



**MANITOU SPRINGS
HISTORIC PRESERVATION COMMISSION
REGULAR MEETING MINUTES
Wednesday, August 7, 2019**



I. CALL TO ORDER

The Regular Meeting of the Manitou Springs Historic Preservation Commission was held on Wednesday, August 7, 2019, in Council Chambers at 606 Manitou Avenue. Chairwoman Casey declared a quorum present and called the meeting to order at 6:02 pm. The following Commissioners attended:

PRESENT: Chair LISETTE CASEY
Vice Chair ROBERT JACKSON
Commissioner ANN NICHOLS
Commissioner JOY PORTER
Commissioner TAMMILA WRIGHT
Commissioner NICK BODOR
Commissioner DOUGLASS EDMUNDSON

ABSENT: None

STAFF: Michelle Anthony, Senior Planner
Dylan Becker, Planner I

GUESTS: None

II. APPROVAL OF MINUTES

ITEM 1. June 5, 2019

MOTION:

Commissioner Wright moved to approve the June 5, 2019 Regular Meeting Minutes of the Historic Preservation Commission, as presented.

SECOND:

Commissioner Nichols seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0. Chairwoman Casey abstained as she was not present for the June 5, 2019 Regular Meeting of the Historic Preservation Commission.

III. NOTICE OF COUNCIL ACTION

There was no Notice of Council Action to report.

IV. COMMISSION TRAINING

Senior Planner, Michelle Anthony, stated the Commission Training was not able to be set up with the City Attorney for this meeting and would occur at the next Regular Meeting of the Historic Preservation Commission.

At this time, Chairwoman Casey explained the public hearing procedures to the audience and asked if any Commissioners had ex parte communications or conflicts of interest to declare. Hearing none, the meeting continued.

V. UNFINISHED BUSINESS

There was no Unfinished Business to discuss.

VI. NEW BUSINESS

ITEM 2. MCAC 1906 – Material Change of Appearance Certification (State Tax Credits) – 15 Washington Avenue – Katherin Tuten and Matt Fago, Applicants.

Michelle Anthony, Senior Planner, presented the Staff Report dated August 2, 2019.

Commissioner Porter inquired how many windows were proposed to be replaced. Ms. Anthony responded none of the windows were proposed to be replaced, but to be repaired.

Commissioner Edmundson stated he had performed a site visit to the property and felt the work which had been done so far was done well. Commissioner Edmundson stated he was confident any further work would go well.

Hearing no further questions for Staff, Chairwoman Casey invited the Applicant to the podium.

Ms. Anthony stated the Applicants were not present, but had asked her to represent them at this Public Hearing. Ms. Anthony stated since this Application was for State Tax Credits, the restoration work in which the State Tax Credits were meant to help fund had been mostly completed, and the Applicants were out of town during the time of this meeting, she felt this was reasonable.

Ms. Anthony inquired if the Commission was amenable to this arrangement. The Commissioners responded they felt this was acceptable in this case.

Hearing no further questions for, or comment from, the Applicant's representative, Chairwoman Casey opened the Public Hearing for public comment. Hearing none, Chairwoman Casey closed the Public Hearing.

MOTION:

Commissioner Edmundson moved to approve MCAC 1906 for State Tax Credits for restoration work as outlined in the application at 15 Washington Avenue, with the following condition:

1. That all work will meet the Secretary of the Interior's Standards and the Manitou Springs Historic Preservation Guidelines, as noted

And the following findings:

- The proposal improves the economic vitality of the historic areas of the community through encouraging and fostering historic rehabilitation of structures; and
- The overall project meets the intent of the Secretary of the Interior's Standards for Rehabilitation as adopted by the City of Manitou Springs.

SECOND:

Chairwoman Casey seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 7-0.

VII. OTHER BUSINESS

ITEM 3. Discussion and Recommendation Regarding Revisions to Chapter 17.04 Historic Preservation Regulations

Michelle Anthony, Senior Planner, presented the Staff Memorandum dated August 2, 2019.

Commissioner Porter inquired, regarding Section 17.04.050.A (3h) of the proposed regulations, whether the decision to increase the construction of secondary structures from one hundred and twenty square feet (120 ft²) to two hundred square feet (200 ft²) as the threshold to initiate the requirement for a Material Change of Appearance Certification was the decision of the City Council or was brought forward by some event. Ms. Anthony responded this change was made in order to be more consistent with the Pikes Peak Regional Building Department and amendments they had made to their regulations.

