

## ReTool topics of concern from HNP

Responses to various documents and emails provided by HNP and from a meeting with Councilmember Donelson – highlights indicate changes made or potential language to consider

Purpose Statement		
HNP Comment	Current Code	Proposed Code
<p>“Neighborhoods need to be added back to the purpose statement of the Code”</p>	<p>7.2.102 states “It is the intent and purpose of this Zoning Code to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, incompatibility of uses, inappropriate design of buildings, and visual obstructions</p>	<p>7.1.103.C states “Implement the Colorado Springs Comprehensive Plan.” There are other elements of the purpose statement but are only pointing out this one.</p>
<p>Staff Response</p> <p>The proposed HNP change was not made because the implementation of the Comprehensive Plan includes ALL 6 themes “Vibrant Neighborhoods, Thriving Economy, Renowned Culture, Majestic Landscapes, Unique Places, and Strong Connections” We did not feel it was necessary or efficient to list all of the themes and listing just one would lessen the importance of the others not listed. Staff performs an analysis of the themes in every staff report.</p>		
Development Plans		
HNP Comment	Current Code	Proposed Code
<p>The purpose statement needs to state why a compatibility finding is required, that the development cannot be approved unless there is such a finding and that the criteria for review setting the standard for that determination includes lot size, setbacks, height, maximum lot coverage and use, making it enforceable.</p>	<p>7.5.502.A.1, states “To ensure use to use compatibility between the proposed land use and site design with the surrounding area.</p> <p>7.5.502.E states, “A development plan shall be reviewed using the criteria listed below. No development plan shall be approved unless the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the land uses surrounding the site. Alternate and/or additional development plan criteria may be included as a part of an FBZ regulating plan.”</p> <p>7.5.502.E.1 states – “The details of the use, site design, building location, orientation and exterior building materials are compatible and harmonious with the surrounding neighborhood, buildings and uses, including not-yet-developed uses identified in approved development plans.”</p>	<p>7.5.515.A states, “The purpose of this Section is to allow for review of a plan for development to evaluate the specific impacts... to ensure that proposed development is appropriate at a particular location.”</p> <p>7.5.515.A.1 states, “Ensure the development complies with the standards of this UDC, including site development standards.” This provision reinforces 7.5.303.A.</p> <p>7.5.515.D contains the DP Review Criteria, which “shall” be reviewed by the decision-making body (staff/CPC/CC) to approve, approve with conditions, or deny any DP application.</p> <p>7.5.515.D.1c is the same as the previous 7.5.502.E.1 except the word “use” was removed for clarity</p>
<p>Staff Response</p> <p>7.5.515.A clarifies the statement in existing Code and was vetted by the City Attorney’s Office</p> <p>Other provisions in the proposed UDC accomplish the same thing being requested by the HNP, however using more efficient and objective language that accomplishes the same goal.</p> <p>Staff has interpreted the term “use” in the context of current code as “proposed development.” During public hearings, however, the term “use” has been applied to the actual land use, which should be a function of the zoning. The latter interpretation has led to denial of a permitted use if it was determined to be incompatible or not harmonious. Staff proposes removing the term “use” to clarify. This still allows the ability to determine if a proposed development is compatible and harmonious in terms of its site design and operating characteristics.</p>		
<p>HNP argues that if language is not specific then it will be ignored by staff.</p>		
<p>The HNP would like most of the language from the previous code added back to the proposed UDC; however, staff and other stakeholders removed some of that language as superfluous and already covered in the proposed language. Neighborhood compatibility and the review of development standards are already included in both the purpose statement of the proposed UDC and the approval criteria. This proposed change from the HNP is reflective of the fact that neither the HNP nor its members submit development plans and therefore do not understand the staff effort behind those applications.</p>		

