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## Land Use, Transportation & Infrastructure Committee Summary Minutes

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**Tuesday, October 30, 2012      10:30 AM      City & County Building, Room 391**

**Committee Members:** Robb, Chair; Montero, Vice-Chair; Brown; Lehmann; López; Shepherd

**Committee Staff:** Gretchen Williams

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**Council Members Present:** Brown, Lehmann, Lopez, Montero, Robb, Shepherd, Brooks, Susman, Nevitt

**Members Absent:** None

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### Bill Requests

**BR12-0820    A bill for an ordinance modifying Chapter 30, Landmark Preservation.**

*Barbara Stocklin-Steely, Landmark Preservation Commission Staff*

Barbara Stocklin-Steely, Landmark Preservation Commission (LPC) staff in the Department of Community Planning & Development (CPD), presented her staff report, including background supporting why the proposed changes are coming forward. Copies of the staff report and the PowerPoint presentation are attached to this meeting summary.

The eight proposed changes are both in ordinance text (six) and in policies for which CPD management has authority (two). The eight changes fall into three categories.

The ordinance was amended in 2006 to provide more notification to the public when a potential historic landmark faces demolition. LPC staff reviews all demolition permit applications submitted to CPD to determine the potential for historic significance of the structure. In cases where no potential is found (99%), the owner is issued the demolition permit. If staff determines there is potential significance, the property is posted for 21 days during which time a landmark designation application may be submitted.

An addition made in 2006 was the Certificate of Non-Historic Status (CNHS). Property owners may apply for CNHS, which allows for demolition without further review for a period of five years.

#### Applications not supported by the property owner

1. CPD Manager has the authority to set all application fees for the department. All historic designation application fees are currently \$250. Non-owner applications are more involved and take more staff time. The proposal is to increase non-owner applications to "up to \$1000" to more accurately reflect the real cost.

2. Amend the code to require that non-owner applications have a minimum of three applicants in some combination that includes: a) owner of property in Denver; b) resident of Denver; and/or c) a Denver-based firm, corporation, association or other organization (such as a non-profit or Registered Neighborhood Organization).

3. Amend the code to state that staff will perform initial reviews on primary structures and accessory structures one-and-a-half stories or larger (review on designated landmark properties/district would remain unchanged).

#### All applications (Owner-supported and non-owner supported)

4. Expand designation criteria in the ordinance to: 1) include "historic or physical integrity" of a structure or district; and 2) consider how a structure or district proposed for designation relates and/or compares to an important historic theme in Denver history and compares to other similar structures or districts.

5. The Landmark Preservation Commission (LPC) is considering adoption of a policy (not in ordinance) clarifying when a property should be considered for landmark designation as a "structure" versus a "district". When it is a structure, it is a primary structure on a single parcel but can include closely associated accessory structures. LPC will hold a public hearing on this proposed change on Nov. 20.

6. Amend the code so that staff, rather than LPC, makes the initial determination that an application is complete and if the property potentially meets the criteria for designation. If so, staff will schedule a public hearing in front of the LPC. Currently, the process includes 2-3 more weeks for the LPC to make that initial determination.

#### Landmark changes related to planning processes

7. Encourage landmark designation issues to be resolved for large redevelopment projects as part of the General Development Plan (GDP) process by allowing a Certificate of Non-Historic Status (CNHS) to be valid for up to 10 years rather than the usual 5 years so that it corresponds to property entitlements vested by the approved GDP.

8. Current ordinance language says that if the Planning Board does not review a proposed designation, the Board's inaction implies a favorable recommendation to City Council. Because the Board may or may not review an application for designation of a structure, at its discretion, the Board wants the ordinance language to clarify that its inaction does not imply a favorable recommendation.

9. Currently, if LPC finds that the criteria are met, it must forward the application to City Council, even if there are other mitigating issues and circumstances. The example discussed was the recent application for certain buildings at the Gates

Rubber Company site, which had hazardous material and dilapidation problems.

Revise the designation criteria for eligibility under the category of "History, Architecture and Geography" by adding "historic and physical integrity of structure (comprised of integrity of location, setting, design, materials, workmanship, feeling and association". This language is from the National Park Service regulations.