Commissioner Porter inquired if a Citizen Participation Report had always been required under the Historic Preservation Regulations. Ms. Anthony confirmed this had been a requirement in the regulations for many years, but was uncertain if it had always been a requirement.

Commissioner Nichols inquired if the meat of the proposed changes to the regulations were pertaining to the appeal process and the language regarding a list of resources and their designations, as this list technically does not, and never did, exist. Ms. Anthony confirmed this to be the case.

Commissioner Nichols stated the whole point of these changes was to clarify how resources were to be designated and determined as contributing or non-contributing resources.

Commissioner Wright inquired, regarding Section 17.04.103.B (3) of the proposed regulations, if this Section was intended to ensure City Council did not hear or base a decision on new evidence which was not heard or presented in the initial Public Hearing with the Historic Preservation Commission. Ms. Anthony confirmed this was the case.

Commissioner Nichols inquired if this was new language to the regulations. Ms. Anthony responded it was a clarification, rather than new language.

Hearing no further questions for Staff, Chairwoman Casey opened the Public Hearing for public comment.

Robert Lewis, 220 Elk Path, stated it was his preference that Section 17.04.040.F (3) of the proposed regulations stated a resource which had not been determined as either a contributing or non-contributing resource was to be deemed as a non-contributing resource, as opposed to a contributing resource, until a determination had been made. Mr. Lewis stated the default position of a resource should be non-contributing until determined to be otherwise and felt the City was burdening the property owners regarding the proposed default position under the proposed regulations, which was concerning from a financial perspective.

Mr. Lewis stated he also had an issue regarding the determination process and felt it was difficult for property owners to make this determination as they likely did not have a background in history or historic preservation.

Rachel Buller, 201 Spencer Avenue, stated she agreed with Mr. Lewis and felt the burden of determining whether a resource was contributing or non-contributing should not be the responsibility of the property owner, but should fall to the responsibility of the City.

Ms. Buller stated, regarding Section 17.04.041 (2), she felt it was important to clarify the use of “and”, as the use of this operator altered the interpretation of the regulation and inquired, as this operator was not used elsewhere in the Code Section, if “and” should be added to the other criteria, replaced with “or”, or removed entirely. Commissioner Nichols commented it seemed to her to simply be a list of the criteria, but felt it was slightly unclear as to which or how many of the criteria were required to be met for a determination to be made.

Commissioner Nichols inquired if a given resource was required to meet all, some, or just one of the criteria listed in this Section. Ms. Anthony responded criteria “a)” through “d)” of this section were the criteria to be considered and were presented as a list, of which only one (1) needed to be met. Ms. Anthony stated criteria “e)” was the final criterion in the list and it was worded as such because an Applicant only needed to meet one (1) of criterion “a)” through “d)”, but regarding criterion “e)”, which referred to the integrity of a resource, if a property had some historic significance, but had been significantly altered, thereby which the integrity of the resource had been compromised, would be designated as Non-Contributing. Commissioner Nichols inquired clarification that an Applicant was required to meet any of the first four (4) criteria, which was criteria “a)” through “d)”, but was absolutely required to meet the last criterion, criterion “e)”. Ms. Anthony confirmed this was correct.

Commissioner Nichols commented she felt this needed to be made clearer for purposes of interpretation, especially by the general public.

Ms. Buller inquired how it was an expedited appeal process to go back through the Historic Preservation Commission as opposed to City Council, as City Council met for meeting sessions more frequently than the Commission. Ms. Anthony responded Staff decisions were appealed to the Historic Preservation Commission under the current regulations and this was the standard practice for referral under the hierarchy.

Ms. Buller inquired how many property inventories had been performed by, or for, the City to date. Ms. Anthony stated she did not have an exact number, but thought it was somewhere around three hundred (300) properties out of one thousand (1,000) properties located within the City's local historic districts.

Ms. Buller stated she also wanted to request a clarification regarding what was meant by "visible from a public right-of-way", as this was often confusing for the general public, and suggested using a term such as "developed road" in its place. Commissioner Nichols commented she felt this was a good idea.

Ms. Buller stated she also wanted the Commission to consider putting these regulation changes through the new Public Engagement process the City Council was currently working to implement, as she felt these regulations were highly important and significant to the community.

