

December 7, 2020 Historic Preservation Board Meeting

Item 8E: CPC ZC 20-00161 – Old North End Design Standards.

The project is a request by the Old North End neighborhood association to adopted design standards for the historic preservation overlay associated with the Old North End Historic District.

City Staff: Principle Planner – Daniel Sexton

Daniel Sexton, Principle Planner for the Central Team where the Old North End Historic district is located along with the area the Historic Preservation Overlay District encompasses.

Mr. Sexton provided clarifying information about the history of the project by stating the original boundaries of the Old North End Historic District and the area of the Historic Preservation Overlay Zone as recognized in the National Register for the district. The district was listed on the National Register in 1982 that contained approximately 657 properties within that district when initially established. Some additional developed properties since the district was established in 1982 that were included in the overlay zone that was applied to the district in 2000 with Ordinance 00-147. That ordinance encompasses creation over the overlay district with respect to the district but with no design standards in its codification of the ordinance. The design standards were not supplemented or accompanied by a separate resolution for adoption. Based on the records the City has the design standards were given an interim window of application, but were never officially codified or adopted by Council. Thus as city code is currently written today in order for design standards to be adopted by the city to be included as a part of a historic preservation overlay zone they must be adopted by separate resolution. The design standards presented tonight are the same design standards that were considered as part of the accompanying documents for the HP overlay 20 years ago.

For this item the city completed a mailing to just shy of 1500 property owners within the area but as staff we did not engage as we did 20 years ago with the neighborhood in a discussion of these standards. The only public process that the city did were sending the postcards. The ONEN Board sent out some additional notifications to their members.

As of right now city staff has not made a formal recommendation on this item. We wanted to ensure the neighborhood has had thorough opportunity to participate in the discussion on the design standards and that another effort to engage the neighborhood should be undertaken before adoption of these design standards. This would allow residents to believe they had all the information needed from what their knowledge of the current composition of the neighborhood is, the current state of the district, and whether there needs to be some additional considerations or changes made to those standards. There have been additional interpretations and documents issued by the National Park Service with respect to the preservation protection of historically significant resources. So from staffs perspective we believe that some standards set forth 20 years ago may need to be revised or looked at in terms of its wording.

Additionally, since the last time when these design standards were considered by the neighborhood and the city there's been the adoption of a new comprehensive plan and a new Historic Preservation plan for the city. So ultimately what is our vision and what are we looking to gain from these standards? As in the previous discussion this year, we don't want to see the city's regulation as a burden or hindrance on a property owner's right to maintain their home. We want to make sure the standards fit within their ideas for their neighborhood, but so that it also fits within the context of our guiding planning documents, is consistent and is compliant with the Secretary of Interior's standards and guidelines for activities that would affect historically significant resources.

If the board tonight chooses to make a favorable motion tonight, staff would take the request and schedule it for consideration by City Council by January or February. But I can't commit exactly to that, because of the process for things that go into agenda prep for city council and their scheduling of meetings. That's the best guidance I can give you at this point in time as to what the next steps would be.

Applicant's Presentation:

Mr. Mike Anderson, Ms. Pat Doyle and Mr. Doug Schultz with The Old North End Neighborhood Association gave a PowerPoint Presentation. Mr. Tim Boddington with the Historic Preservation Alliance was also in attendance along with Mr. Tim Scanlon with structure and research for historic reference and technical expertise.

Mr. Anderson stated he was there on behalf of the ONEN board to encourage the Historic Preservation Board to take the steps necessary to reaffirm the existing North End Design Standards as soon as possible. At the October 9, 2000, City Council meeting, as Mr. Sexton stated, the City Council adopted the North End Historic Preservation overlay zone and everyone believed that the associated North End Historic Preservation Design Standards were also approved at that at that session. But as Mr. Sexton has pointed out, the staff has concluded that the design standards were not approved by council at that point. Without the adopted design standards. We do not believe that the historic preservation board can fulfill its duty duties and obligations as defined in the historic preservation ordinance. We also believe that the Colorado Springs current certified local government status or CLG status with the State Historic Preservation Office could be in jeopardy.

