denial of the demolition of an individual landmark or a contributing structure in a historic district would prevent the owner's reasonable beneficial use of the structure. It is not:

- the review of proposed elective alterations to a structure;
- the cost associated with compliance with Landmark requirements;
- the review of the financial ability of the owner to rehabilitate a property;
- associated with self-imposed hardships, such as demolition by neglect or intentional destabilization of a structure; and
- applicable to lack of due-diligence by the owner, or an inopportune economic climate.

# Proposed LPC Determination Process

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.

The ~~board 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 ~~economic~~ factors:
  - a. Structural condition of the building and/or the condition of its materials, and the ~~cost practicality~~ of rehabilitation ~~and reuse~~;
  - ~~b. Determination of economic hardship based on a comparison of 1. and 2. below:~~
    - ~~1. Economic feasibility of rehabilitation and reuse of the structure.~~
    - ~~2. Economic feasibility of the proposed redevelopment plans.~~
    - ~~3. This comparison must establish as a base line the property as it is and what value the property contributes to either 1. or 2. above.~~
  - b. Significant harm to the public interest based on the following preservation factors:
    1. Age of the building.
    - ~~2. Architectural and historic~~ Significance of the building as related ~~to the district~~ 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 or proposed redevelopment~~ implements the goals of the ~~Comprehensive Plan, Blueprint Denver, or any adopted Lower Downtown~~ neighborhood plans ~~and the purposes of this district~~.
- (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 30-48(a)(9), above~~.
- (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 ~~and income~~ for rehabilitation of the building, estimates of the costs ~~and income~~ for ~~new construction on the site development plans~~, and reports as to the condition of the building prepared by professionals with experience in preservation and rehabilitation. The ~~board 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.



# Proposed LDDRB Determination Process

The board shall consider the following factors in making a determination on a request for a demolition permit of a contributing 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. Architectural and historic significance of the building as related to the 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 the Lower Downtown 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 30-48(a)(9), above.
- (3) Applications for demolition review of contributing 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 board 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.

The board shall consider the following factors in making a determination on a request for a demolition permit of a contributing structure:

- (1) Significant economic hardship to the property is **demonstrated** based on the following **economic** factors:
  - a. Structural condition of the building and/or **the condition of its materials**, and the **cost practicality** of rehabilitation **and reuse**;
  - ~~b. Determination of economic hardship based on a comparison of 1. and 2. below:
    - ~~1. Economic feasibility of rehabilitation and reuse of the structure.~~
    - ~~2. Economic feasibility of the proposed redevelopment plans.~~
    - ~~3. This comparison must establish as a base line the property as it is and what value the property contributes to either 1. or 2. above.~~~~
  - c. Significant harm to the public interest based on the following preservation factors:
    1. Age of the building.
    2. Architectural and historic significance of the building as related to the **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.
  - d. Extent to which **the rehabilitation or reuse** ~~or proposed redevelopment~~ implements the goals of **the Comprehensive Plan, Blueprint Denver, or the Lower Downtown neighborhood plans** ~~and the purposes of this district~~.
- (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 30-48(a)(9), above.
- (3) Applications for demolition review of contributing structures shall include, but are not limited to, the valuation of the property, estimates of the costs ~~and income~~ for rehabilitation of the building, estimates of the costs ~~and income~~ for new **construction on the site development plans**, and reports as to the condition of the building prepared by professionals with experience in preservation and rehabilitation. The board 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.



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# CRITERIA

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1. Have direct association with a significant historic event or with the historical development of the city, state, or nation;
2. Have direct and substantial association with a recognized person or group of persons who had influence on society;
3. Embody the distinctive visible characteristics of an architectural style or type;
4. Be a significant example of the work of a recognized architect or master builder;
5. Contain elements of design, engineering, materials, craftsmanship, or artistic merit which represent a significant innovation or technical achievement;
6. Due to its prominent location or physical characteristics, represents an established and familiar feature of the neighborhood, community or contemporary city;
7. Promote understanding and appreciation of the urban environment by means of distinctive physical characteristics or rarity;
8. Represents an era of culture or heritage that allows an understanding of how the site was used by past generations;
9. Be a physical attribute of a neighborhood, community, or the city that is a source of pride or cultural understanding;
10. Associated with social movements, institutions, or patterns of growth or change that contributed significantly to the culture of the neighborhood, community, city, state, or nation



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# THRESHOLD OF DESIGNATION

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- 3 out of 10 for all Landmarks
  - Good preservation policy
    - Standards for designation should not vary based on applicant support
  - Consistent with nationwide preservation practice
    - Comparative analysis of peer cities
  - Consistent with long held citywide polices
    - Comprehensive Plan and Blueprint Denver, other CPD regulatory processes
  - Consistent process
    - Varying standards are unpredictable for public, and difficult for staff and LPC to implement