Erick Wright, 227 Plainview Place, stated he disagreed with Mr. Lewis and felt it was in the best interest of the City to keep the default designation as Contributing until proven otherwise.

Mr. Wright stated he did, however, agree with Ms. Buller regarding the language clarification pertaining to the phrase "visible from the public right-of-way", as he did feel this was confusing to many residents.

Laura Lewis, 220 Elk Path, stated, regarding the burden of determining whether a resource was contributing or non-contributing, she agreed with Mr. Lewis that the determination should not fall on the responsibility of the property owners and stated the City needed to be responsible for the creation of a list or inventory of the resources in the districts.

Ms. Lewis stated she had been informed that a list had been given to the City of Colorado Springs by the City of Manitou Springs at one time. Ms. Anthony inquired if this was in reference to the district which was on the National Register of Historic Places. Ms. Buller read a passage from the original ordinance which formed the original historic district in the City which delineated the district as registered with the National Register of Historic Places.

Mr. Lewis stated a list had been generated at one time regarding the original historic district formed by his father. Ms. Anthony stated there was a summary which had been created regarding the district on the National Register, but it was not a comprehensive list or inventory of the resources in that district.

Mr. Lewis stated the regulations clearly stated a list shall be created and, given the language and use of the word "shall", this was a requirement. Ms. Anthony stated she wanted to clarify that, at the time the original district was formed, this was not a requirement under the regulations. Ms. Anthony stated this requirement was added to the regulations at a later point in time during an update.

Ms. Lewis stated she was pushing for the creation of a list of contributing and non-contributing resources for each district.

Commissioner Nichols stated the Commission would love to create a list, but had been told it would cost over \$100,000.00 to perform the historical surveys needed and it was determined by the Planning Director and City Council it was best to perform targeted inventories when and where they were needed or when there was a question regarding the determination of a property as a contributing or non-contributing resource.

Ms. Lewis stated, under the proposed regulations, as she understood them, the City was not willing to pay to have a professional historic preservationist come out to determine whether a property was contributing or non-contributing, but were willing to burden the property owner with hiring someone to make the determination if they felt the default determination, which was contributing under the proposed regulations, was inadequate or not fitting.

Ms. Lewis commented if she had a historic preservationist come to make a determination regarding her property on Cherokee Road, they would have found it to be a non-contributing resource, thereby saving them the five hundred dollars (\$500.00) to overturn the determination made by this Commission.

Commissioner Nichols stated, regarding the default determination, the proposed changes provided for numerous parties, which included the property owner, the Historic Preservation Commission, City Council, and the City of Manitou Springs Planning Department, to request a determination be made regarding a given resource should there be any question regarding its designation.

Commissioner Nichols stated if the City received an application or request for exterior alterations based on the fact the property was deemed a non-contributing resource by the default determination, but the City felt it was a contributing resource, it was the responsibility of the property owner or applicant to demonstrate which it was.

Commissioner Nichols commented the purpose of this process and the updates to the regulations were to remedy the process by which a property was deemed contributing or noncontributing.

Commissioner Edmundson stated, as the cost of performing the inventories to make the determination of a resource as contributing or non-contributing for all properties in the districts was so expensive, he suggested the imposition of a flat fee of twenty five dollars (\$25.00) on the Applicants for Material Changes of Appearance Certifications in addition to the application fee to help fund the professional determination of the resource.

Commissioner Edmundson stated the Pikes Peak Regional Building Department did not care about the historic nature of any property and would issue a permit for improvements regardless of whether the request destroyed the historic integrity of a given property, or not, and felt it was in the spirit and intent of this Commission to protect and preserve the historic nature of the City.

Commissioner Edmundson stated he did agree there needed to be some clarification regarding the language pertaining to exterior alterations visible from the right of way and suggested the phrase be replaced with visible from the “developed roadway” or “City-maintained roadway”.

Commissioner Edmundson stated he also felt the default determination of Contributing was important to maintaining the integrity of the historic districts. Commissioner Edmundson commented he also felt the cost of performing the inventories was incredibly steep and felt some of the work could be performed by the City Staff and Historic Preservation Commissioners in house.

Ms. Lewis inquired what percentage of the properties in the historic districts the Commission felt were contributing resources, as she felt it was significantly less than the majority. Commissioner Edmundson responded he felt, on average, about sixty percent (60%) of the resources in the districts were contributing resources.