Minutes of the July 17, 2000, the Historic Preservation Board meeting shows there was unanimous recommendation of the overlay zone and the design standards for approval. This went before Planning Commission and in review of those minutes there was extensive discussion of The Design Standards and ultimately, approval to recommend both the design standards as well as the overlay zone to City Council. In reviewing the October 9, 2000, City Council minutes the Council were given extensive agenda materials to Council which included a specific recommendation to approve the design standards, along with the specific recommendation for approval of the overlay zone but there was an oversight. During our research it appeared the motion made by a Councilman Bill Guman at the time did not reference the design standards in the approval of the overlay. The Design Standards were not included in the actual ordinance that was adopted by

council that, frankly, they would not have been in accordance with the historic preservation ordinance. The discrepancy, or this discovery, shall I say that they were not technically approved is very problematic for all the parties involved in preserving the general historical and architectural character of the north and the north and overlay zone.

Over 19 years, all the parties involved in the administration of The Historic Preservation Board assumed that the design standards had been properly approved by City Council for use by the Board and its criteria for all Reports of Acceptability. When reviewing minutes of previous meetings of the Board over that 20 year period it was obvious that everyone fully believe that The Design Standards had been adopted and were being utilized in making Report of Acceptability decisions. The Board had diligently utilized, applied, and cited all of the applicable sections and provisions of the of the Design Standards until earlier this year when city staff discovered the Design Standards were never approved, but that was not brought forward to the Board or to the neighborhood for discussion.

A spreadsheet was provided to us was prepared by a former Historic Preservation Board Member, Mr. Chuck Martin, who maintained it while he was in office. It showed every project, each of the applicable design standards specifically cited in the HP board's decisions, and recorded in this spreadsheet for each and every individual decision citing specific design standard. Even though it's not an official record it is a reflection of how the Design Standards guided all of the decisions of the Board.

Over 19 years, all of the other entities having an interest in the proper functioning of the design review process, believed that the design standards had been duly adopted and were in effect. All the homeowners in the district within the overlay zone assumed those design standards were fully adopted and effective. Homeowners in the overlay zone accepted the decisions by the Board with the understanding the Board was utilizing and specifically citing the Design Standards as the basis for their decisions. Those purchasing property in the overlay zone are made aware that their property would be subjected to the North End Historic Preservation Overlay Zone design standards. Furthermore, the City of Colorado Springs has been officially reporting to the State Historic Preservation Office, for 19 years that the required design standards were in place. Since 2000 up until some point earlier this year or late in 2019 city staff also they behaved and made recommendations to the board assuming the design standards had been duly approved.

Late last week, on The Historic Preservation Board review page on the City's Website says as it has probably for many, many years that the North End Design Standards, adopted by City Council are needed for a Report of Acceptability to be reviewed. So it's listed on the on the city's website with an internet hyperlink on that web page to the design standards. So everyone thought they were in place.

So what are the consequences of not having approved design standards? You know, you could wait, a year? Could it wait even six or seven months? Well, without adopted design standards, we don't believe the board can fulfill its duties and obligations. And specifically, 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 and approved standards against which the proposed project can be evaluated? Second of all, the city's current certified local government status with the State Historic Preservation Office could potentially be in jeopardy, but not having design standards.

In the city code, Section 7.5.1605, that's the Historic Preservation Ordinance has the four criteria, the board members are very familiar with and the criteria is very forthright. But given the general nature of these four criteria are they are they are they well intended? Yes. That's why they were included in the original Historic Preservation ordinance. Do they provide a general framework for the Board's decision making a general framework? Yes. But are they designed standards? No. Are they a substitute for the specific design standards that the city code requires the city to have in place? No. This is a very important point. The criteria does not work alone. The criteria can only be used and applied in tandem with a set of design standards when you're trying to apply them. The application of the four criteria can't be done in an objective manner without the context that's provided by the design standards. In other words, the design standards inform the four criteria and allow you to make the decisions as to whether or not a project meets those criteria. So without the design standards, how do you make decisions?

We believe City Staff is on the same page as us since they recommended in a special meeting back in October 2020 that the board simply use the design standards as unapproved general guidelines, not standards, when applying the four criteria. We don't believe that's a viable option because without formal City Council approved Design Standards, your Record of Acceptability decisions could rightfully be considered arbitrary and capricious.

From a lay person's point of view if you don't have design standards, people could say how can you make these decisions without them being without them being arbitrary? It increases the likelihood of appeals to City Council and in the extreme, it could result in an unfavorable outcome for both the city and from the neighborhood's perspective and unfavorable outcome for the Historic Preservation Overlay Zone. If these were ever contested in court through a 106 filing, and not having design standards and to help make decisions that could be considered arbitrary, it could, open up numerous 106 filings with the Historic Preservation Overlay Zone and that's not something anyone wants.

