



## STAFF MEMORANDUM

**To:** Planning & Zoning Commission  
**From:** Adam Crutcher – Associate Planner  
**Date:** August 6, 2024  
**Re:** Land Use Regulations Update – Administration & Procedures

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As part of the Land Use Regulations Update, the Planning & Building Department is working on initial tasks which include an update to the procedures section. This updating of procedures will focus on the following areas:

- Clarification of the general procedures applying to most types of procedures
- Standardization of the format for all procedures
- Update of approval criteria
- Reevaluation of public input process for major application types
- Consideration of new application types
- Consideration of decision-making authority (which bodies are appropriate to make which decisions)
- Reevaluation of application requirements
- Reevaluation of which procedural steps should be codified in the code and which should be maintained in separate administrative manuals or user guides

The July 2<sup>nd</sup> meeting had the Historic Preservation Commission (HPC) review decision making authority of the applications under their purview while this meeting will be discussing updates to approval criteria. Through discussions in the last month with the City Council, the Council has stated they are willing to have the HPC continue being the final decision maker of requests to alter/demolish historic structures, only if the review criteria are updated. Both the Council & HPC have identified the need to make the criteria clearer for applicants, staff, and the Commission as well as provide distinct criteria for alterations versus criteria for demolition. Staff has received a memo from Clarion Associates (Attachment A) that was prepared for the City of Fort Collins, CO, regarding review criteria of alterations or demolitions. The memo identifies municipalities across the United States which have separate criteria for alterations, demolitions, and for the construction of new structures adjacent to historic structures. Staff requests the Commission review the memo and provide feedback as to whether there are certain criteria listed in the memo which the Commission would support moving forward with.

### ATTACHMENTS:

- A. Historic Preservation Criteria Memo

Attachment A:  
Historic Preservation  
Criteria Memo

## Review Standards Generally in Peer Cities

### General Standards

Many of the peer city ordinances we reviewed use similar language and address similar topics in their criteria for reviewing alterations, new construction, and demolition of designated resources. Boulder's ordinance provides an example of typical review standards:

#### Boulder, Colorado

##### **9-11-18. - Standards for Landmark Alteration Certificate Applications.**

(b) Neither the landmarks board nor the city council shall approve a landmark alteration certificate unless it meets the following conditions:

- (1) The proposed work preserves, enhances or restores and does not damage or destroy the exterior architectural features of the landmark or the subject property within a historic district;
- (2) The proposed work does not adversely affect the special character or special historical, architectural or aesthetic interest or value of the landmark and its site or the district;
- (3) The architectural style, arrangement, texture, color, arrangement of color and materials used on existing and proposed structures are compatible with the character of the existing landmark and its site or the historic district; and
- (4) With respect to a proposal to demolish a building in a historic district, the proposed new construction to replace the building meets the requirements of paragraphs (b)(2) and (b)(3) of this section.

These conditions more clearly present the requirements of an application: Materials and architectural styles must be compatible, historic character cannot be adversely affected, and exterior architectural features cannot be damaged. While these are still somewhat broad, Boulder supplements these conditions with adopted design guidelines for each historic district as well as general city-wide guidelines.

### Secretary of the Interior's Standards

Like Fort Collins, most of the cities we studied either reference or incorporate the Secretary of the Interior's Standards for Rehabilitation (SOI) in their requirements for the review of certificates of appropriateness. (For reference, the standards can be found below.) Eugene, which grants approvals only administratively, uses seven of the SOI standards for rehabilitation for their review, as well as two additional standards requiring compliance with other Eugene-specific development standards or design guidelines. In Boise's standards, an abundance of different documents are referenced including the SOI standards, plans, design guidelines, and even architectural history books. Madison notably uses the SOI standards only when reviewing applications for landmark properties, but uses individually adopted standards & guidelines for applications in historic districts. Norman and Provo both use the SOI standards as well as additional adopted design guidelines.<sup>1</sup>

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<sup>1</sup> Eugene [9.8175](#); Boise [11-03-04](#); Madison [41.18](#); Norman [22:429.3](#); Provo [16.06.010](#)

## Secretary of the Interior's Standards for Rehabilitation

- 1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- 2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- 3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- 4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- 5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- 6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- 7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- 8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- 10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Tying back to federal standards is useful to ensure consistency with federal and state reviews, such as for properties that are being reviewed by the State Historic Preservation Office for tax credit projects. While the SOI standards are a valuable tool in reviewing alterations and demolitions of designated resources, supplementing them with local guidelines or specific ordinance language is highly recommended. We understand that recently the State Historic Preservation Office has identified some landmark modifications (specifically additions) that have been approved by Fort Collins that have negatively impacted that landmark's eligibility.

Generally improving the Fort Collins standards to act as requirements rather than "considerations" could better ensure that alterations are consistent with the SOI standards. Additionally, establishing additional Fort Collins-specific standards to supplement the SOI standards would allow the review process to better implement the SOI intent in a more tailored manner. For instance, if general residential design standards were adopted, they could specify the appropriate size of an addition in relation to the existing structure, how the addition should be attached, and how visible an addition may be from the public right-of-way.

