

Landmark Designation

Topic Report 1 of 4:
Fort Collins Historic Preservation Codes & Processes
Fall 2017

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Background

This report is part of a series of reports on the City of Fort Collins' historic preservation codes and processes, including the Municipal Code and the Land Use Code. All four reports will be compiled once reviewed by the Citizen Advisory Committee, Landmark Preservation Commission, and City staff. The reports focus on the following four topics:

- A. Landmark Designation Codes & Processes**
- B. Design Review Codes & Processes and Compatible Infill in Districts**
- C. Development Review and Infill Codes & Processes**
- D. Demolition/Alteration Codes & Processes, Dangerous Conditions, and Demolition by Neglect**

INTRODUCTION

This report includes a review of the City of Fort Collins' codes and processes for landmark designation, including nonconsensual designation. The codes reviewed for this report include Chapter 2, Article III and Chapter 14, Articles I and II of the Municipal Code. This report assesses the program area's current conditions and provides recommendations for proposed improvements. A review of best practices in peer cities statewide and nationwide was completed to compare the Fort Collins landmark designation codes and process to other cities. The report briefly summarizes the current conditions of the Fort Collins codes and processes related to landmark designation, discusses the main topics associated with landmark designation, highlights various approaches used throughout the county, and provides conclusions and recommendations for improvements in Fort Collins.

PEER CITIES

The following table compares the basic characteristics of the cities we studied for this report. The peer cities researched were determined based on similar characteristics to Fort Collins: a population size between 90,000 and 300,000 people, the presence of a large university, a growing or stable population, and a robust preservation program determined by number of historic districts and landmarks.

CITY	2016 POPULATION (APPROX.)	STUDENT POPULATION (APPROX.)	POPULATION GROWTH RATE 2000-2016	HISTORIC RESOURCES
Fort Collins, Colorado	164,000	33,000 <i>Colorado State University</i>	Growing: 36%	248 landmarks, 3 historic districts
Berkeley, California	121,000	40,000 <i>University of California, Berkeley</i>	Growing: 18%	281 landmarks, 4 historic districts, and 39 structures of merit
Boise, Idaho	223,000	22,000 <i>Boise State University</i>	Growing: 14%	30 landmarks, 9 historic districts
Boulder, Colorado	108,000	32,000 <i>University of Colorado Boulder</i>	Growing: 14%	186 landmarks, 10 historic districts, 75 structures of merit
Cambridge, Massachusetts	111,000	33,000 <i>Harvard University & Massachusetts Institute of Technology</i>	Growing/ stable: 9%	30 landmarks, 2 historic districts, 4 conservation districts, and 39 properties with conservation easements
Denton, Texas	134,000	53,000 <i>University of North Texas & Texas Woman's University</i>	Growing: 60%	2 historic districts, 1 conservation district
Eugene, Oregon	167,000	23,000 <i>University of Oregon</i>	Growing: 20%	60 landmarks and 2 historic districts
Gainesville, Florida	132,000	52,000 <i>University of Florida</i>	Growing: 16%	10 landmarks and 5 historic districts
Lincoln, Nebraska	280,000	25,000 <i>University of Nebraska</i>	Growing: 23%	160 landmarks, 18 historic districts
Madison, Wisconsin	253,000	43,000 <i>University of Wisconsin</i>	Growing: 20%	182 landmarks, 5 historic districts
Norman, Oklahoma	122,000	31,000 <i>University of Oklahoma</i>	Growing: 26%	3 historic districts
Provo, Utah	117,000	33,000 <i>Brigham Young University</i>	Growing/ stable: 11%	150 landmarks, 2 historic districts
Santa Barbara, California	92,000	24,000 <i>University of California, Santa Barbara</i>	Growing/ stable: 3%	124 landmarks, 3 historic districts, 132 structures of merit
Syracuse, New York	143,000	21,000 <i>Syracuse University</i>	Stable: -2%	59 landmarks, 4 historic districts

SUMMARY OF RECOMMENDATIONS

The following sections of this report review seven topics related to designation in detail and provide conclusions and recommendations for each topic based on peer city research. The recommendations are summarized below:

Designation Process	<ul style="list-style-type: none"> • Reevaluate interim control provision and potentially allow design review applications during the designation process.
Owner Consent to Designation	<ul style="list-style-type: none"> • Consider the inclusion of additional criteria for decision-makers to use when reviewing a nonconsensual designation.
Designation Criteria	<ul style="list-style-type: none"> • Better integrate the criteria for designation with the decision-making process for designation. • Consider including a criterion that qualifies properties listed or eligible for the National or State Register for local landmark designation.
Alternative Types of Designation	<ul style="list-style-type: none"> • Consider additional types of designation such as conservation districts or structures of merit.
Linking Zoning & Preservation	<ul style="list-style-type: none"> • Consider historic overlay zoning as a way to better integrate preservation and zoning. • Provide searchable map of landmarks and districts for development review applicants to check early on whether their property is landmarked.
Commission Membership	<ul style="list-style-type: none"> • Consider more specific requirements for commission membership.
Historic Surveys	<ul style="list-style-type: none"> • Specify that one of the duties of the Landmark Preservation Commission is to direct historic surveys to be completed and regularly updated. • Develop partnership with other organizations to develop a program for regularly surveying historic properties. • Prioritize the completion of survey work and regular updating of existing surveys.

Organizational Recommendations

More generally, we also identified some organizational issues with Articles I and II of Chapter 14 that could be improved and increase the user-friendliness of the document. Overall, subheaders for various topics would be much more helpful than long, undivided paragraphs, and content should be organized to align with the process. For example, Section 14-21 is a very long paragraph that could be made much easier to read by dividing it into subsections with subheaders, multi-level lists, and nested information. Simple organizational restructuring would greatly help to clarify the ordinance.

Research Topics

A. DESIGNATION PROCESS

Preservation ordinances must set forth a procedure for the designation of landmarks and historic districts. Designation is the primary mechanism through which local properties are protected. The designation of a property often has significant implications for that property. The ordinance must ensure that an owner of a property proposed for historic designation is given notice of the proposed designation and an opportunity for a hearing. Communities should ensure that written findings of fact are prepared at the time of the designation decision. A summary of the evidence presented, a recitation of standards applied, and a brief statement of the reasons why the commission took the action it did is sufficient.