Without formal adopted design standards, the city CLG (certified local government) status with the Historic Preservation Office could be placed in jeopardy now. Erica Dudek, from the State Historic Preservation Office may be willing to cut the city some slack. But it's something that needs addressed. The City signed an agreement with the State Historic Preservation Office that says it'll adhere to the requirements outlined in what's called a certified local government handbook. This handbook specifically says you have to have improved standards, criteria, and procedures for review of alteration and demolitions or new construction. It also indicates that the design standards adopted by a local government have to be consistent with the Secretary of Interior standards and guidelines for archaeology and historic preservation. Mr. Sexton stated further consideration should be given as to whether the design standards that have been used over the last 19 years are consistent with the Secretary of Interior standards and guidelines as currently written. The

Secretary of Interior standards were last approved in 1995 which was five years before the North End Design Standards were put in place. The US Interior Department conducted a review of its design standards in 2006 and concluded no changes had to be made, so none were made. Therefore the standards adopted by the Secretary of Interior in 1995, are still in place and in effect today. The city submitted the North End Design Standards as a part of its application to the Colorado Historic Preservation Office for CLG status. And the city's application for CLG status was approved by the state by the State Historic Preservation people. We've been a CLG in each year since then, but the key requirement, as pointed out earlier for CLG status was the city's Design Standards be in general conformance with the Secretary of Interior standards. So there should be no question that the North End Design Standards are in conformance with the Secretary of Interior's design standards. There may be some additional directives or additional studies had been done by the the Department of Interior, that should be considered for Colorado Springs and we agree with that.

We were consistent then with the Department of Interior standards, and we believe they're still in conformance today. Nonetheless just to make sure, we went through all of the all of the North End Design Standards and compared them to the Secretary of Interior standards from 1995 and what were listed on their website as of yesterday, and nowhere can we find that the North End Design Standards are not in conformance with either the Secretary of Interior's standards of rehabilitation, their standards for preservation, their standards for restoration, or standards for reconstruction. Everything we have found indicates they are in conformance.

Also regarding the consequences of not having approved design standards, the CLG status, gives the Historic Preservation Board, a formal role in the National Register of Historic Places process. If you don't have CLG status, you have no role in that. It gives the Board access to exclusive funding opportunities. So the loss of CLG status, which we hope doesn't happen could mean the loss of historic preservation funding opportunities and a diminished role, which no one wants.

Is there a solution? Yes and it seems pretty straightforward. The two sections of the City's Historic Preservation ordinance specify the design standards be adopted by City Council resolution. So approximately three and a half months ago the Historic Preservation Alliance drafted a simple resolution for City Council to consider that reaffirms approval of the North End Design Standards that all involved parties believe were duly adopted back in October of 2000. We believe the city, city staff, City Council and we as a neighborhood want to clean this up. Regardless of how it happened it needs resolved. One of the responsibilities of the Historic Preservation Board as defined in the, historic preservation ordinance, is to recommend for Council, adoption Design Standards, establish the criteria for use by the Board in the consideration of Reports of Acceptability. As members of the Historic Preservation Board, you're empowered to decide what to recommend to City Council, no one else.

There's been a suggestion to have an extensive public input process to deliver new standards and have it run concurrent with Retool COS. However, we believe along with many citizens and neighborhoods who have any R2, R4 or R5 zoning, as we do in the Old North End, will wake up and realize their entire neighborhood will be rezoned through the Retool process. That's a serious

issue that will take time to work through and official consideration of Retool COS has been delayed until after the April election.

In Mr. Sexton's staff report, he questions whether North End Design Standards are in conformance with PlanCOS, and Historic COS. When Historic COS was developed it was understood that the North End Design Standards were duly approved by City Council and in full effect. City staff recommended Historic COS be adopted by City Council and it was. So how can there be an issue of our design standards, when at the current design standards are consistent with Historic COS. Further, it should be noted that Historic COS was adopted after PlanCOS. So by logic, Historic COS and The North End Design Standards are in compliance with PlanCOS also.

We agree that a review of the design standards should be done. Based on 20 years of experience with the existing set of Design Standard, most people will attest that it's worked very successfully. We believe that a preservation professional should be hired to prepare a factually based analysis of 20 years of use of what were thought were adopted design standards, and prepare recommendations. ONEN and the HPA are ready to assist the Board with seeking a CLG subgrant to help pay for it, or possibly see if there's other funding sources that could be that could be assembled and pulled together to pay for that.

However, with that being said it still remains that the existing standards need to be reaffirmed **first** to resolve the immediate problem.