Area Design Standards Overlay		Proposed Code	Staff Response
HNP Comment	Current Code	Proposed Code	Staff Response
The name of the overlay needs to be changes to Area Character Overlay	N/A	7.2.607 – Area Design Standards Overlay	Staff determined that the proposed name (Area Design Standard Overlay) was more indicative of the intent behind the overlay. The term “character” is contained with the purpose statement where it is more defined. Character on it’s own is not clear enough and subjective.
The purpose statement should be simply a statement that it is to preserve the character of residential and commercial areas with distinctive characteristics worthy of conservation	N/A	7.2.607.A – Purpose Statement – The purpose of the Area Design Standards Overlay is to preserve the bulk, form, and dimensional standards of residential or commercial areas with distinctive characteristics that are worthy of conservation but are not historical or within a Historic Preservation Overlay...” 7.2.607.C – Permitted Development Standards	The language proposed in the Kin Letter is already in the proposed UDC. The HNP would like the removal of “bulk, form, and dimensional standards” since their desire for the overlay is to allow for the limitation of uses. Both Staff and the Planning Commission agreed that use regulation is a function of the underlying zoning, and it is not the intent of the ADS-O to limit or restrict uses. It is reasonable to add requirements for lot size and maximum lot coverage. We suggest adding a #6 to 7.2.607.C. This provision has been proposed with staff memo containing CPC recommendation The other proposed standards are already covered in the proposed new overlay.
Add two additional standards to the list in 7.2.607.C: 1. Requirements for Lot size and maximum lot coverage that: a. Development and redevelopment be no less than, b. Maximum lot coverage be no greater than. 2. Improvement be similar to those on adjacent or nearby properties, regardless of the lot size and maximum lot coverage in the base zone district	N/A	N/A	Uses are a function of the zoning and are not appropriate for this type of overlay, which intends to protect neighborhood character through design and development standards.
Allow for the limitation on uses within an overlay	N/A	N/A	This was discussed at length during the Planning Commission hearings on Re Tool and “a stakeholder engagement plan approved by Planning and Community Development.” Was added as part of the motion made by CPC 1 month prior to the Kin Letter. It is important to state that we have explained to Mr. Kin on several occasions that the Planning Commission, with staff agreement, provided for additional eligibility if a neighborhood plan for the area had not been completed. This change is reflected in the staff memo that describes Planning Commission’s recommendation.
Recommend eliminating the requirement of a Council adopted neighborhood plan of less than 5 years to apply.	N/A	7.2. 607.A	This process does not change from current Code to proposed Code. Functionally, the requirement for a neighborhood meeting is determined by staff either at the pre-application stage or during the review process. Not all applications require a neighborhood meeting and should continue to be left to the judgement of the professional planning staff. Further, neighborhood meetings are the applicants meeting and the role of staff is to introduce the project and answer process questions. Anything more than this would enhance the incorrect narrative that the “City” is proposing each project. We do not advocate for projects submitted.
Neighborhood Meetings		Proposed Code	Staff Response
HNP Comment	Current Code	Proposed Code	Staff Response
The HNP in the Kin Letter recommends that ALL applications require a neighborhood meeting and not be at the discretion of the Manager. The Kin Letter also recommends that Planning and Community Development be mediator and facilitator.	7.5.902C4- Neighborhood Meetings: “An optional method of notice may be to provide a neighborhood meeting to discuss proposed development projects.... Neighborhood meeting(s) may be held during the preapplication stage, internal review stage and/or final disposition stage at the discretion of the Manager.”	Table 7.5.1-A – Several locations within the table indicating that a neighborhood meeting is at the discretion of the Manager	This process does not change from current Code to proposed Code. Functionally, the requirement for a neighborhood meeting is determined by staff either at the pre-application stage or during the review process. Not all applications require a neighborhood meeting and should continue to be left to the judgement of the professional planning staff. Further, neighborhood meetings are the applicants meeting and the role of staff is to introduce the project and answer process questions. Anything more than this would enhance the incorrect narrative that the “City” is proposing each project. We do not advocate for projects submitted.