### Hardship Standards

A few of the communities we reviewed have additional findings or processes to follow when an applicant can prove some level of "hardship" that would be caused by not granting the approval. For example, both Berkeley and Provo allow their commissions to approve applications that do not meet their general standards

but where the applicants claim that there would be unreasonable hardship if the application is not approved. Cambridge has a separate approval process called a “Certificate of Hardship” when failing to approve an “otherwise inappropriate project would involve substantial hardship” and would not cause “substantial detriment.”<sup>2</sup> Lincoln’s commission can issue a “Certificate of exception on the ground of insufficient return or hardship” using findings that are similar to typical zoning variance findings: if it finds that a reasonable return cannot be made without the proposed work, that there are unique circumstances, and that the hardship is the result of the application of the ordinance and not a result of the applicant.<sup>3</sup>

This hardship finding can provide some level of flexibility for applicants. However, the ordinance should clearly state that the burden of proof is on the applicant to prove a hardship. Additionally, changes should also still generally reflect the intent of the ordinance.

### **Review Standards for Demolition in Peer Cities**

Some cities, like Gainesville, will not release a demolition permit until a building permit for a replacement building has been obtained. Boulder requires that new construction replacing whatever is demolished must meet the criteria for approval as well.<sup>4</sup> Madison has established particular standards for granting a certificate of appropriateness for demolition as shown below.

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<sup>2</sup> Cambridge Historical Commission, [Application for Certificate](#)

<sup>3</sup> Berkeley [3.24.270](#); Provo [16.05.070](#); Cambridge [2.78.210](#); Lincoln [27.57.150](#)

<sup>4</sup> Gainesville [30-112](#); Boulder [9-11-18](#)

**41.18 Standards for Granting a Certificate of Appropriateness.**

(2) *Demolition or Removal.* In determining whether to approve a certificate of appropriateness for any demolition or removal of any landmark or structure within a historic district, the Landmarks Commission shall consider all of the following, and may give decisive weight to any or all of the following:

- (a) Whether the structure is of such architectural or historic significance that its demolition or removal would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
- (b) Whether a landmark's designation has been rescinded.
- (c) Whether the structure, although not itself a landmark structure, contributes to the distinctive architectural or historic character of the historic district as a whole and therefore should be preserved for the benefit of the people of the City and the State.
- (d) Whether demolition or removal of the subject property would be contrary to the policy and purpose of this ordinance and/or to the objectives of the historic preservation plan for the applicable historic district as duly adopted by the Common Council.
- (e) Whether the structure is of such old and unusual or uncommon design, method of construction, or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.
- (f) Whether retention of the structure would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage.
- (g) The condition of the property, provided that any deterioration of the property which is self-created or which is the result of a failure to maintain the property as required by this chapter cannot qualify as a basis for the issuance of a certificate of appropriateness for demolition or removal.
- (h) Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the historic resources of the historic district in which the subject property is located, or if outside a historic district, compatible with the mass and scale of buildings within two hundred (200) feet of the boundary of the landmark site.

Reviews of demolition are often greatly assisted by additional standards, as the general standards used for the review of alterations or new construction may not sufficiently guide decisions. These additional standards could consider whether the resource is the last example of a certain style or architect's work, assessments of the condition of the property, or the economic usefulness of the property. Review criteria specific to demolition could also specify that documentation, a common mitigating condition of demolition, is required.

## Review Standards for Compatible Infill in Peer Cities

Almost every city we studied has either adopted design guidelines or integrated specific requirements into their ordinance for evaluating compatibility. Boulder and Norman have both adopted design guidelines for each of their historic districts, as well as general guidelines for all districts and landmarks. All of the design guidelines documents from Boulder specify that the guidelines are intended to be an aid for design, not a checklist for compliance. Lincoln has specific design guidelines for each landmark and district that are adopted concurrently with their designations and guide future alterations. Several cities, like Denton and Madison have actually codified design requirements for each particular district in their ordinances.<sup>5</sup>

One issue that comes up in many cities is the difficulty in determining what standards of review are advisory versus mandatory. For example, in Eugene, one of the criteria for approval is that the proposal is consistent with the design guidelines, although the design guidelines are “*Advisory Design Guidelines for Historic Residential Properties*.” Design guideline documents often also do not adequately distinguish between guidelines that “should” be met versus those that “shall” be required. Another example is from Provo, which has codified “*Special Guidelines for New Construction in Historic Districts*.” These guidelines cover topics like height, scale, window proportion, roof shape, and architectural details. Per the ordinance, the commission is required to use the guidelines to determine the appropriateness of applications for new construction. However, each of these suggest that these features “*should* be compatible” with surrounding structures. It is therefore not clear whether these are simply intended to guide the discussion or to what degree a project must comply with the guidelines in order to be approved.<sup>6</sup>

Berkeley does not have adopted design guidelines for particular historic districts, although the city has adopted general downtown design guidelines with specific guidelines for landmark buildings. Berkeley has a fairly general additional finding for the review of new construction in historic districts that ensures that work will not “adversely affect the exterior architectural features of the subject property or the relationship and congruity between the subject structure or feature and its neighboring structures and surroundings, including *facade, setback* and *height*; nor shall the proposed work adversely affect the special character or special historical, architectural or aesthetic interest or value of the district.”<sup>7</sup>