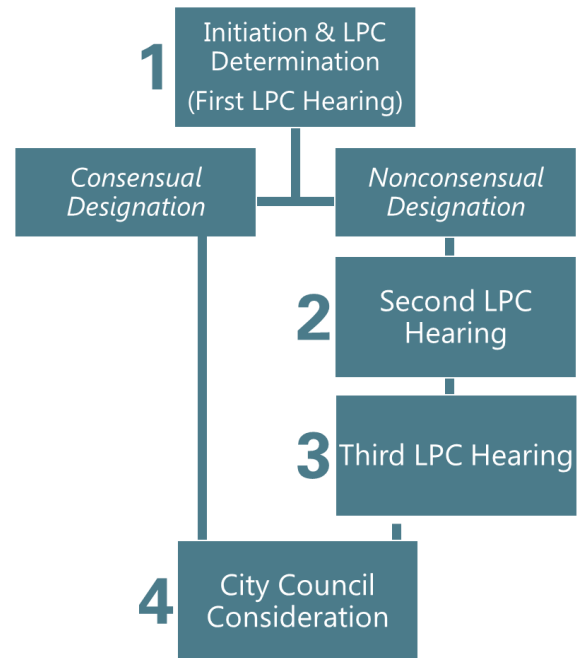
Designation Process in Fort Collins

The landmark designation process is established in Article II, Chapter 14 of the Fort Collins Municipal Code. Since 1971, Fort Collins has designated 248 landmarks and three landmark districts covering 79 properties: Old Town, Sheely Drive, and Whitcomb Street. The process follows the steps described below.

Step One: Initiation & LPC Determination (First LPC Hearing)

The designation of a landmark or a landmark district may be initiated by the Landmark Preservation Commission (LPC), the property owner, or any three or more residents of the City. The LPC then determines whether the property or district meets the criteria of a landmark or a landmark district. If it does, then the LPC directs staff to investigate the “benefits” of designation. Notification of the owner is required if the applicant is not the property owner. Nonconsensual designation is permitted, provided either the LPC or at least three residents initiate the designation.

Interim Control: Once the LPC directs staff to investigate the “benefits” of designation, no building permits can be issued for the construction, alteration, or demolition of the property under consideration. This delay in issuing a building permit is limited to 180 days. (However, the City Council can authorize construction, alterations, or demolition if necessary for public health, welfare, or safety.)



Step Two: Second LPC Hearing

Consensual Designation: If the owner consents to designation, the LPC may adopt a resolution recommending designation of a landmark or a landmark district without requiring additional staff review,

notice, or a hearing. In this case, step three below does not apply and the resolution is forwarded directly to the City Council for consideration.

Nonconsensual Designation: In this case, a public hearing is held before the LPC to determine whether to proceed with the designation process without the consent of the property owners. The LPC may adopt a resolution indicating the property's eligibility for designation and schedule a third public hearing (step three below). Properties are evaluated based on the standards for determining eligibility in Section 14-5. If the property is already listed on the State or National Register, the LPC may adopt a resolution to forward the designation directly to the City Council with a recommendation to designate the property without requiring a third public hearing. If the LPC does not adopt either of the two resolution options, the designation process ends.

Step Three: Third LPC Hearing

Notice: Thirty days before the hearing, notice is sent to all the owners of property proposed for designation and to the Director. Fifteen days before the public hearing, signs are posted and legal notice is published in the newspaper.

Hearing for Nonconsensual Designations: A third public hearing may be held for nonconsensual designations within 35 days of the second hearing. The LPC can modify the designation proposal but cannot extend the boundaries of the land without re-noticing and re-hearing the designation.

Step Four: City Council Consideration

The City Council then considers the designation within 75 days. If the City Council does not approve the designation, any pending applications for alteration or demolition are exempt from the demolition/alteration review process. If approved by the City Council, the property or district becomes a landmark or landmark district.

Process in Peer Cities

The designation processes in the peer cities we studied are generally similar to the process in Fort Collins. A designation is typically first taken to a public hearing of the preservation commission, then a recommendation is sent to the City Council, which makes the decision on designation. Some cities, like Gainesville, Lincoln, Norman, and Syracuse hold an additional public hearing at the Planning Commission and forward the recommendation of the Planning Commission to the City Council as well.¹

Maximum Time Limits

Several cities establish maximum time limits for the various steps of the process. For example:

- Berkeley requires a public hearing within 70 days of receiving a complete application.
- Boulder requires a designation hearing between 60 to 120 days after an application is submitted or an initiation resolution, then a public hearing at the City Council within 100 days of the Landmarks Board decision, and then written findings and conclusions within 45 days of that hearing date.
- Eugene requires a public hearing within 60 days of receiving a complete application.

¹ Gainesville [30-112\(d\)\(3\)](#); Lincoln [2-27-120](#); Norman [22.429.3\(6\)](#); Syracuse [VII-5-C](#)

- Gainesville requires the preservation commission to review the nomination and prepare a recommendation within 90 days of the nomination hearing.
- Lincoln requires a public hearing within 90 days of receiving a complete application.
- Santa Barbara requires their landmarks commission to hold a public hearing within 35 days of their resolution of intention to designate.²

Public Input

Of the cities we studied, the city process with the most public input requirements in their ordinance was Boulder's process for the designation of historic districts. First, a public meeting must be held prior to the public hearing. Design guidelines for the district must also be developed and there must be opportunity for public comment on the guidelines prior to the public hearing. Additionally, a public questionnaire and copy of draft design guidelines are required to be sent out to all property owners in the district prior to the public hearing.³

Interim Control

Only a few of the cities we studied explicitly restrict any building permit issuance to properties during the designation process, like Fort Collins' interim control provisions. One example, Norman, does not permit any alterations while a designation is pending and does not set a time limit for designations.⁴

Of the cities that address this issue, most allow applications for alterations during the designation process but place a time limit on the overall designation process. For instance, Boulder does not allow any permits to construct, alter, remove, or demolish any feature of a proposed landmark or in a proposed district without a landmark alteration certificate, as shown in the excerpt below. However, Boulder sets a 365-day overall time limit for the designation process.

Boulder, Colorado

9-11-11. Construction on Proposed Landmark Sites or in Proposed Districts.