Ms. Lewis stated she felt there were far more non-contributing resources than contributing resources, especially in her neighborhood, and commented she felt this was a valid opinion, as the Commission was essentially doing exactly the same thing regarding their opinion that most of the resources were contributing, as they were not professionals who could make the proper determination regarding a resource. Commissioner Edmundson stated he felt anything constructed post World War Two was likely non-contributing, but anything prior to that was likely contributing.

Ms. Lewis stated her main objective was not to burden the residents or property owners.

Chairwoman Casey stated she repeatedly heard Ms. Lewis use the word “opinion” or accusing the Commission of basing their decisions solely on an opinion, and wanted to make clear the Commission was bound by the requirements in the City’s Municipal Code and the Historic Design Guidelines. Chairwoman Casey stated the decisions made by the Commission were not based on opinion, but the regulations and guidelines.

Chairwoman Casey stated by maintaining the default determination and designation of contributing in the proposed regulations, the Commission was helping to build the integrity of the district, as opposed to degrading that integrity.

Ms. Lewis stated she was not attempting to degrade the integrity of the historic districts, but did not want the residents to be burdened with the responsibility of determining whether or not their property was a contributing resource to a given district.

Ms. Lewis stated she felt her property on Cherokee Road was, without question, a non-contributing resource to the district and wanted to ensure other property owners did not have to pay five hundred dollars (\$500.00) to prove it, as she did. Commissioner Edmundson stated he agreed with Ms. Lewis and felt the fee was exorbitant.

Ms. Anthony stated she wanted to clarify the five hundred dollar (\$500.00) fee was an appeal fee to City Council and had absolutely nothing to do with determining anything before the Commission, especially whether or not the property was a contributing or non-contributing resource.

Commissioner Wright inquired what this appeal fee covered in terms of the appeal process, as she was aware it was a time consuming and tedious process to prepare for one. Ms. Anthony responded the fee was used to pay for the City Attorney’s services and transcription of the meeting item in which the appeal was regarding.

Commissioner Nichols stated the appeal fee had been reduced since the time of the appeal referenced by Ms. Lewis to half of the initial application fee. Ms. Anthony confirmed this.

Ms. Anthony stated it was worth noting that by the very nature of the creation of a historic district in the City, the majority of the properties in that proposed district should be considered, and should actually be, contributing resources to the district. Ms. Anthony stated in order to form a district, the request was vetted by professionals in the field of historic preservation, reviewed by the National Register of Historic Places, and local bodies such as the Historic Preservation Commission. Ms. Anthony stated, as a result, the majority of the properties in the districts were contributing resources, as they would need to be to form the district,

and this was the reason it made more sense to consider undetermined resources to be contributing resources until proven otherwise. Ms. Anthony stated this particular regulation was intended to maintain the integrity of the historic districts and to allow for a process to make a determination regarding a resource if its status was in question.

Ms. Buller stated she was concerned regarding the default determination of contributing prior to an official determination having been made as this may get lost down the road when interpreted by future Staff members who look at this list and simply base their determination on the fact the default stated the resource was contributing.

Ms. Buller stated she also felt there was perhaps another language option, in addition to contributing and non-contributing, which would prevent this from occurring in the future. Commissioner Nichols suggested the use of the term “undesignated” or “undetermined” if there was no resource inventory regarding a given property and, only when the property owner was ready to perform work, would they be required to obtain a professional to make the proper determination if there were any question of its status.

Commissioner Nichols stated she agreed with Ms. Buller in this regard as by labelling an undesignated resource as either contributing or non-contributing by default, there was an appearance that a determination had been made when, in fact, one had not been made. Ms. Anthony responded Staff was amenable to this suggestion.

Ms. Anthony commented the only thing she did not want to see occur was for a contributing resource to be deemed non-contributing by default and the property owner to begin moving forward with a project under the notion the resource was a non-contributing resource.

Ms. Anthony stated she would contact the City Attorney regarding these suggestions and bring the regulations back before the Historic Preservation Commission for review and recommendation to City Council.

Hearing no further comment from the public, Chairwoman Casey closed the Public Hearing.

VIII. ADJOURNMENT

There being no further business before the Historic Preservation Commission, Chairwoman Casey adjourned the meeting at 7:15 p.m.

Minutes Prepared by: Dylan Becker, Planner I