In addition to their *Historic Preservation Rehabilitation and Design Guidelines* mentioned earlier in this report, Gainesville has codified “visual compatibility standards” to guide certificate of appropriateness decisions. The use of “shall” makes them clearly mandatory, but they are general enough to be applicable to different districts with many different architectural styles:

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<sup>5</sup> Boulder [Design Guidelines for Individual Landmarks and Historic Districts](#); Norman [Historic Preservation](#); Lincoln [Historic Preservation](#); Denton [35-275](#); Madison [41.22](#)

<sup>6</sup> Eugene [Advisory Design Guidelines for Historic Residential Properties](#); Provo [16.06.020](#)

<sup>7</sup> Berkeley [3.24.260](#)

## Gainesville, Florida

### Sec. 30-112. - Historic preservation/conservation.

#### (6) Criteria.

- a. *Generally.* The decision on all certificates of appropriateness, except those for demolition or relocation, shall be guided by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the following visual compatibility standards:
  1. *Height.* Height shall be visually compatible with adjacent buildings.
  2. *Proportion of building, structure or object's front facade.* The width of building, structure or object to the height of the front elevation shall be visually compatible to buildings and places to which it is visually related.
  3. *Proportion of openings within the facility.* The relationship of the width of the windows in a building, structure or object shall be visually compatible with buildings and places to which the building, structure or object is visually related.
  4. *Rhythm of solids to voids in front facades.* The relationship of solids to voids in the front facade of a building, structure or object shall be visually compatible with buildings and places to which it is visually related.
  5. *Rhythm of buildings, structures, objects or parking lots on streets.* The relationship of the buildings, structures, objects or parking lots to open space between it and adjoining buildings and places shall be visually compatible to the buildings and places to which it is visually related.
  6. *Rhythm of entrance and porch projection.* The relationship of entrances and projections to sidewalks of a building, structure, object or parking lot shall be visually compatible to the buildings and places to which it is visually related.
  7. *Relationship of materials, texture and color.* The relationship of materials, texture and color of a parking lot or of the facade of a building, structure or object shall be visually compatible with the predominant materials used in the buildings to which it is visually related.
  8. *Roof shapes.* The roof shape of the building, structure or object shall be visually compatible with the buildings to which it is visually related.
  9. *Walls of continuity.* Appurtenances of a building, structure, object or parking lot such as walls, fences and landscape masses shall, if necessary, form cohesive walls of enclosure along a street, to ensure visual compatibility of the building, structure, object or parking lot to the building and places to which it is visually related.
  10. *Scale of building.* The size of the building, structure, object or parking lot; the building mass of the building, structure, object or parking lot in relation to open space; and the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
  11. *Directional expression of front elevation.* A building, structure, object or parking lot shall be visually compatible with the buildings and places to which it is visually related in its directional character.

The Santa Barbara ordinance includes a "Project Compatibility Analysis" which establishes additional criteria for consideration by their Historic Landmarks Commission. Topics range from compliance with the municipal code, adopted design guidelines, compatibility with the architectural character of the city and



neighborhood, appropriate height and scale, and sensitivity to adjacent landmarks. In addition, Santa Barbara recently adopted Infill Design Guidelines in their *General Design Guidelines and Meeting Procedures* document that are intended to “ensure that infill development complements existing buildings, preserves neighborhood character, and is well integrated into the neighborhood with a cohesive and well-thought out design.” The guidelines list possible design techniques and approaches to achieve the objectives in the Project Compatibility criteria in the ordinance.<sup>8</sup>

Gainesville’s visual compatibility standards are an excellent example, as they are clear, relatively objective standards that are codified. These standards are supplemented by design guidelines for some districts in the city, where even more tailored standards are necessary to determine compatibility.

### Definitions of Compatible

Although the term “compatible” is often used in preservation ordinances, very few of the ordinances we reviewed (only Madison and Norman) defined this term.<sup>9</sup> Some of the cities, like Santa Barbara below, defined compatibility within a separate design guidelines document. These definitions provide some level of specificity in determining compatibility by providing several examples of features to consider.

#### Santa Barbara, California

##### Historic Landmarks Commission General Design Guidelines & Meeting Procedures

“For the purposes of design review, “compatibility” is defined as a project’s ability to integrate harmoniously with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara and the immediate neighborhood. A study of the ten (10) closest properties, and additional properties as needed, can be used in evaluating neighborhood compatibility.”

The following should be considered in achieving compatibility:

- A. Contextual setting (streetscape, surrounding structures, street trees, parks)
- B. Patterns of development in the particular area
- C. Architectural style
- D. Size, mass, bulk, height, and scale
- E. Proximity to, and interface with, historic resources, historic districts, historic sites, or natural features
- F. Design intent and overall concept of the project and land use designation of the site

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<sup>8</sup> Santa Barbara 22.22.145 and Historic Landmarks Commission General Design Guidelines & Meeting Procedures

<sup>9</sup> Madison 41.02; Norman 22:429.3