In conclusion, without adopted design standards we fully believe the historic preservation board cannot fulfill his duties and obligations under city code. There are questions about the CLG status. ONEN and the Historic Preservation Alliance respectfully ask the Board, to take the steps necessary to reaffirm the existing design standards as soon as possible. We believe the best solution to the problem is a simple City Council resolution that that states the facts. We provided a draft resolution that basically spells out everything I've tried to go over tonight. There was an error was made and the HP Board is operating without design standards for numerous reasons stated before. So, let's have them reaffirm and reapproved to allow us to get money to move forward with anything that may be needed.

Mr. Sexton commented there had been additional comments from the public that had not been included in their agenda packets that were sent to the Board before the hearing today.

Public Comment:

Chair Lopez asked for comments from the public who had not previously written and given their comments on the proposal. Mr. Sexton stated that could be done but the limit comments to not being repetitive of someone else and to limit their comments to three minutes.

Chair Lopez opened the public comments to those in favor of the project.

In Favor:

Doug Schultz thanked Mr. Anderson for his clear presentation of the issue. Mr. Schultz stated there was another point to be made. That it's a basic common law that agreements entered into where both parties, meaning the Old North End and the city, where everyone thought the Design Standards were in effect. We have documentation to show that the design standards were referenced multiple times and we felt that they were enforced. It is a common law that those contracts are enforceable, regardless of somebody finding later on a minor point that would conflict with something. This is the case we have. We think our case is so well documented that if the city tries to make us go through the huge effort that others went through to get these adopted, we will go to court, because this is our foundation. It took years to do this and years to educate the members who voted to adopt the overlay. We will not go back on what we already have. And for the city to question that is not logical. If somebody wants to review it later on fine, but they are as they are. And to represent that we are proposing new standards to be employed on the Old North End overlay is not factual.

Tim Boddington with the Historic Preservation Alliance stated he was a lifelong resident of the Old North End. The Historic Preservation Alliance has a stake in this process because the overlay zone is the only one in Colorado Springs. The Historic Preservation Board only has one area in which it has to deal with and the ordinance gives you the power to manage a neighborhood. Within the Historic COS plan adopted in December by Council the Historic Preservation Board has a huge responsibility in managing the overall game plan expressed within Historic COS. Have the design standards changed? What you could say is history has changed. It was put together 20 years ago and some things in the area may have changed but homes in the Old North End, some of the oldest homes in the Springs, don't change. The history shows they were built in that time period with those design standard and those standards haven't changed. They're still in place. So the Historic Preservation Alliance is deeply invested in as an interested third party to see that the amendment, goes before council as soon as possible to make the Historic Preservation Board as official and as empowered as possible, because they have a great responsibility going forth within Historic COS.

Tim Scanlon stated he was not a resident of the north end but he did staff the board for its first 22 years and staffed the historic resources advisory board three years before that. The North End Zone and the North End Design Standards were presented to property owners in 2000 and they were constituted a package deal. No one knew how the overlay zone would work. The standards laid out what was to be regulated. A majority of property owners recommended or expressed consent to the overlay zone, people saw this good thing and that the overlay zone and standards were a package deal. The standards are currently regarded this in material what you currently rely on for statements in the enabling ordinance that was passed in 1988. These are not standards, they're aspirational criteria and are quite useless and communicating to property owners how the overlay zone is supposed to work. Think of the overlay zone and the standards as a two wheeled bicycle. The rear wheel, the zone, provides the power. The front wheel, the standards, allow you to steer. However, the front wheel on that bicycle is now missing. Even though it's possible to ride a bicycle with only its rear wheel it's arduous and very difficult it's not how the bicycle was designed. There's been mentioned of the CLG program, it's important to remember it's not the board that is

the certified local government, and it's not planning. It's the city. The board and staff are to carry out the responsibilities agreed to by the mayor when the agreement was signed with the Department of the Interior. And then the State Historical Society of Colorado now. The standards were initially created 30 years ago and they've been used for 20 years. And I think an analysis of how well they work is a good idea. There's 20 variants you can turn to. He questioned whether planning has staff that's capable of doing that work or whether they would want to do it in light of other responsibilities. But that's a separate matter. What's important is that property owners were presented with the overlay zone with the standards, but due to negligence, not on the part of the neighborhood but by the city they don't have the tools that they were promised. You can correct this mistake today. I urge approval of the resolution for the council today, that's a quickest resolution requires the least amount of staff time and effort. Alternatively, you can choose to continue this but I hope not.

