

Re-Affirmation of North End Historic Preservation Overlay Zone Design Standards

Colorado Springs City Council

February 8, 2021



OLD NORTH END
NEIGHBORHOOD

Definition of Issue

- **At its October 9, 2000 meeting, City Council adopted an ordinance that created the North End Historic Preservation Overlay Zone and ostensibly the associated North End Historic Preservation Overlay Zone Design Standards.**
- **Yet, nineteen years later, City staff informed ONEN that the Design Standards had not been formally approved by City Council at its October 9, 2000 meeting.**
- **Without adopted design standards:**
 - a. the Historic Preservation Board cannot fulfill its duties and obligations, as defined in Section 7.5.1605 of the City Code**
 - b. Colorado Springs's current Certified Local Government (CLG) status with the State Historic Preservation Office could be jeopardized**

Genesis and History of North End Design Standards

- **1988 – City Council adoption of Historic Preservation Ordinance**
- **1989 – North End Historic District Design Guidelines published**
- **1990 – Interim North End Design Standards first used**
- **7/17/2000 – Historic Preservation Board approval (5-0) of North End Overlay Zone and design standards**
- **8/3/2000 – City Planning Commission approval (4-1) of North End Overlay Zone and design standards**
- **10/9/2000 – City Council approval (6-1) of North End Overlay Zone**
- **February 2016 – “Old North End Neighborhood Interpretive Guide” published**

Flawed Approval of Design Standards in Oct. 2000

- **The HP Board, at its July 17, 2000 meeting, unanimously recommended City Council approval of the North End Historic Preservation Overlay Zone and the Design Standards**
- **The City Planning Commission also recommended the same at its August 2, 2000 meeting.**
- **The agenda materials and City staff report for the October 9, 2000 City Council agenda item for the ordinance creating the North End Historic Preservation Overlay Zone included specific recommendation of approval of the Design Standards along with specific recommendation of approval of the Overlay Zone.**
- **But due to an oversight, approval of the Design Standards was not included in the wording of the ordinance and the motion for approval did not reference the Design Standards.**

Subsequent Use of North End Design Standards (2000-2019)

- **For over 19 years, all parties involved in the administration of the Historic Preservation Board had assumed the Design Standards had been properly approved by City Council for use by the Board as criteria in its consideration of applications for reports of acceptability (ROA).**
- **Since October 9, 2000 the HP Board has diligently utilized, applied, and cited applicable sections and provisions of the Design Standards in its decisions regarding applications for a report of acceptability (ROA).**

Subsequent Use of North End Design Standards (2000-2019) (cont.)

For over 19 years:

- **Homeowners in the Overlay Zone** have submitted applications for ROAs assuming the Design standards were duly adopted and effective
- **Homeowners in the Overlay Zone** similarly accepted decisions by the Historic Preservation Board that utilized and specifically cited the Design Standards as the basis of those decisions
- **Persons purchasing property in the Overlay Zone** made those purchases with the understanding that their property would be subject to and protected by the North End Historic Preservation Overlay Zone Design Standards
- **The City of Colorado Springs** officially reported to the **State Historic Preservation Office** that the required Design Standards were in place

Subsequent Use of North End Design Standards (2000-2019) (cont.)

- The City's Historic Preservation General Application form has long required that all applications for an ROA address how the proposed project meets the pertinent North End Design Standards.
- The Historic Preservation Board Review page on the City of Colorado Springs website has long stated that:

“The North End Design Standards, which were adopted by City Council, are which requests (for a report of acceptability) are reviewed against” ***

**** Statement followed by an internet hyperlink to a copy of the North End Historic Preservation Overlay Zone Design Standards*

Consequences of Not Having Approved Design Standards

Without adopted design standards:

- 1. The Historic Preservation Board cannot fulfill its duties and obligations, as defined in Section 7.5.1605 of the City Code, in reviewing applications for an ROA.**
 - How can the Board objectively review and assess the extent to which a proposed project in the Overlay Zone is acceptable from a historic preservation perspective if there are no specific standards against which the proposed project can be evaluated?
- 2. Colorado Springs's current Certified Local Government (CLG) status with the State Historic Preservation Office could be in jeopardy**

Consequences of Not Having Approved Design Standards (cont.)

Section 7.5.1605

4 Criteria in considering an application for ROA:

- 1. The effect of the proposed work upon the general historical and/or architectural character of the historic preservation overlay zone.**
- 2. The architectural style, arrangement, texture and materials of existing and proposed structures, and their relation to the structures in the historic preservation overlay zone.**
- 3. The effects of the proposed work in creating, changing or destroying the exterior architectural features of the structure upon which such work is to be done.**
- 4. The effect of the proposed work upon the protection, enhancement, perpetuation and use of the historic preservation overlay zone.**

Consequences of Not Having Approved Design Standards (cont.)