Lot Coverages			
HNP Comment	Current Code	Proposed Code	Staff Response
Keep lot coverages as is currently listed in Code	7.3.104 – various listed within the table	7.2 zoning districts – listed within each residential district with a 10% increase in lot coverage	Initially, staff proposed to eliminate lot coverages given, setbacks and other dimensional standards are enough to limit development on lots. Removal of lot coverage would have the further impact of reducing non-use variance requests due to accessory structures and patio covers. After Discussion at Planning Commission and concern regarding “scrape and builds” expressed by HNP, staff proposed to add them back in but increase them by 10% which would address some of the concern with non-use variance requests. Planning Commission agreed with this compromise.
Historic Preservation			
HNP Comment	Current Code	Proposed Code	Staff Response
Concern with the deletion of the HPB’s process for initiating an overlay zone	7.5.1603.A2 - The Board may initiate procedures for historic preservation overlay zoning on a property...	7.5.403.A4 – Authority to Submit Applications – gives the HP Board authority to submit	The HPB’s authority to initiate an overlay zone has not been eliminated. The revised UDC has simply standardized all zone changes to follow the same process with the same rules realted to initiation procedures, threshold of review, and-public process requirements.
Deletion of the process for requesting owners’ consent to HPB-initiated overlay zones	7.5.1603.A4 - Owner Consent: In the event the owner consents in writing to historic preservation overlay zoning, the Board, upon the affirmative vote of a majority of the members present, shall adopt a resolution recommending to the City Planning Commission and City Council historic preservation overlay zoning without the necessity of notice required by subsection B of this section	Various section of Code describe the rezoning process and public hearing process for all applications including applications to apply HP Overlay zoning.	As mentioned above, all zone changes follow the same processes and procedures. Language “requesting owners’ consent” adds unnecessary layers to the zone change process for HP overlay zones. All affected property owners of a proposed HP overlay zone are still notified and able to participate in the decision-making process. (Some would argue such a process also distorts CC’s decision-making authority.) It is important to note that the current code does not require consent for recommending a historic preservation overlay.
Deletion of HPB’s interim control over Reports of Acceptability for pending overlay zones	7.5.1603.C - Interim Control: No building permit shall be issued by the Building Official for alteration, relocation, demolition or new construction on a site, or for a structure or object under consideration for historic preservation overlay zoning from the date of the hearing of the Board at which zoning is first presented for consideration of any kind until final disposition of the zoning by the City Council unless such alteration, relocation, demolition or new construction is authorized in accord with the provisions of this section	Interim control has been removed from the draft	Staff proposes to remove this section as it was considered to be a heavy-handed approach that could impact property owners’ ability to improve or make changes to their real property. The use of “interim control” as a land use regulating tool is rarely used in land use and zoning regulations, as it is often seen as a quasi-moratorium or quasi-takings as a property owners existing property rights are being removed and replaced with controls that have yet to be fully adopted. If Council feels strongly, we could add interim control, as it is written in current code, as a new (8) to 7.5.704.C2d.
Requiring a public hearing for Reports of Acceptability is improper.	7.5.1605.B1 – Minor Work	7.5.528.C2	The procedures for Reports of Acceptability (ROA) that we follow today are responsible ones. It is an obligation of the HPB and City Planning staff to deliver due process for all quasi-judicial decisions, such as ROAs per City Code Section 7.5.105. Regardless of whether ROAs were decided by the HPB or a Minor Works Subcommittee, the review process/decision-making threshold still stands. Since all HPB hearings are noticed and ROAs are a quasi-judicial decision, public notice is a requirement for each ROA heard by the HPB. So, this is not “improper” as stated by HNP. In fact, it would be improper to continue to conduct the Minor Works Subcommittee.

Historic Preservation (cont...)			
HNP Comment	Current Code	Proposed Code	Staff Response
Planning staff intends to take a closer look at the Code related Historic Preservation, but that would be and should be a separate process/project from ReTool. It is a topic that requires a more focused effort with specific community input and engagement of the Historic Preservation Board.			
OR/ OC to MX-N zoning			
HNP Comment	Current Code	Proposed Code	Staff Response
Keep existing OR and OC zoning in place	Covered in multiple places	Convert all OR and OC zoning to MX-N – Mixed Use Neighborhood.	A goal of ReTool was to reduce the number of zoning districts. To achieve this in this case, all Office Residential and Office Commercial zoning is proposed to convert to Neighborhood Mixed Use. There was concern expressed that there would be too many allowed new uses. After discussion at Planning Commission, staff made several uses conditional, instead of permitted, and/or added additional standards to address the concern. Planning Commission found this to be a reasonable compromise. See attached analysis.
R2 Zoning and ADU's			
HNP Comment	Current Code	Proposed Code	Staff Response
Concern that the wording in the proposed code would allow ADU's to be added to duplex lots.	Current Code does not allow this	Proposed Code does not allow this	For the sake of clarity, we added a new subsection (g) titled "Limitation in the R-2 Zone District" to read, "In the R-2 zone district, a detached ADU may only be permitted when developed with a single-family detached unit on a minimum five thousand (5,000) square foot lot."
Building Heights			
HNP Comment	Current Code	Proposed Code	Staff Response
Allowing the additional height proposed by the Code would lead to an additional story being built.	For flat roofs a maximum 30-foot height to the top of the roof, not including the parapet, which can extend an additional 5 feet (effectively 35 feet)  For pitched roofs, a maximum of 30 feet measured to a point 5-feet below the peak (effectively 35 feet)	For flat roofs, a maximum of 35-feet to the top of the roof, not including the parapet that can extend and additional 5 feet (effectively 40 feet)  For pitched roofs, a maximum of 35 feet measured to the peak (effectively 35 feet)	The definition of Height measurement has changed so that it is clearer. The proposed change has no effect on pitched roofs but would allow flat roofs an additional 5 feet. This additional 5 feet would not equate to an additional story. A potential amendment could be to "include" the height of the parapet in the measurement of flat roofs, which would involve changing several places within the Code.

Other items:

- The HNP has stated that "There has not been the kind of dialogue, debate, or discussion between the drafters and stakeholders this extension legislation requires." This is simply not true. We have met or conversed with the HNP nine times, provided responses via email and phone, and spent hours reviewing and researching their questions and comments all of which is indicative of the kind of dialogue that has taken place with only this ONE stakeholder group. There have been many other committee meetings, practitioner meetings, internal stakeholder meetings, open houses etc... over the past three years involving all stakeholders. It is important to note that the UDC is a compromise of all those voices. Just because the HNP changes to code were not made does not mean they were ignored.