

10-24-00

ORDINANCE NO. 24432

An ordinance amending CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, by establishing Historic Overlay District No. 99 (Wheatley Place) comprised of the following described property ("the Property"), to wit:

BEGINNING at the point of intersection on the northeast line of Malcolm X Boulevard and the northwest property line of lots fronting on the northwest line of Warren Avenue;

THENCE northeast to the southwest line of Meadow Street;

THENCE southeast to the northwest property line of lots fronting the northwest line of Caviness Street;

THENCE northeast to the northeast property line of lots fronting the northeast line of Meadow Street;

THENCE southeast to the northwest line of Roby Street;

THENCE southwest to the southwest line of Meadow Street;

THENCE southeast to the northwest line of McDermott Avenue;

THENCE southwest to the south corner of Lot 11, Block 7/1966;

THENCE southeast to the southwest property line of lots fronting the northwest line of McDermott Avenue;

THENCE southwest to the northeast line of Malcolm X Boulevard;

THENCE northwest to the POINT OF BEGINNING;

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providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding the rezoning of the Property; and

WHEREAS, the city council finds that the Property is an area of historical, cultural, and architectural importance and significance to the citizens of the city; and

WHEREAS, the city council finds that it is in the public interest to establish this historic overlay district; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Historic Overlay District No. 99 comprised of the following described property ("the Property"), to wit:

BEGINNING at the point of intersection on the northeast line of Malcolm X Boulevard and the northwest property line of lots fronting on the northwest line of Warren Avenue;

THENCE northeast to the southwest line of Meadow Street;

THENCE southeast to the northwest property line of lots fronting the northwest line of Caviness Street;

THENCE northeast to the northeast property line of lots fronting the northeast line of Meadow Street;

THENCE southeast to the northwest line of Roby Street;

THENCE southwest to the southwest line of Meadow Street;

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THENCE southeast to the northwest line of McDermott Avenue;

THENCE southwest to the south corner of Lot 11, Block 7/1966;

THENCE southeast to the southwest property line of lots fronting the northwest line of McDermott Avenue;

THENCE southwest to the northeast line of Malcolm X Boulevard;

THENCE northwest to the POINT OF BEGINNING.

SECTION 2. That the establishment of this historic overlay district shall not affect the existing underlying zoning classification of the Property, which shall remain subject to the regulations of the underlying zoning district. If there is a conflict, the regulations contained in this ordinance control over the regulations of the underlying zoning district.

SECTION 3. That a person shall not alter the Property, or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, or remove any structure on the Property without first obtaining a certificate of appropriateness in accordance with the Dallas Development Code, as amended, and this ordinance. All alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit A.

SECTION 4. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with this ordinance, the Dallas Development Code, the construction codes, and all other applicable ordinances, rules, and regulations of the City of Dallas.

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SECTION 5. That the director of planning and development shall correct Zoning District Map No. K-8 in the offices of the city secretary, the building official, and the department of planning and development to reflect the changes in zoning made by this ordinance.

SECTION 6. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000. In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this ordinance, and institute any appropriate action or proceedings to prevent, restrain, correct, or abate the unlawful erection, construction, reconstruction, alteration, repair, conversion, or maintenance of a building, structure, or land on the Property.

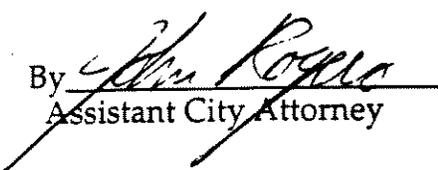
SECTION 7. That CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 9. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas and it is accordingly so ordained.

APPROVED AS TO FORM:

MADELEINE B. JOHNSON, City Attorney

By  Assistant City Attorney

Passed           OCT 25 2000          

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Exhibit A  
PRESERVATION CRITERIA  
Wheatley Place Historic District

1. GENERAL

- 1.1 All demolition, maintenance, new construction, public works (including street lights), renovation, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to property within this district must comply with the regulations contained in CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE" of the Dallas City Code, as amended. In the event of a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness.
  - a. A person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
  - b. There are two types of certificates of appropriateness. A certificate of appropriateness for routine maintenance work (minor repairs and alterations) may be approved by city staff within 20 days after a complete application is filed. All other certificates of appropriateness must be reviewed by city staff, the historic district taskforce (which must include community residents) and the Landmark Commission. The certificate of appropriateness review procedure is outlined in Section 51A-4.501 of the Dallas Development Code, as amended.
  - c. The Landmark Commission may approve a certificate of appropriateness for work that does not strictly comply with these preservation criteria upon a finding that the proposed work is historically accurate and is consistent with the spirit and intent of the preservation criteria; and the proposed work will not adversely affect the historic character of the property or the integrity of the historic district.
  - d. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
  - e. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.