- (a) No permit shall be issued to construct, alter, remove or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after an application has been filed by an owner or after the landmarks board or city council has approved a resolution initiating the designation of such landmark site or area under section 9-11-3, "Initiation of Designation for Individual Landmarks and Historic Districts," B.R.C. 1981. No such permit application filed after such date shall be approved by the city manager while proceedings are pending on such designation unless the applicant obtains an alteration certificate pursuant to sections 9-11-13, "Landmark Alteration Certificate Application," 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," 9-11-15, "Landmark Alteration Certificate Hearing," 9-11-16, "Call-Up by City Council," 9-11-17, "Issuance of Landmark Alteration Certificate," and 9-11-18, "Standards for Landmark Alteration Certificate Applications," B.R.C. 1981. If three hundred and sixty-five days have elapsed from the date of the initiation of the designation and final city council action has not been completed, the manager shall approve the permit application.

Similarly, Berkeley allows permit applications for properties on initiated landmark sites or in initiated historic districts, but they must follow the same permit application process as a designated landmark or

² Santa Barbara [22.22.050](#); Gainesville [30-112\(d\)\(3\)](#); Lincoln [2-27-120](#); Berkeley [3.24.130](#); Eugene [9.7305](#); Boulder [9-11-3](#)

³ Boulder [9-11-4](#)

⁴ Norman [22.429.3\(6\)\(j\)](#)

district. Berkeley requires designations to be approved, disapproved, or modified within 180 days of the commission's public hearing. In Santa Barbara, alterations to sites recommended for designation are not permitted except pursuant to the typical alteration review process for designated landmarks. Resolutions of designation must be adopted by the City Council within 90 days.⁵

Conclusion and Recommendations

There are several good aspects of the current designation process in Fort Collins compared to the other cities we studied. The opportunity for a streamlined designation process in Fort Collins (without additional staff review, notice, or a hearing) for properties where the owner consents to designation is more flexible than most cities and allows for a potentially quicker process. Also, some cities require an additional public hearing before the city's planning commission, but Fort Collins does not, making the process faster.

Recommendation

- Reevaluate interim control provision and potentially allow design review applications during the designation process.

While several other cities restrict permit issuance during the designation process with similar time limits as Fort Collins' 180-day delay, Fort Collins' interim control provision is more explicitly restrictive as it does not provide an owner the option to apply for a permit review during that time. Fort Collins should consider allowing properties being studied for designation to apply for design review for alterations, rather than simply having to wait out the 180-day holding period.

There are benefits and downsides to this potential change. This would be a more flexible approach, particularly for property owners with nonconsensual designations in process, as it would allow proposed alterations to be reviewed without waiting for the designation to be complete. It could allow relatively minor changes to be made without delaying a project by up to six months. However, it may prove difficult to review changes to a property without having a designation study to review those changes against. The existing criteria for design review, particularly in regard to historical or architectural character, may be more difficult to apply to this type of situation. Ideally, the initiation of the designation would identify the most character-defining features of the property and therefore assist in a review of any changes.

Note that because this topic also relates to the demolition/alteration review process, this will also be analyzed in more detail in the Topic D report.

⁵ Berkeley [3.24.150](#); Santa Barbara [22.080](#)

B. DESIGNATION CRITERIA

The goal of a comprehensive preservation program should be to consider, recognize, and protect the full range of resources that represent the community's history. Clear criteria for local historic designation are a crucial aspect of a successful preservation ordinance. Recognizing that there are a variety of reasons for designation (aesthetic, historic, social, cultural, or economic, and others), communities typically have great latitude in deciding what resources should be designated. An effective preservation ordinance must do more than just state that the preservation commission can designate structures of, for instance, "historical merit." The ordinance should give meaning to such key terms.

Designation Criteria in Fort Collins

In the Fort Collins ordinance, the criteria for local designation are not listed in Article II with the procedures for designation. One of the first steps in initiating designation is for the LPC is to determine whether a "site, structure, object or district meets the criteria of a landmark or landmark district," but the criteria are not specifically listed or even cross-referenced. In Section 14-1: Definitions, "landmark or landmark district" is defined by nine listed factors that appear similar to designation criteria:

Fort Collins: Section 14-1

Landmark or landmark district shall mean any site, structure, object or improvement and its surrounding environs or a group of sites, structures, objects or improvements or both and their surrounding environs:

- (1) Which has a special character or special historic or aesthetic interest or value as part of the development, heritage or cultural characteristics of the City, State or Nation; or
- (2) Wherein any event of major historic significance with a measurable effect upon society took place; or
- (3) Which is closely identified with a person or group of persons who have had some measurable influence on society; or
- (4) Wherein the broad cultural, political, economic or social heritage of the community is exemplified; or
- (5) Which faithfully portrays the environment of a group of people in an era of history characterized by a distinctive architectural style or which embodies those distinguishing characteristics of an architectural-type specimen or which is the work of an architect or master builder whose individual work has influenced the development of the City; or
- (6) Which, because of being a part of or related to a square, park or other distinctive area, should be developed or preserved according to a plan based upon a historic, cultural or architectural significance; or
- (7) Which, due to unique location or singular physical characteristic, represents an established, familiar and significant visual feature of the neighborhood, community or City; or
- (8) Officially designated as a Fort Collins landmark or Fort Collins landmark district pursuant to the provisions of this Chapter; or
- (9) Officially designated as a state or national landmark or landmark district.

However, in reviewing the city's designation studies, it appears that the studies evaluate significance based on the standards for determining eligibility in Section 14-5 (shown below). Yet no reference to Section 14-5 is made in the designation procedures. (Note that the determination of eligibility process, review of integrity, and treatment of contributing properties will be reviewed in more detail in the Topic D report.) Sections 14-1 and 14-5 address similar concepts in regards to the significance of landmarks and landmark districts but differ slightly, making it unclear which would be the correct criteria to use.