Sara Bostrom, stated she and her husband and moved here in 1987. Her background is a degree in interior design and studied both interior design and architecture at the University of Texas. So she had an interest in the neighborhood from that perspective. The first several years they lived there she watched homes being done wrong and it concerned her. Craftsman homes would have an edition that looked Victorian. Victorian homes would have an edition that looked modern and most of it was just ignorance. Most of the people moving in the area pretty much think everything here is Victorian. And so that's okay. But the problem is that it hurts the neighborhood overall. So these standards have protected the neighborhood. And since this really was an oversight, it doesn't seem fair to have to go through the whole thing again. It leaves the neighborhood up for things happening wrong again. That hurts the property of all of us who've been careful to take care of our homes all this time. So I would agree, with the whole idea of going ahead and adopting now, because it could take forever and end up a problem. Like it's been said, history doesn't change, the standards are the standards. I think it's good to have an analysis, but it's not going to change what the standards are. And I just hate to see the neighborhood back in that gap where there's no protection.

Gregory Friesen stated he lived on North Nevada. It was interesting to hear that this may have been a procedural oversight by Councilman Guman that was not caught by the city attorney staff that attend each council meeting. It's interesting to him because in the late 90s, when Mr. Guman became a councilman, he was slotted in to take his place on the Planning Commission. Documents like this are extremely important to the City. Mr. Friesen was also on the Historic Preservation Board and when on the Board he assumed this had been approved and he used it in his review of items that came before the Board. So I think to make this as simple as possible, this was a procedural oversight. You have the opportunity to make that right. And he urged all of you not to be confused by City Planning statements that this needs to align with current or ongoing planning efforts. Because we must assume this is foundational and has been approved. This is a fact. It's been treated as a fact and procedure for 20 years.

Mr. Mark Theobald an architect who's been doing Historic Preservation improvements with clients in the Old North End for the last 20 years. Mr. Tremble stated everything that's ever been said before is exactly right. He also wanted to add that the design standards actually open up a

conversation with many people that don't even understand yet how their house is important in the Old North End. And it becomes part of how we start to work through a design that is complimentary to this unique neighborhood. So he wanted to say that it's not just the application of the standards, it's actually how the discussion works, in terms of even talking about how important the house is with these standards.

Ms. Pat Doyle stated they worked as a committee under the auspices of the Old North End Board for over a year, during the public outlets, and coffees. They sent out all kinds of information by mail, yard signs, and they answered many questions. We did due diligence and worked with the historic preservation board at one point to even look over the design standards to update them. We had to do this there was a procedure, it would not go to the Planning Commission until that was accomplished. A year and a lot of hard work.

Chuck Table asked if there is a standard fee within the design standards if there's a process for amending or reviewing those standards. Mr. Sexton stated he'd address that at the end of the discussion

Mike Anderson spoke as a citizen in favor, as well. He thought everyone knew what his position was but he wanted to point out, for the record, and even though it sounds crass, Mr. Sexton was very generous and sharing copies of the comments received by the historic preservation board. He shared it with without and according to our tabulation, there were an excess of 40 comments received, and we only saw three in opposition. Now there may be other ones that have come in, but that was as of this afternoon. So I just wanted to for the record for any board members or other members out there who don't have the ability to review those to do so.

Ms. Schultz stated as we enter our sesquicentennial year, she thought it would be a huge embarrassment to the city, for this to be hanging over our heads, that we as a historic city do not have this in place. It seems that after listening to all of this that what we're looking at it a clerical error, and that it seems to be easy to repair this, and to get these reaffirmed. Then, if we all see fit, later on, to go back and reassess them. But to lose our status with the State Historic Board, in our 150th Birthday year, I think would be a huge embarrassment to the city. I just cannot imagine that Mayor Suthers would be excited to hear this.

Opposed:

Edward Stephenson stated he was a resident of the Old North End. The invalidity of the current standards has been established. It doesn't matter what we all thought. It doesn't matter how much it was an oversight or a glitch for whatever it is, that has been established. We are here to answer the question of if is the design standards are the document that we want going forward? The standards are a poor guide of balancing our current and future needs. Mr. Schultz stated in this meeting, in reference to solar panels, that there needs to be a consistent standard in respect to solar installation. This is an admission that the standards are incomplete and insufficient to meet the design guidance of today's and tomorrow's projects. Mr. Anderson has laid out some arguments as to why we need a set of design standards but he's given no argument why the