- 1.4 A person may not demolish or remove any structure in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code.
- 1.5 Preservation and restoration materials and methods must comply with the Secretary of the Interior's Standards and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.
- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1916 to 1940.

## 2. DEFINITIONS

- 2.1 Unless defined below, the definitions contained in CHAPTER 51A "PART II OF THE DALLAS DEVELOPMENT CODE" of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of the historic district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 COLUMN means the entire column, including the base and capital.
- 2.5 CONTRIBUTING STRUCTURE means a structure that retains its essential architectural integrity of design and whose architectural style is typical of or integral to a historic district.
- 2.6 CORNERSIDE FACADE means a facade facing a side street.
- 2.7 CORNERSIDE FENCE means a fence adjacent to a side street.
- 2.8 CORNERSIDE YARD means a side yard abutting a street.

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- 2.9 DISTRICT means Historic Overlay District No. 99, the Wheatley Place Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown in Exhibit B.
- 2.10 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.11 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.12 INTERIOR SIDE FACADE means a facade not facing a street or alley.
- 2.13 INTERIOR SIDE FENCE means a fence not adjacent to a street or alley
- 2.14 INTERIOR SIDE YARD means a side yard not abutting a street or alley.
- 2.15 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.16 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

### 3. BUILDING SITE AND LANDSCAPING

- 3.1 New construction is prohibited in the front yard.
- 3.2 All contributing structures are protected.
- 3.3 New driveways (full or ribbon strip), sidewalks, steps, and walkways must be constructed of brick, brush finish concrete, or other appropriate material. Artificial grass, artificially-colored concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted. Materials not normally permitted may be used on sidewalks, steps and walkways if necessary for the elderly or handicapped, but only for the period needed.
- 3.4 Circular driveways and parking areas are not permitted in a front yard.
- 3.5 Carports or garages are permitted in the side and rear yards if they are historic in appearance. Temporary structures not matching the historic structure are allowed if they are compatible in color, form, materials and general appearance.
- 3.6 Outdoor lighting must be appropriate and enhance the structure.
- 3.7 Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.
- 3.8 It is recommended that landscaping reflect the historic landscape design.

- 3.9 Existing trees are protected, except that unhealthy or damaged trees may be removed.
- 3.10 Any new mechanical or communications equipment may not be erected in the front or side yards, and must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way. Pay phones may not be erected in front or side yards.
- 3.11 Fence location.
- a. Historically appropriate fences are permitted in the front yard and may not exceed 3 feet, 6 inches in height and must be 50 percent open. They must be constructed of one or more of the following materials: wood, stone, brick, wrought iron, a combination of those materials, or other appropriate materials. Chain link fencing is not allowed in the front yard.
  - b. Interior side fences must be located five feet behind the open front porch of an adjacent house. The portion of the interior side fence facing the main street must be at least 70 percent open. Interior side fences may be solid. Chain link fencing is not allowed in interior side yards.
  - c. Cornerside fences must be located in the rear 50 percent of the cornerside facade. Cornerside fences must be at least 70 percent open. Chain link fencing is not allowed in cornerside yards. Solid cornerside fences are allowed only if screening is necessary to ensure privacy due to unusually high pedestrian or vehicular traffic. Solid cornerside fences must not screen any significant architectural feature of a main structure.
  - d. Fence locations are shown in Exhibit C.
- 3.12 Unless otherwise noted, fences must not exceed eight feet in height.
- 3.13 Fences must be constructed of brick, cast stone, wrought iron, stone, wood, or a combination of those materials. Chain link fencing is only allowed in the back yard.
- 3.14 Tops of fences must be horizontal, stepped or parallel to grade as illustrated in Exhibit C.
- 3.15 The finished side of a fence must face out if seen from any street as illustrated in Exhibit C.

#### 4. FACADES

##### 4.1 Protected facades.

- a. Front, cornerside and interior side facades of contributing structures are protected.
- b. Reconstruction, renovation, repair or maintenance of protected facades must be appropriate and must employ materials similar to the historic materials in texture, color, pattern, grain, and module size.
- c. Historic solid-to-void ratios of protected facades must be maintained.
- d. Brick added to protected facades must match in color, texture, module size, bond pattern, and mortar color.
- e. Brick, cast stone and concrete elements on protected facades may not be painted, except that portions of the structure that had been painted prior to the effective date of this ordinance may remain painted.

4.2 Reconstruction, renovation, repair, or maintenance of nonprotected facades must be compatible with protected features.

4.3 Wood siding, trim, and detailing must be restored wherever practical. If wood siding is economically impossible, the Landmark Commission may consider other appropriate materials.

4.4 All exposed wood must be painted, stained, or otherwise preserved.

4.5 Historic materials must be repaired if possible; they may be replaced only when necessary.

4.6 Paint must be removed in accordance with the Department of Interior Standards prior to refinishing.

4.7 Aluminum siding, stucco, and vinyl cladding are not permitted.

##### 4.8 Paint colors.

- a. Historic color must be maintained wherever practical.
- b. Color schemes for non-masonry elements should conform to any available documentation as to historic color.