Fort Collins: Section 14-5

(2) Standards for determining significance:

- a. Events. Properties may be determined to be significant if they are associated with events that have made a recognizable contribution to the broad patterns of the history of the community, State or Nation. A property can be associated with either (or both) of two (2) types of events:
 1. A specific event marking an important moment in Fort Collins prehistory or history; and/or
 2. A pattern of events or a historic trend that made a recognizable contribution to the development of the community, State or Nation.
- b. Persons/Groups. Properties may be determined to be significant if they are associated with the lives of persons or groups of persons recognizable in the history of the community, State or Nation whose specific contributions to that history can be identified and documented.
- c. Design/Construction. Properties may be determined to be significant if they embody the identifiable characteristics of a type, period or method of construction; represent the work of a craftsman or architect whose work is distinguishable from others by its characteristic style and quality; possess high artistic values or design concepts; or are part of a recognizable and distinguishable group of properties. This standard applies to such disciplines as formal and vernacular architecture, landscape architecture, engineering and artwork, by either an individual or a group. A property can be significant not only for the way it was originally constructed or crafted, but also for the way it was adapted at a later period, or for the way it illustrates changing tastes, attitudes, and/or uses over a period of time. Examples are residential buildings which represent the socioeconomic classes within a community, but which frequently are vernacular in nature and do not have high artistic values.
- d. Information potential. Properties may be determined to be significant if they have yielded, or may be likely to yield, information important in prehistory or history.

Designation Criteria in Peer Cities

The criteria for local designation are fairly similar in all of the peer cities we studied. While terminology varies, generally most cities reference distinctive architectural styles, work of master builders or architects, locations of significant events, association with significant people, and similar features as criteria for designation.

Some cities, like Eugene, refer to the National Register Criteria for Evaluation, while others have crafted detailed criteria based on many different facets of significance. Eugene also includes additional criteria, based on National Register guidance, for properties with special circumstances, such as properties that have been moved or are less than 50 years old. Several peer cities including Denton, Provo, and Berkeley list National Register listing or eligibility as its own separate criterion for designation.⁶

Another variable between the various peer cities is the number of criteria required to be met in order to be designated. Both Provo and Gainesville require properties to meet more than one of their criteria.⁷

Boise is a representative example of typical designation criteria:

⁶ Eugene [9.8165](#); Berkeley [3.24.110](#); Provo [16.05.020](#); Denton [35.254](#)

⁷ Provo [16.05.020](#); Gainesville [30-112\(d\)\(3\)](#)

Boise, Idaho

11-05-09(6)(A). Criteria for Designation

The buildings, sites, structures and objects of an historic district shall meet one of the following 3 criteria:

- (1) *Historical or Cultural Importance*
 - (a) Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation; or is associated with the life of a person significant in the past; or
 - (b) Is the site of an historic event with a significant effect upon society; or
 - (c) Exemplifies the cultural, political, economic, social, educational or historic heritage of the community; or
 - (d) By being part of or related to a street, square, park or other distinctive area, should be developed or preserved according to a plan based on historic, cultural or architectural motif; or
 - (e) Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or city; or
- (2) *Architectural Importance*
 - (a) Portrays the environment in an era of history characterized by a distinctive architectural style; or
 - (b) Embodies those distinguishing characteristics of an architectural-type or engineering specimen; or
 - (c) Is the work of a designer, architect or craftsman whose individual work has significantly influenced the development of the city, state or nation; or
 - (d) Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or
- (3) *Archeological Importance*
 - (a) Has yielded or may be likely to yield, information important in pre-history or history.
 - (b) Contains or is likely to contain physical remains, such as fossils, relics, monuments, art or symbols, of past human life and activities.

Some designation criteria are vague and often up to interpretation. One example of vague language is found in Boulder’s ordinance, which, instead of listing criteria for designation, simply states that the city council is authorized to designate properties “having a special character and historical, architectural or aesthetic interest or value.”⁸ To assist in the interpretation of this vague provision, Boulder adopted a separate ordinance in 1975 with significance criteria to use when evaluating applications for landmarks and historic districts. A detriment of this practice is that this separate document is not referenced in the code and thus is not very transparent for the general public.

Conclusion & Recommendations

Many peer cities have similar designation criteria, though they vary widely in specificity and language. Because the Fort Collins ordinance does not clearly list the criteria for designation with the overall procedures for designation, it is not clear that the standards for the determination of eligibility should be used rather than the factors listed in the definition of “landmark or landmark district.” We recommend relocating and better integrating the criteria for designation with the explanation of the process for decision-making. While the content of the standards for eligibility are typical of many communities we studied, organizational improvements

Recommendation

- Better integrate the criteria for designation with the decision-making process for designation.
- Consider including a criterion that qualifies properties listed or eligible for the National or State Register for local landmark designation.

⁸ Boulder [9-11-2](#)

would more clearly tie the determination of eligibility standards to the designation process.

An additional item to consider is the inclusion of a specific criterion qualifying properties listed or eligible for the National or State Register for local landmark designation. This may help simplify the local designation of these properties, where the National Register criteria may not perfectly mirror the local criteria. Also, it should be noted that the inclusion of "Officially designated as a state or national landmark or landmark district" in the definition of "landmark or landmark district" in Section 14-1 may cause confusion about the applicability of the provisions in the ordinance.

C. OWNER CONSENT TO DESIGNATION

Around the country, some preservation ordinances allow property owners to object to historic designation, potentially exempting those properties from the community's preservation program. Most owner consent provisions take one of three basic approaches:

- The first is to give owners an absolute veto over designation *if they file a written objection*, putting the onus on the property owner to clearly object to designation;
- Another approach is to prohibit designation without the *affirmative, express consent* of a historic property owner or a majority of owners in a proposed district, requiring all designations to obtain consent from the property owner; and
- A third variety requires a *supermajority vote* of the governing body for designation if an owner or majority of owners object; these are often called "owner objection" or "protest" provisions.

Practical experience around the country shows that it is difficult to craft an effective historic preservation program if owner consent is required. Inevitably, the city will lose significant structures or deleterious alterations will be made. The challenge is to balance preservation goals and the needs of the community as a whole with the need to bring property owners into the preservation process in a positive manner. The majority of preservation ordinances around the country allow nonconsensual designation.

Some concerns about nonconsensual designation emerge in circumstances where designations are initiated without an owner's consent that may be considered by some to be frivolous or unrelated to historic preservation. For these situations, it can be useful to build in some heightened level of control in the ordinance or the process that helps to evaluate the motivations and merits of a nonconsensual designation and balance community interests against those of individual property owners.

Owner Consent to Designation in Fort Collins

As noted previously, Fort Collins does not require owner consent for designation by the City Council. The LPC, or a group of at least three residents, may initiate designation. The ordinance was amended in 2014 to require at least three residents (previously only one resident was required) to submit a designation application. The process for nonconsensual designation requires two additional LPC hearings and additional staff review, as discussed in the "designation process" section of this report. Nonconsensual designation also requires a supermajority affirmative vote of six LPC members.