content of this current standards should be the ratified document. He stated it should be revised, which means that the proposed document is insufficient. If the Constitution, if the founders said let's just pass the Constitution, we'll get around to the Bill of Rights, we'll revise it down the road, it doesn't matter. Let's just get something going today, we would never have a bill of rights. We want the right document in place when we ratify the document. If it were strictly followed, almost every project would need variance requests. Every house in this neighborhood is an individual house with unique characteristics. As we've seen today, the board gives very careful consideration for the layout of every tree, and even every branch of that tree when making a decision about how backyard edition is going to be placed and how it's going to look. The current standard by having a historic review committee is meeting the standards and looking at every houses individually and doing a good job. There is nobody coming in with bulldozers to come in and tear down our houses and destroy the neighborhood. Because this document might not be in place for a couple weeks, two months or whatever it may be. There are still institutions protecting digital visual appearance of the area. He'd looked over the secretary of Interior's guidelines just briefly, and already found three and inconsistencies with these design standards and what the Secretary of Interior has said for recommended use of materials. There are defects in our current document, and now's a perfect time to change it and make it work for everybody in the neighborhood for today's needs and tomorrow's needs

Questions:

There was two questions by an Board Member Musik asked, if these design standards had been properly approved, as everyone thought they had been in the year 2000, would that preclude them being updated now? And the other was by reaffirming these standards today, does that preclude them being updated in the future?

Board Member Lobello asked to a review of the timeline for reviewing the standards going forward if these are or are not approved.

Chair Lopez asked when this oversight was noticed by staff or do you even know when it was noticed? Was it noticed a long time ago? Or recently?

Mr. Sexton stated he'd start off by answering the questions that were some of the items were raised by members of the public.

In terms of staff presenting the design standards to the board today for consideration, we are not proposing any changes. We as a simple, procedural process at the request of ONEN have moved the standards as previously written to the board for your consideration. I will note that if there is a desire of the board to consider changes to that those standards, I think that needs to occur outside of today's hearing. Just so that, you know, that we as staff can better understand what the requests may be. There's an opportunity for dialogue between staff, the board the neighborhood, to consider those pieces of information.

In terms of there was a comment previously made stating that this was the only overlay zone district HP overlay zone district in city of Colorado Springs is incorrect. There are many HP overlay zones

in the downtown area. This is the only overlay zone that have established standards that were established standards. They were standards that were considered at time of establishment of the overlay zone. None of the other HP overlay zone districts have standards that guide the direction for that resource. In those instances, the actual national register listing for the property which set forth sets its historical significance is used as the basis for what is expected with regards to that property in its current architecture and design.

Now, from the standpoint of process, code is silent on an amendment or update structure. So as currently written in code, the ability to update or if these standards were codified or adopted by council to update them or amend them, it would have to go through the same process, the standards are going through today, it would have to be adopted by another resolution by council because this is under the purview of the historic preservation board, it would be presented to the Board for the board to make an advisory recommendation to Council on how to act.

One of the items that was mentioned was CLG status. Staff is not aware of any concern or question of our status, in accordance with the agreement that the city entered into with the State Historic Preservation Office in 1994, not 2000, but 1994. We've been adhering to the standards of that agreement in the our adherence to that agreement in our recommendations to the board, our staffing to the board, our adherence and support of the city's Historic Preservation plan, both the previous plan as well as the current Historic Preservation plan that's been adopted. We are following the expectations of that agreement and we are not aware of any concern or question of our CLG status. In terms of Mr. Theobald's question, which I think this was the amendment one, as I just said, there is no process, we would have to go through the same process we are today, which is an adoption of a new resolution that sets forth the standards at that time.

That answered Board Member Musik's question as well, which is process for update, which should you chose to recommend approval of these standards today and Council saw fit to adopt them at a future meeting then three months, six months, five years from now, there was a desire of the neighborhood or the Board to amend those or update them, they would go through the same process unless code changed, which I'm not expecting that to occur with Retool with regards to the HP section of code. It would just have to go back for another resolution consideration by Council.

Board Member Lobello, you had mentioned timeline? Are you asking if the board were to recommend approval tonight and a motion was made tonight? What would occur after that?

Board Member Lobello stated he was referring what Mr. Sexton stated at the beginning, that you're talking about bringing this to the public. And I couldn't remember exactly when you'd said that.

