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A Tale of Two Reviews: HTC and Local Design Review

JOHN TESS

HERITAGE CONSULTING GROUP

If the owner of a recently acquired building wishes to pursue the 20 percent federal historic tax credit (HTC), but that building is also subject to local design review, what does it mean for the rehabilitation project? How will it affect the HTCs? There seems to be a myth that there is one all-encompassing historic design review, but nothing could be further from the truth. The state historic

preservation office (SHPO) and National Park Service (NPS) reviews for state and federal HTCs are entirely separate from a local design review. This means that an applicant needs to be prepared for two different timelines, two different fees, two different scopes of review, as well as two different, and sometimes conflicting, design standards

continued on page 2

Image: Courtesy of Heritage Consulting Group

The Globe Hotel is a 1911, four-story, unreinforced, masonry building in Portland, Ore.



continued from page 1

For the development team, it is critical to understand the differing applications, processes and standards. HTC review grants full design review rights to NPS and where a state tax credit may be involved, the SHPO. Full review includes exterior, interior and site development as well as new construction. It addresses not only the treatment of historic areas and materials, but the redevelopment of areas that might be considered “nonhistoric.” It is also important to remember that the developer triggers this design review by seeking the HTC incentive.

In contrast, local design review is a legal, regulatory land-use review. Different communities have different triggers for local review. Many cities link design review to listing in the National Register. Others limit review to only locally designated historic resources, while yet others review work proposed for all buildings past a set age. Most typically, local design review is limited to work on the exterior, including site and new construction beyond the envelope of the building. In some instances, however, where local incentives such as property tax abatement are used, that review may be extended to the interior. The development team needs to fully understand the scope of local and HTC design review to understand how these processes may intertwine.

Timing, Approach to Reviews

When undergoing two reviews, the timing of and approach to the reviews is crucial. The HTC review tends to be a more fluid process with the opportunity for submittal early in the design process and for informal give-and-take discussions. Often after submitting a Part 2–Description of Rehabilitation application, the NPS will determine that the project will meet the Standards if it addresses a series of conditions. These conditions are addressed in subsequent amendments and demonstrate the back-and-forth, fluid nature of the federal HTC review process. In contrast, local design review is driven by regulatory codes, which is more rigid and typically requires opportunity for public notice and input.

Reviews can last as long as months, depending on the kind of review and a given city’s procedures. The review typically involves includes public notice, a staff review and for large projects, public hearings. In local design review, once a formal decision is made, it is typically not possible to make significant design changes without a



Image: Courtesy of Heritage Consulting Group

The 2011 rehabilitation of the Globe Hotel in Portland, Ore., included introducing a rooftop addition with mechanicals above.

new or revised application with the associated processes. As a result, the relative rigidity of the local process against the greater fluidity of the HTC process then encourages the development team to secure HTC approval first. As noted, also, the HTC process will often allow the review to begin during the conceptual phases of design, whereas a local review typically requires a largely fully developed design before the process can begin.

Typically, the review standards for local and HTC reviews differ. SHPO and NPR rely on the Secretary’s Standards. Local design standards are found in city code and the result of city lawmaking. While conceptually the federal and local standards may seem parallel, it is a mistake to assume that they are the same.

Example of Challenges: Globe Hotel in Portland, Ore.

When differences arise between the Secretary of Interior Standards and local design review standards, it can create challenges. One process does not trump the other. NPS approval does not automatically mean local design review approval and vice versa. Often there are conflicts that need to be resolved. The 2011 rehabilitation of the Globe Hotel in Portland, Ore., illustrates the challenges in resolving differences between an HTC review and a local design review. The Globe Hotel is a 1911, four-story, unreinforced, masonry building. Because of a tight development timeframe, the project team opted to pursue HTC review and local design review simultaneously.

The project included introducing a rooftop addition with mechanicals above. NPS approved the rooftop, though one of the conditions was that the mechanical equipment

continued on page 3

continued from page 2

was not to be screened. From the NPS perspective, screening would enlarge the rooftop addition and create the appearance of yet an additional story; in this instance it would have made a historically four-story building into a six-story building. In contrast, the city of Portland requires that rooftop mechanical equipment be screened. The city's logic was that the rooftop screening would simply be an additional design element and provide the imagery of an organized rooftop rather than the cacophony of equipment. As the decisions were made more or less simultaneously, this contradictory outcome required ongoing discussions to explore possible options. In the end, the developer had to return to the city with a new design review application, thus extending the project by six months.

The difference in standards that are used in review can lead to dissonance between HTC and local review standards. For example, many local jurisdictions regulate exterior color. This can be as general as "earth-tone" or as specific as a certain shade of blue. The process can be frustrating, and also confusing. Typically, NPS does not review color except when it relates to very specific character-defining feature. The same is true for building signs. NPS cares about how the sign attaches to the building but is inclined to play a "default" role in the process. What that means is that if the local landmarks commission approves a particular sign package, NPS will try to accommodate. It is not an absolute and much depends on the specific of the building, but it is typically preferable to work out sign issues locally before submitting them to SHPO and NPS.

Another wrinkle lies with the specific standards being applied. For example, regarding storefronts, the Secretary of Interior Standards call for work to be compatible but

the interpretation of this standard is usually broad. There are specific treatments that are precluded, such as opening a traditional commercial storefront to the sidewalk by eliminating the bulkhead, but NPS does allow modern compatible designs as well as traditional designs. In contrast, some local guidelines call for returning modernized storefronts to a design evocative of the building's original design and specifically not a modern treatment. Again, one review does not trump the other as the purpose, standards and process are different. Failing to understand these varying processes can result in delays in the design and approval processes.

The key is to avoid the assumption that one design review is superior to another. This works both ways: there have been instances where the project team assumed that NPS approval would be forthcoming because of local design review approval and where the team assumed the opposite, that local design review approval would be forthcoming because of NPS approvals. The processes are separate and often the standards are different. Success lies in understanding the full parameters of design review on each level and early on attempting to understand and reconcile differences. The way to smoothly navigate these reviews is to understand the timetable, scope, relative rigidity and review standards. ♦

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John M. Tess is president and founder of Heritage Consulting Group, a national firm that assists property owners seeking local, state and federal historic tax incentives for the rehabilitation of historic properties. Since 1982 Heritage Consulting Group has represented historic projects totaling more than \$3 billion in rehabilitation construction. He can be reached at 503-228-0272 or jmtess@heritage-consulting.com.

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