Owner Consent to Designation in Peer Cities

Communities similar to Fort Collins have incorporated a variety of owner consent provisions into their ordinances. Some, like Madison and Santa Barbara, simply allow any person to apply for a designation. Others, like Fort Collins, require a certain number of people to apply for a designation without the consent of the property owners; this number ranges widely from 10 residents in Cambridge to 50 residents in Berkeley.⁹

In the case of historic districts, a more common practice is to require a specific percentage of owners to consent to designation. In Boulder, 25 percent of owners in a proposed historic district must consent to

⁹ Madison [41.07](#); Santa Barbara [22.22.050](#); Cambridge [2.78.180\(D\)](#); Berkeley [3.24.120](#)

designation. Berkeley requires the application to be “subscribed by or on behalf of a majority” of owners or residents in the proposed district.¹⁰ Lincoln’s ordinance states that no district can be designated if written protests are received by 51% or more of the property owners within the district.

Another approach is to include additional criteria that the decision makers should use when considering whether the move forward with a nonconsensual designation, as Boulder does. An example of this approach used in Boulder is shown in the excerpt below. Similar to Fort Collins, Boulder holds an additional public hearing for designation applications that are made by preservation organizations or designations for districts without the required number of consenting owners.

Boulder, Colorado

9-11-3. Initiation of Designation for Individual Landmarks and Historic Districts.

- (d) *Criteria for Review:* In determining whether to initiate the designation of an application that is made by a historic preservation organization or less than all of the property owners pursuant to paragraph (a)(3) or (a)(4) of this section, the council or the landmarks board may consider, without limitation, whether:
- (1) There is probable cause to believe that the building or district may be eligible for designation as an individual landmark or historic district consistent with the purposes and standards in sections 9-11-1, "Legislative Intent," 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," and 9-16-1, "General Definitions," B.R.C. 1981;
 - (2) There are currently resources available that would allow the city manager to complete all of the community outreach and historic analysis necessary for the application;
 - (3) There is community and neighborhood support for the proposed designation;
 - (4) The buildings or features may need the protections provided through designation;
 - (5) The potential boundaries for the proposed district are appropriate;
 - (6) In balance, the proposed designation is consistent with the goals and policies of the Boulder Valley Comprehensive Plan; or
 - (7) The proposed designation would generally be in the public interest.

Other peer cities require a higher threshold for approval of nonconsensual designations. For instance, Gainesville requires a 6/7 vote of their city commission or a 6/9 vote of their historic preservation board to approve a nomination of an individual landmark without the owner’s consent, rather than the typical majority vote requirement. Lincoln requires that 2/3 of councilmembers approve a petition for designation of a landmark rather than a majority vote.¹¹

Some cities influence designation applications by people other than property owners by having an increased fee. None of the peer cities we studied take this approach, but it is worth noting an example from Denver for comparison. In Denver, an owner-initiated designation has an application fee of \$250, while an application by someone other than the applicant is \$875. Although we did not find the designation application fees for each of the cities we studied, those we found had a range of designation application fees, ranging from \$25 in Boulder to \$100 in Berkeley.

¹⁰ Boulder: [9-11-3](#); Berkeley [3.24.120](#); Lincoln [27.57.120](#)

¹¹ Gainesville [30-112\(d\)\(3\)](#); Lincoln [27.57.120](#)

Conclusion & Recommendations

Fort Collins' owner consent provisions are comparable to similar communities. The two extra public hearings allow for greater consideration of the merits of continuing with a designation study without an owner's consent. The requirement of three residents to initiate a designation is sufficient and we do not believe there is quantifiable value in increasing the number of residents required to initiate a nonconsensual designation. Additionally, while it may be reasonable to charge a fee to recoup costs of designation studies, we do not see this as a necessary or ideal tool to dissuade frivolous designations. A thoughtful process with opportunity for public input and proper consideration by the decision-makers, rather than the fee or the number of applicants, should determine whether designations move forward without the consent of an owner.

Recommendation

- Consider the inclusion of additional criteria for decision-makers to use when reviewing a nonconsensual designation.

We recommend considering the inclusion of additional criteria for decision-makers to use when reviewing a nonconsensual designation. This would guide decision-makers to weigh a variety of factors, such as comprehensive plan support and the likelihood of ultimately designating the property before entering into what is likely a contentious process. Without criteria, decisions may be more subjective and may be unduly influenced by controversy or other political reasons. Another option is to simply require a supermajority vote to move forward with an initiated designation when an owner does not consent. This creates a higher bar for nonconsensual designations, which would potentially limit the number of designations that move forward without an owner's consent.

D. ALTERNATIVE TYPES OF DESIGNATION

Around the country, different types of designation are sometimes used to tailor review processes to the resource's level of significance. Historic preservation programs should reserve the strictest levels of review for the most valuable resources and provide flexibility for other less significant resources where changes may have a smaller impact. The term "landmark" is often reserved for the most important properties that receive the highest level of protection. Many cities throughout the country also have a "structure of merit" level of designation that recognizes a property's significance that does not rise to the level of landmark status, and is often more honorific than regulatory. Structures of merit must meet specific criteria to recognize their significance and the community maintains a record of these properties. Some, but not all, communities require review of alterations to structures of merit.

Additionally, many communities around the country have adopted conservation districts. These are areas where there is a particular style or character that is intended to be preserved, but where formal designation is not desired or appropriate for a variety of reasons. Sometimes called "historic district light," these are alternative ways to protect areas with cohesive characteristics. The designation of a conservation district often mirrors that for historic districts, and modifications to properties are reviewed according to design guidelines, though typically with a more streamlined process. Conservation districts are more typically owner-initiated and enforced by the neighborhood itself. For these reasons, conservation districts are often more efficient, require less staff resources, and can overall be easier for a city to administer.

Alternative Types of Designation in Fort Collins

Fort Collins does not currently recognize different levels or types of designation such as structures of merit or conservation districts. There are simply individual landmarks and landmark districts. The "determination of eligibility" process does result in some recognition of potential historic status. Properties are determined eligible for designation for a period of five years, resulting in required demolition/alteration review processes. (The determination of eligibility process will be reviewed in more detail in the Topic D report.)