Mr. Sexton stated we do not have a plan to bring this to the public. We have discussed the desire as a department level with ONEN to have a more engaged process with the neighborhood to discuss the standards. We understand ONEN's position, which is we already did that 20 years ago and we don't need to do that again. But from staff's perspective, there's certainly been changes in ownership in the Old North End neighborhood. There is, some question of making sure from staffs

perspective, we are adhering to the direction and guidance set forth by the National Park Service, and the Secretary of Interior. While there may be a position or feeling that these are the foundation, and we shouldn't have to adhere to new guidance or vision that may be established by PlanCOS or Historic COS, as, professional staff, I would disagree. We don't want a planning document, not matter what it is to be a document that sits on a shelf and grows dust. We want it to be a living, breathing document and to be that it needs to be used, it needs to be updated, and it needs to be monitored. When I say monitored, that's the dialogue that we need to have with the neighborhood. This was brought to our attention, and this goes to Chairperson Lopez question of when was the area are identified, five years ago. For the members of the board for the past five years, we have been directing them to use this and they can reference the standards and their motion, which they have been doing. Chairperson Lopez, I think you will remember when you started, where every evening that an item was being considered, you were being or another board member was referencing a standard from the design standards. It doesn't return the fact that the actual criteria at hand for making a decision was also referenced in that motion and that's what carries the teeth today. But staff also identifies this as a point of maybe caution, is that, as is written by code, if the standards are adopted in their current state. I don't know exactly within the area wide or sub area standards, how many total there are. But basically, what it does is it sets forth is every single one of those line items as an independent criteria to consider in a decision. So today, you have four criteria to consider, with the adoption of the standards, the way code is written, every single one of those criteria would need to be considered. However, not every one of them is applicable, some are specific to certain areas, and some are area wide. So that's part of the concern, or question, I guess, that staff has, is in the adoption of these standards in their entirety how that would impact the decisions that the board makes moving forward.

I think that answers both of your questions, as well as some of the other points that were raised from the public. I'm happy to answer any further questions that that might be out there.

Board Member Kendall asked if it was possible to make a motion to approve with a condition that we get the community involved because he completely agreed that putting these forward with public discussion that happened 20 years ago wasn't the right thing to do. So would that be possible?

Mr. Sexton stated you as a member of the board are making the motion and would task us as staff to initiate that process with the neighborhood and community. I can't speak to what ramifications that may have on the timeline that I mentioned, or that Mr. Anderson mentioned previously in his presentation, but I would expect that that would probably delay the consideration of this to Council by some period of time.

Board Discussion and Comments:

Chair Lopez moved for the Board discussion portion of the meeting and asked to hear from individual board members if there's something they wanted to say about their opinion regarding this, and which way you might be leaning since this is your chance to express your view, especially for our newer board members so we can all be educated about our points of view.

Board Member Kendall stated he had a question type comment. Mr. Sexton mentioned this is going to create criteria that's, dozens of sections long. What if the project meets one (1) criteria, but completely misses the 10 or 20 of them? And likewise, what if it meets half and doesn't meet the other half then that would make a decision even harder. We've all been using the guidelines as guidelines to make our decisions. He didn't think any of them have said, they weren't going to look at those at all, we're just going to look at the four. We are guided by the guidelines, and he absolutely supports design standards. However he thought they needed to be thoroughly thought out and right now was an opportunity to modernize them. A lot has happened in 20 years. There are many things in there that's really good. But, you know, solar panels, he thought was a huge issue and we're going to continue to see more and more of them. Also if these design standards are done really well, then the whole board and the whole community agrees on them, then, the idea of what could potentially be that the historic preservation board sees less of these projects, because they will meet the criteria just on their own. So I'm kind of in the middle right now. I want to go forward with approving design standards but I want to update them right now. I don't think putting forward 20 year old standards, is smart and I think it will potentially be irresponsible of us.

Board Member Lobello stated he completely agreed with Board Member Kendall. He thought the solar panels are a big issue because our standards dictate one thing and he thought we want to lean in a different direction. So it really tears at your instincts when the standards say one thing that probably says you can't put a solar panel on a front facing area. He liked the idea that those are purely guidelines, at least at this point until we have something a little bit more modernized and then using the four established criteria.

Board Member Musik stated as a brand new member (*audio is garbled and not understandable*) the situation is analogous to say, the city discovers that there's been a leak in my water supply for years and (*audio is garbled and not understandable*) the water flowing. (*audio is garbled and not understandable*) materials for water pipes in a year or two. So why don't we leave the water shut off until we can replace it with the pipes? It seems to me that these standards are the ones that have been applied for years now. It's not that we're coming up with suddenly (*audio is garbled and not understandable*) apply or not technically. My earlier questions were the point of what is especially since it seems that some of our funding may be in jeopardy, or standing with the State Historical Society or (*audio is garbled and not understandable*) questioned because it has been discovered that these are (*audio is garbled and not understandable*) with the updating of code and all the other things (*audio is garbled and not understandable*) updates, to modernize to bring in standard need to apply to things like solar panels. (*audio is garbled and not understandable*) in limbo now? No official standards. It didn't make sense to them.