- The 4 general criteria in Section 7.5.1605 are not a substitute for the Design Standards. The criteria do not work alone. They can only be used and applied in tandem with a set of Design Standards.
- Application of the 4 criteria cannot be done in an objective manner without the context provided by the Design Standards. The Design Standards “inform” the 4 criteria.
- The City Planning staff understand this and had earlier recommended that the Board simply use the Design Standards as unapproved general guidelines when applying the 4 criteria. But that is not a viable option since...

Consequences of Not Having Approved Design Standards (cont.)

Without formal and adopted Design Standards:

- 1. ROA decisions by the Board could rightfully be considered arbitrary and capricious.**
- 2. Increased likelihood of appeals to City Council.**
- 3. In the extreme, could result in an unfavorable outcome for both the City and the Historic Preservation Overlay Zone if ever contested via a C.R.C.P. 106 (a)(4) filing**

Consequences of Not Having Approved Design Standards (cont.)

Without formal and adopted Design Standards, Colorado Springs's current Certified Local Government (CLG) status with the State Historic Preservation Office could be placed in jeopardy.

- **The City's local government certification agreement with the State Historic Preservation Office requires the City to have approved:**

“Standards, criteria, and procedures for review of alteration, demolitions, or new construction. They must be consistent with the Secretary of the Interior's standards and Guidelines for Archaeology and Historic Preservation.”

Consequences of Not Having Approved Design Standards (cont.)

CLG Status allows the City of Colorado Springs:

- 1. A formal role in the National Register of Historic Places process.**
- 2. Exclusive Funding Opportunities**
 - a) CLGs may apply annually for no-match grants from a designated CLG-only fund.**
 - b) Local landmarks designated by CLGs are eligible for Colorado's state historic preservation income tax credit and grants from the History Colorado State Historical Fund.**
- 3. CLGs may participate in the review of State Tax Credit Projects for residential properties.**

Loss of CLG status would result in the loss of historic preservation funding opportunities and a diminished role in leading historic preservation efforts in the region.

There is a Simple Solution

- ✓ **Sections 7.5.1601 and 7.5.1602 of the City Code (the City's Historic Preservation Ordinance) specify that the Design Standards are to be adopted by City Council resolution.**
- ✓ **A simple resolution has been drafted by the interested parties that re-affirms approval of (adopts) the North End Design Standards that all involved parties believed had been duly adopted by City Council when the North End Overlay Zone was approved back in October 2000.**
- ✓ **Adoption of such a resolution cleans up this administrative and legal mistake.**

Process for Development/Adoption of Design Standards Defined in City Code

- ✓ **One of the responsibilities of the Historic Preservation Board, as defined in 7.5.1601(10), is to: “recommend for Council adoption design standards to establish criteria for use by the Board in the consideration of an application for a report of acceptability for properties with HP historic preservation overlay zoning.**
- ✓ **In 2000, the HP Board reviewed, revised, and approved the Design Standards. The Board then passed the Design Standards and the Overlay Zone request to City Council for its formal consideration.**
- ✓ **City Planning staff have ensured that same process is being followed for this 2020-2021 re-affirmation (adoption) of the Design Standards.**

Historic Preservation Board Has Voted to Re-Affirm the Design Standards and Recommends them for City Council Adoption

- ✓ **At its December 7, 2020 meeting, after taking extensive public input and comment on the matter, the Historic Preservation Board voted to re-affirm the Design Standards as originally written and recommends them to City Council for adoption.**
- ✓ **ONEN and the the HPA enthusiastically support and applaud this action by the Historic Preservation Board.**

Resolving this Problem Can't Wait

- **City Planning staff initially suggested an extensive process to develop new Design Standards that would run concurrent with RetoolCOS.**
- **Resolving this problem can't wait for a process that may run months or years.**
 - **The Board cannot properly fulfill its design review and ROA responsibilities without approved Design Standards.**
- **This matter needs to be cleaned up as soon as possible and without haste.**

A Future Review of the Design Standards Should Occur

- **A future review and evaluation of the the Design Standards is very much supported, based on 20 years of experience with the existing set.**
- **A preservation professional should be hired to prepare a factually-based analysis of 20 years of use and prepare recommendations. ONEN and the HPA are ready to assist the Board with seeking a CLG sub-grant and other external funding sources to pay for it.**
- **But, the existing Design Standards first need to be re-affirmed to solve the immediate problem, enabling the City to apply for a CLG sub-grant**

Conclusions

- **Without adopted design standards:**
 - a. **the Historic Preservation Board cannot fulfill its duties and obligations**
 - b. **Colorado Springs's current Certified Local Government (CLG) status with the State Historic Preservation Office could be in jeopardy**
- **In accordance with 7.5.1601(10), the Colorado Springs Historic Preservation Board has voted to re-affirm the Design Standards as originally written and recommends them to City Council for adoption.**
- **The best solution to the problem is a simple City Council resolution that re-affirms (adopts) the North End Design Standards.**