Alternative Types of Designation in Peer Cities

Several of the cities we studied included structures of merit or similar alternative types of designation. Boulder, Berkeley, and Santa Barbara all have three types of designation: landmarks, districts, and structures of merit. The intent of the structure of merit program in Boulder is simply to "recognize and encourage the protection, enhancement and use of such structures" and the designation does not "impose any additional regulations or controls" on the properties. We learned from a conversation with City of Boulder staff that when the structure of merit program was established in the 1980s, the designation required demolition review for structures of merit that were under 50 years old. However, this requirement was removed in the early 1990s and the structure of merit designation is now purely honorary, with no additional review or maintenance requirements.

Berkeley and Santa Barbara, on the other hand, require the review of alterations to structures of merit. Provo has a "historic site" designation which functions similarly to a structure of merit designation in other

cities, but specifically requires documentation of a property prior to demolition.¹² The following example from Berkeley shows criteria used for designation of structures of merit:

Berkeley, California

3.24.110 Landmarks, historic districts and structures of merit--Designation--Criteria for consideration.

- B. *Structures of merit.* Criteria which the commission shall use when considering a structure for structure of merit designation are as follows:
1. General criteria shall be architectural merit and/or cultural, educational, or historic interest or value. If upon assessment of a structure, the commission finds that the structure does not currently meet the criteria as set out for a landmark, but it is worthy of preservation as part of a neighborhood, a block or a street frontage, or as part of a group of buildings which includes landmarks, that structure may be designated a structure of merit.
 2. Specific criteria include, but are not limited to one or more of the following:
 - a. The age of the structure is contemporary with (1) a designated landmark within its neighborhood, block, street frontage, or group of buildings, or (2) an historic period or event of significance to the City, or to the structure's neighborhood, block, street frontage, or group of buildings.
 - b. The structure is compatible in size, scale, style, materials or design with a designated landmark structure within its neighborhood, block, street frontage, or group of buildings.
 - c. The structure is a good example of architectural design.
 - d. The structure has historical significance to the City and/or to the structure's neighborhood, block, street frontage, or group of buildings

Conclusion & Recommendations

Fort Collins should consider additional alternative types of designation such as conservation districts or structures of merit.

There may be areas of the city that are well suited to a conservation district or properties that do not rise to the level of landmark designation but would be good candidates for a

structure of merit designation. A structure of merit or conservation

district program with a streamlined or simplified review process may assist in the review of less significant resources that are worth preserving in a more flexible manner than typical landmark or district designation.

In creating additional levels of designation, it is important to be realistic about the administrative capacity of the department in handling the designation and ongoing administration of these alternatively designated properties. Even purely honorific programs will require some staff resources to administer. Identifying these properties would also likely need to be based upon area-wide surveys, so there may be additional surveying work that needs to be done first. However, the potential for greater administrative efficiency of these alternative types of designations may prove to ultimately create less of an administrative burden than typical designation.

Recommendation

- Consider additional types of designation such as conservation districts or structures of merit.

¹² Boulder [9-11-21](#); Berkeley [3.24](#); Santa Barbara [22.22.085](#); Provo [16.04.040](#)

E. LINKING ZONING & PRESERVATION

Many local governments integrate their historic preservation regulations into their local zoning ordinance. This can help to better link zoning and preservation together through the development review process and emphasize the need for consideration of preservation issues alongside other zoning and land use related issues.

The most common approach used to link zoning and preservation is to create historic preservation overlay zones. Overlay zoning is a tool that layers an additional set of regulations on top of the regulations that apply in the underlying zoning district, when special conditions are present. Overlay districts often are used to regulate special use areas or to protect sensitive environmental resources. Overlay zoning also can be used to provide special protection and regulation for historic resources, either individually or in historic districts. Historic overlay districts typically provide for special review of modifications to designated historical resources, yet the underlying densities and dimensional requirements and use restrictions typically continue to apply.

One of the principal advantages of using overlay zoning to protect historic resources can be a strengthened linkage between preservation and other community land use objectives, since the preservation efforts become more closely integrated into the overall development review process. This is an especially helpful approach where the preservation ordinance is administered by the same personnel as other development review functions. When historic preservation is included in the list of zoning districts, this puts the applicant on notice that special provisions apply (similar to a floodplain overlay district).

Though overlay zoning typically adds an additional layer of protection for historic resources, it is also an opportunity to provide special accommodations and special forms of zoning relief that may provide additional preservation incentives to owners of these resources.

Zoning & Preservation in Fort Collins

In Fort Collins, the landmark preservation regulations are currently part of the Municipal Code, a separate document from the Land Use Code. Though zoning and preservation are fairly integrated in practice, the development review process is guided by the two separate sets of regulations and a property owner or development applicant must become familiar with each. The city does not use a historic overlay district to regulate historic properties. In fact, the city has only one overlay district, the Transit-Oriented Development (TOD) Overlay District. When landmarked, properties retain their existing zoning classifications. The Land Use Code does address some preservation issues in Section 3.4.7: Historic and Cultural Resources, which will be analyzed in detail in the Topic C report regarding Development Review.

Zoning & Preservation in Peer Cities

Several of the peer cities we studied incorporate preservation into their zoning ordinances by using historic overlay districts, including Boise, Norman, and Eugene.¹³ The following information from the City of Eugene’s website helps to explain how the historic overlay works and the benefits of this tool:¹⁴

Eugene, Oregon

The S-H Historic Zoning designation is used selectively to help ensure the conservation of historic properties in Eugene. The S-H Historic overlay designation allows greater flexibility with allowable uses and development standards for the property, with a goal of finding a use that is compatible with the historic character of the property that will help ensure its continued productive use.

An example of this is a professional office in a historic house in a residential district where such an office would not normally be permitted. Before a property can receive the S-H Historic zoning designation it must first be designated as a city landmark or be listed in the National Register of Historic Places.

Conclusion & Recommendations

While Fort Collins’ historic preservation program is already fairly intertwined with the development review process in practice, the City may want to consider better linking preservation regulations with zoning regulations. One important tool could be the use of historic overlay zoning. This could facilitate some new incentives, such as zoning flexibility, for designated properties. Additionally, it would make the designation status of a property clear from the outset of any development inquiry.