Chair Lopez stated she'd been involved with historic preservation for most of her career but is now retired. In her career she was tasked with managing historic properties and working to restore them as well as preserve them. Those are different terms. We are not asking the overlay zone, or the homeowners are not being asked to restore their home to a future period. They're asked to preserve their structures. She's familiar with the National Park Service standards for many years

and worked at National Historic Sites, as well as city owned sites here in Colorado and in Albuquerque. In every case, the National Park Service standards are looked at as a reference and as a guide. When she first started on the historic preservation board, four years ago, she wasn't aware the design standards had not been codified. She pored over them, looked at them, and read them. There are not conflicting guidelines, there was no case she was aware of where if guideline, three is adhered to it counteracts guideline eight. They're not written that way. She uses them in making her decisions because the script provided to me and to the other board members by the city staff required us to cite which design standards we were basing our decision on. That script has since been modified. But that's how, in a way, she learned to be a Historic Preservation Board Member for the City of Colorado Springs, was by applying these design standards. We were notified at some point, doesn't remember the date that the Design Standard were not really codified, but that we could and should still use them as guidelines. During her time on the board, solar panels have been approved on multiple properties but not on every property. But by looking at the National Park Service guidelines, which they do not say, no solar panels on the front of the house, there are ways to work with this idea. Is that Design Standard perfect? I don't think it's perfect, but I'm not the arbiter of that. But these design standards are not cheese, they're not going to rot. They don't have an expiration date it's not milk in the refrigerator. These are design standards that were worked on with city staff that she respected and have known, and the citizens who really invested in their citizenship in, and participating in their community, to form them and to create them. They've been used by former Historic Preservation boards to great effect. So whether we use them as guidelines, or whether they're actually design standards, they're valuable. She'd hate for us to ignore, downplay, or discount, all of the work that has gone into a careful procedural community building work that has gone on in the Old North End, and by city staff over the many years. As citizens, we like for people to participate in their city governance. This is a good way to recognize that hard work, careful deliberation, by former city staff who participated in this. We stand on their shoulders, we move forward on the work that they did, and on the foundations they laid and I feel that while they may need a review and revision, we should move ahead with a resolution to the City Council to adopt these in code. Then as part of Retool where the Historic Preservation code is part of they can be looked at then or at a later time. But we have a newly adopted Historic Preservation Plan and we have yet to move forward on much of that, if any. She thought they needed to look forward, not look back, and not try to redo old work. Let's keep moving forward. And so her opinion was in favor of this.

Board Member Lars agreed what Chair Lopez stated said about at least having some standards there. Because these are hard to build. A 22 page document really thoroughly, thought over and it's just a couple of things here and there that were really worried about, like, the solar panels, We could probably try to encourage the Old North End to try to do an amendment. That would be a lot simpler, instead of trying to hold this document up in litigation.

Board Member Smith stated he agreed with everything that's been said. But like Chair Lopez, he didn't realize that there had been this oversight. So the guidelines are the guidelines and they're what we use. That's how we've been doing our job and it seems like, it's something that we need to put the nail in and say, "This is what we're gonna do." But I also heard something about a growing living document which he also believed in. We don't want something that's going to sit

there and remain stagnant. At the same time we have all these new technologies and these green type things that people want to do. We can't tell people you can't do these green initiatives. We want to encourage that, but how can that work, and coincide with that historic value and preservation of these buildings in the historic Old North End.

A discussion of how to proceed with a motion for a yes vote, a no vote, a yes vote with technical modifications, or a possible postponement were thoroughly discussed with board members on how to proceed.

Chair Lopez asks for a motion.

Motion:

Motion by Board Member Musik and seconded by Board Member Lars to recommend approval to city council a resolution adopting the North End Historic Preservation overlay zone design standards, based upon the finding that the request is consistent with the historic preservation board authorities for establishing rules and regulations, including design standards, as set forth in the city code section 7.5.1601(1).

Yes: Chair Lopez, Board Member Smith, Board Member Lobello, Board Member Musik, Board Member Boyd

No: Kendall

Passed: 5-1

Board Member Kendal stated the reason for his No vote was because if we're going to amend them in the future, then that's going through this process twice, rather than getting the work done amending them and then bringing them back to for one time.

Mr. Sexton stated staff will take the design standards and work with city legal to prepare a resolution for moving the standards as currently written forward to City Council for their consideration.