Include criteria to help determine the structure's integrity. Which of the seven aspects of integrity count is based on "why, where and when" the property is significant. This is a case-by-case discussion and will vary depending on the structure.

Add that LPC shall also consider how a structure relates to historic themes and compares to other similar structures without adding any questions to the application form.

The LPC and staff supports the recommendations by Historic Denver to extend the 21-day window to file designation applications triggered by sign postings (for Demolitions or Certificates) from 21 to 28 days.

### Public Comments

Brad Cameron, Capitol Hill United Neighborhoods (CHUN): CHUN as written several applications over the years. The Board adopted a position on the proposed revisions and sent a letter to LPC staff. We found the process very helpful, and in general, we support the changes. We think they are reasonable, but we do have one concern to talk about -- the raise in application fee. A \$500 fee is reasonable and would be a sufficient deterrent to some of the problematic applications we've seen lately. But \$1000 would be too high. We have experiences where a designation application is filed following a demolition application. Discussion then has led to withdrawal of both applications. If the fee is too high, it will be harder to withdraw.

Joel Noble, Curtis Park Neighbors: Our Board adopted a position and sent in a letter. We agree that a higher fee for non-owner applications makes sense, but to double it would make a community's attempt to preserve something out of reach for those with less means. Only the richer neighborhoods could do it, which is not right. We agree with changing the 21 days to 28 days without increasing uncertainty. With regard to the GDP, what is proposed is an incentive to have historic structures identified and preserved. But we should give some incentive after the GDP process identifies historic structures to start the designation process. Otherwise, years may go by until someone raises the issue and the

owner/developer has a different memory.

Dennis Cox, W. Colfax Neighborhood: Here today representing a new group, Denver Neighborhood Advocates, an outgrowth of the advocacy committee of Denver's Old House Society. We submitted substantial testimony to LPC staff, but I want to address one issue today. The idea that requiring non-owner applicants to be Denver residents or property owners to expand the level of community support is erroneous. We need a flexible process to protect historic properties. One person starts the process within a short timeframe, but it took 2.5 years to get enough people to a long Council meeting to protect our neighborhoods.

Charles Jordy, LPC member: The process generally works very well. The proposal before the Committee include cleaning up the language Non-owner applications do need to be addressed, and requiring three people with general interests is a good move. Including historic survey as part of the GDP process is also a good measure.

John Olson, Historic Denver: Emphasize that the process is working and the ordinance works. The vast majority of cases are fine. Only about 1% of demolition requests result in applications. We support most of the proposal changes as reasonable adjustments. The \$250 fee should stay the same for owner-applicants. The increase is reasonable for non-owner applications.

Brother Seku, Black Star Action Movement: This process reminds me of the invasion of this continent by Europeans. Europeans dominate the staff of the LPC and the people here interested in preservation. You need more diversity. Some buildings of importance to the Black and Latino communities may not appear worthy of saving to Europeans.

Liz O'Sullivan: These modifications seem appropriate. Requiring three applicants for non-owner applications is appropriate, but \$1000 would be a hardship for many individuals. The \$500 fee may be more appropriate.

#### End of Public Comments

Councilman Brown asked for the hourly billing rate for non-owner applications.

Councilwoman Robb asked John Olson what it costs to prepare an application. He

replied that a professionally-prepared application is between \$4000 and \$5000. The Cathedral School application was done in-house by Historic Denver staff at a rate of about \$80-\$100/hour. A private individual can prepare an application, but it takes a great deal of time to do the research, writing and photography.

Councilwoman Robb noted the time and asked if members wanted to continue the conversation today or hold this item for a later meeting.

Councilman Nevitt said he had to leave but wanted to participate in the conversation.

Councilman Lopez said he also had to leave but wanted to be involved. The buck stops with Council, and it must stay there. He noted that some structures are historical but are unlikely to be nominated for preservation. For example, the people living in the historic small basement homes in West Denver would have a hard time going through the application process. They do not have the time or funds.

Councilwoman Montero felt rushed and did not want to have to make a quick decision today. She had concerns about the fee structure, and Committee needs more time to discuss that.

Councilwoman Robb said there is no meeting on Nov. 6, which is Election Day, so this topic will be continued at the Committee meeting on Nov. 13.