Even if historic overlay districts are not utilized, we recommend Fort Collins provide a searchable map of landmarks and historic districts on the development review website for people to check whether their property is landmarked. While there is a list of landmarks and PDF maps of the districts available on the website, no overall searchable map is currently available. Many peer cities we researched included this type of a mapping tool on their websites. Integrating this with the existing zoning map on the “FCMaps” site would be very valuable.

Recommendation

- Consider historic overlay zoning as a way to better integrate preservation and zoning.
- Provide searchable map of landmarks and districts for development review applicants to check early on whether their property is landmarked.

¹³ Boise [11-05-09](#); Norman [22.429.3\(6\)](#); Eugene [9.8165](#)

¹⁴ City of Eugene, “[Historic Designation](#)”

F. COMMISSION MEMBERSHIP

The membership of the Landmark Preservation Commission is an important aspect of the designation process and the overall preservation program. Each jurisdiction should consider whether to require professional qualifications for some, or all, members of the review body. Qualifications are important from both a legal and a practical standpoint and different communities use different approaches. Some communities require that a few or all members be trained in history, architecture, archaeology, or a related field, in order to ensure that preservation decisions benefit from professional expertise. Other communities require no such qualifications and simply ask that members express an interest in preservation in order to serve.

There are merits to both approaches. A broad-based membership can protect the ordinance and its administration from a claim of arbitrariness and can help distinguish preservation restrictions from other aesthetic controls that are sometimes invalidated by courts. On the other hand, some observers argue that the overall quality of preservation and design review in the community suffers if commission members do not have solid credentials and the experience necessary to carry out their responsibilities. There is value in having an overall mix of backgrounds on a preservation commission, while also requiring a certain number of the commissioners to meet certain criteria.

Commission Membership in Fort Collins

The Fort Collins Landmark Preservation Commission consists of nine members that are appointed by the City Council. Four of the commissioners must be “professionals in preservation-related disciplines.” A list of examples of these disciplines is provided, such as architecture, architectural history, archaeology, history, urban planning, or cultural anthropology. The ordinance also notes that the City Council must “give due consideration to maintaining a balance of interests and skills in the composition of the Commission and to the individual qualifications of the candidates” when making appointments. The balance of commissioners need not meet any specific requirements.

Commission Membership in Peer Cities

Like Fort Collins, most communities we studied have specific requirements for the members of their preservation commissions. However, these requirements can range from very general to very specific. For example, Boulder merely requires members to be “architectural or urban planning professionals,” and Boise requires only that appointments are made “with due regard to the proper representation of such fields as history, architecture, urban planning, archeology and law.” Many cities note something similar to Eugene, that members should have “demonstrable interest, competence, or knowledge of historic preservation.”¹⁵

Some cities have more specific requirements, such as professional architectural historians, certified public accountants, licensed real estate professionals, certified architects, or certified landscape architects. Some cities, like Madison (shown below) require that at least two of the commissioners meet the Professional Qualifications Standards established by the United States Secretary of the Interior for History, Archeology, Architectural History, Architecture, or Historic Architecture. A few cities such as Cambridge and Syracuse

¹⁵ Boulder [2-3-7](#); Boise [11-05-09\(2\)](#); Eugene [2.355](#)

specify that members are chosen from nominations from various associations, like a historical association, the American Institute of Architects, or a real estate board. One outlier in our research was Berkeley, which does not list specific requirements or interests for commissioners, but simply has each individual councilmember appoint their own representative.¹⁶

Madison, Wisconsin

33.19. Landmarks Commission.

(1) *Composition and Terms.* A Landmarks Commission is hereby created, consisting of seven (7) members. One (1) shall be a historian; at least one (1) shall be a licensed architect, one (1) shall be a licensed real estate professional; one (1) shall be an Alder; and three (3) shall be resident members, at least one of whom has expertise in construction. Each member shall have, to the highest extent practicable, a known interest in historic preservation. Of the membership, at least two (2) shall meet the Professional Qualifications Standards established by the United States Secretary of the Interior for History, Archeology, Architectural History, Architecture, or Historic Architecture. The Mayor shall appoint the commissioners subject to confirmation by the Common Council. The term for each member shall be three (3) years. The terms shall be staggered.

Conclusion and Recommendations

Fort Collins’ Landmark Preservation Commission membership requirements are fairly similar to the peer cities we studied. Fort Collins could consider more specific requirements than simply “professionals in preservation-related disciplines,” such as at least one certified architect, or at least one member that meets the Secretary of the Interior’s Professional Qualifications Standards. We understand that due to Certified Local Government (CLG) requirements, four of the nine members of the LPC are required to meet the standards. However, this is not a requirement that is stated in the ordinance and could therefore be clarified. There may be some concern in finding qualified applicants if the requirements are too strict. However, we found that many cities of similar size to Fort Collins have more detailed requirements and are able to find qualified commissioners. We recommend limiting the requirements to only a portion of the commission, as is currently the practice in Fort Collins. The specific skills and qualifications to require will need to be thoroughly evaluated.

Recommendation

- Consider more specific requirements for commission membership.

¹⁶ Madison [33.19](#); Cambridge [2.78.010](#); Syracuse [VII-3-B](#); Berkeley [3.24.030](#)

G. HISTORIC SURVEYS

The most effective preservation ordinances are supported by thorough, methodical studies and surveys of the community's archaeological and historic resources. In the landmark Penn Central case, the Supreme Court pointed out the importance of background surveys and studies, stating that the "function...of identifying properties and areas of historical and architectural importance is critical to any landmark preservation effort." Historic building surveys provide information for a variety of local government purposes. They are a key element in making preservation planning complementary with development goals and help to evaluate the impact of new development. They also enable planning decisions to be made against a preservation background. By making information available early in project planning processes, such surveys help review processes operate more efficiently.

Resources of potential historical significance should be surveyed and the archaeological, architectural, or historical significance of individual resources and districts documented before designation takes place. The importance of conducting historic resource surveys before designation occurs cannot be overestimated. Local officials will look to such surveys for guidance when presented with development applications that affect historical resources. Also, some landowners may challenge designations and permit denials. Using the survey as a guide, communities then should choose carefully those individual resources, neighborhoods or districts it believes worth preserving. Attention to detail in the survey and designation stages proves immensely valuable at later stages.

Once communities have completed initial surveys and designated landmarks and districts, they should ensure that the survey is periodically reviewed and updated. Resources that were overlooked the first time around may be discovered, or some that were consciously omitted may assume a new significance. What a community considers unworthy of protection may change over the course of only a few years. For this reason, many ordinances contain provisions requiring that the survey be "periodically" updated. Though influenced by language in the ordinance, surveys are mostly governed administratively outside of the ordinance.

Historic Surveys in Fort Collins

The Fort Collins ordinance is largely silent on historic surveys, except for one of the functions listed for the Landmark Preservation Commission in Division 19, Section 2-278: "To advise the City Council and City staff regarding the identification and evaluation of historic resources within the Growth Management Area and provide information regarding the significance of the resources, the nature and degree of threat to their preservation and methods for their protection." No further specificity is provided on a survey program. The city's website houses many historical contexts, survey reports, and development grants completed over the last twenty years on the "Historic Projects" page. There are a wide range of topics and areas of Fort Collins covered by these documents.

Historic Surveys in Peer Cities

Many cities we studied do not explicitly integrate historic surveys into their ordinance, but many city websites detail their survey programs. Santa Barbara, Boise, and Provo are three examples of integration of surveys into the ordinance.¹⁷ The Provo example shows a requirement to update surveys every 10 years:

Provo, Utah

16.02.020. Duties and Powers.

The Landmarks Commission shall have the following duties and powers:

- (1) *Survey and Inventory Community Historic Resources.* The Landmarks Commission shall conduct or cause to be conducted a survey of the historic, architectural, and archaeological resources within the community. The survey shall be compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten (10) years.

Since the peer cities we studied are all locations of large universities, many of these survey programs appear to be supported by or partnered with the local university. For example, Gainesville notes on their website that survey teams partner with students in the university's historic preservation program and other community volunteers. Eugene also notes that their survey program has been underway since the 1980s in cooperation with the Oregon State Historic Preservation Office and the University of Oregon Historic Preservation Program.¹⁸

Gainesville is currently completing a mid-century survey of the city, as it states that buildings constructed from 1930 through 1970 were not assessed in previous surveys that had taken place in the 1980s and 1990s. In describing the importance of this survey, Gainesville notes that its "dramatic growth following the Second World War was accompanied by a transformation of the city's architecture, as mid-century modern design began to appear in suburban homes, commercial properties and motels, among other vernacular building types. Because mid-century architecture represents such a large departure from architecture that came before it, the survey will increase knowledge and awareness of Gainesville's Modern architecture, and provide a basis for updating historic resources inventories and the city's Design Guidelines."¹⁹ This appears similar to the *Fort Collins Postwar Development 1945-1969 Survey* that was completed in 2011. Considering the significant continued growth through the 1970s in Fort Collins, future planning for ongoing historic surveys is vital.

¹⁷ Santa Barbara [22.22.030](#); Boise [11-02-05](#); Provo [16.02.020](#)

¹⁸ City of Gainesville, "[Mid-Century Survey](#)"; City of Eugene, "[Eugene Cultural Resource Program](#)"

¹⁹ City of Gainesville, "[Mid-Century Survey](#)"

Conclusion & Recommendations

While Fort Collins is similar to many peer cities in not directly addressing historic surveys in the ordinance, there are several improvements that could be made based on the examples that do address surveys. First, one of the duties of the Landmark Preservation Commission could be to more explicitly direct historic surveys to be completed and also specify a time at which they must be updated. While it may not be integrated into the ordinance, the City should work with Colorado State University's public history students, History Colorado, or other organizations to develop a program for regularly surveying historic properties. Considering the substantial growth that occurred after 1970 in Fort Collins, soon many properties will reach the 50-year age limit and thorough, regularly updated documentation and survey work will help immensely in future decisions related to these properties. Funding and completing survey work should be a high priority for the Fort Collins historic preservation program as it will result in the more efficient and predictable administration of all elements of the program.

Recommendation

- Specify that one of the duties of the Landmark Preservation Commission is to direct historic surveys to be completed and regularly updated.
- Develop partnership with other organizations to develop a program for regularly surveying historic properties.
- Prioritize the completion of survey work and regular updating of existing surveys.

Links

PEER CITY ORDINANCES

Berkeley, California:

<http://www.codepublishing.com/CA/Berkeley/html/Berkeley03/Berkeley0324/Berkeley0324.html#3.24>

Boise, Idaho: <http://cityclerk.cityofboise.org/media/262806/1100.pdf>

Boulder, Colorado:

https://library.municode.com/co/boulder/codes/municipal_code?nodeId=TIT9LAUSCO_CH11HIPR_9-11-3INDEINLAHIDI

Cambridge, Massachusetts: <http://code.cambridgema.gov/2.78.180/>

Denton, Texas:

https://library.municode.com/tx/denton/codes/code_of_ordinances?nodeId=SPBLADECO_CH35ZO_ARTVHILAPRHIDI

Eugene, Oregon: <https://www.eugene-or.gov/DocumentCenter/Home/Index/262>

Gainesville, Florida:

https://library.municode.com/fl/gainesville/codes/code_of_ordinances?nodeId=COORGAFL_CH30LADECO_ARTVIRESPREUS_S30-112HIPRCO

Lincoln, Nebraska: <http://lincoln.ne.gov/city/attorn/lmc/ti27/ch2757.pdf> ;

Madison, Wisconsin:

https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=Chapter%2033%20Boards%20%20Commissions%20%20and%20Committees

Norman, Oklahoma:

<http://www.normanok.gov/sites/default/files/WebFM/Norman/Planning%20and%20Development/Planning%20and%20Zoning/5-22-14%20Complete%20Zoning%20Ordinance.pdf>

Provo, Utah: <http://www.codepublishing.com/UT/Provo/?Provo16/Provo16.html>

Santa Barbara, California: <http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=12168>

Syracuse, New York: <http://www.syracuse.ny.us/pdfs/Zoning/Zoning%20Ordinance%20Part%20C.pdf>

OTHER RELATED SITES

City of Eugene, "Eugene Cultural Resource Program," <https://www.eugene-or.gov/828/Eugene-Cultural-Resource-Program>

City of Eugene, "Historic Designation," <https://www.eugene-or.gov/823/Historic-Designation>

City of Gainesville, "Mid-Century Survey,"

<http://www.cityofgainesville.org/PlanningDepartment/HistoricPreservation/Mid-CenturySurvey.aspx>