- c. All structures must have a dominant color and no more than three trim colors, including any accent colors. Proper location of dominant, trim and accent colors are shown in Exhibit D. The colors of a structure must be complimentary to each other and the overall character of this district. Complimenting color schemes are encouraged through the blockface.
  - d. Wood columns should be painted white or a light color.
- 4.9 Exposing and restoring historic finish materials is recommended.
- 4.10 Cleaning of the exterior of a structure must be in accordance with Department of Interior Standards. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

## 5. WINDOWS AND DOORS

- 5.1 Historic doors and windows must remain intact except when replacement is necessary due to damage or deterioration.
- 5.2 Replacement of doors and windows which have been altered and no longer match the historic appearance is recommended.
- 5.3 Replacement doors and windows must express profile, muntin and mullion size, light configuration, and material to match the historic. Wood windows should be retained and repaired. Replacement windows should be wood. If wood windows are economically impossible, the Landmark Commission may consider other appropriate materials.
- 5.4 Storm doors and windows are permitted if they are appropriate and match the existing doors and windows in profile, width, height, proportion, glazing material, and color. Painted or factory finished aluminum storm doors, storm windows or screens are permitted. Mill finished (unpainted) aluminum storm doors, storm windows or screens are not permitted.
- 5.5 Decorative ironwork and burglar bars are not permitted over doors or windows of protected facades. Interior mounted burglar bars are permitted if appropriate.
- 5.6 Glass and glazing must match historic materials as much as practical. Films and tinted or reflective glazings are not permitted on glass.
- 5.7 New door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled or the safety of life is threatened.
- 5.8 The Secretary of the Interior's Standards for Rehabilitation should be referred to for acceptable techniques to improve the energy efficiency of historic windows and doors.

**6. ROOFS**

- 6.1 The historic slope, massing, configuration, and materials of the roof must be preserved and maintained.
- 6.2 The following roofing materials are allowed: composition shingles and wood shingles. Built-up and single-ply membrane are permitted on flat roofs. Clay tiles, slate tiles, terra-cotta tiles, metal, synthetic wood shingles and synthetic clay tiles roofs are not permitted.
- 6.3 Historic eaves, coping, cornices, dormers, parapets, and roof trim must be retained, and should be repaired with material matching in size, finish, module and color.
- 6.4 Mechanical or communications equipment, satellite dishes, skylights, and solar panels on the roof must be placed so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.

**7. PORCHES AND BALCONIES**

- 7.1 Historic porches and balconies are protected.
- 7.2 Porches and balconies may not be enclosed. It is recommended that existing enclosed porches be restored to their historic appearance.
- 7.3 Historic columns, detailing, railings, and trim on porches and balconies are protected. Railings and ramps are allowed if necessary for the elderly or handicapped, but only for the period needed.
- 7.4 Porch floors must be brick, concrete, stone, or wood. Brick, concrete, or stone porch floors may not be covered with carpet or paint. Wood floors must be painted or stained. A clear sealant is acceptable on porch floors. Materials not normally permitted may be used on porch floors if necessary for the elderly or handicapped, if appropriate, and only for the period needed.

**8. EMBELLISHMENTS AND DETAILING**

- 8.1 The following architectural elements are considered important features and are protected:
  - a. porte cocheres,
  - b. front porches,
  - c. historic doors and windows, and
  - d. historic architectural detailing or decorative features.

9. NEW CONSTRUCTION AND ADDITIONS

- 9.1 Stand-alone new construction is permitted only in the rear yard, except as otherwise noted.
- 9.2 The elevation of a lot to be used for construction of a new main structure must match the elevation of other lots on the block.
- 9.3 Construction of new main structures must include a front porch appropriate to the neighborhood.
- 9.4 Vertical additions (second stories) to contributing structures are not permitted. Dormers are allowed on the rear of the house.
- 9.5 Horizontal additions to contributing structures are not permitted on the front facade. Any new horizontal additions must be set back ten feet from the front facade.
- 9.6 The color, details, form, materials, and general appearance of new construction, including accessory buildings, construction of new main structures and additions, must be compatible with the existing historic structure.
- 9.7 New construction and additions must have appropriate color, detailing, fenestration, massing, materials, roof form, shape, and solids-to-voids ratios. New construction should be of the same predominant material. Details can be of other materials, except as otherwise noted.
- 9.8 The height of new construction and additions must not exceed the height of the historic structure.
- 9.9 Aluminum siding, stucco and vinyl cladding are not permitted.
- 9.10 Chimneys visible from the public right-of-way must be clad in brick or stucco. Imitation brick may be used if appropriate.
- 9.11 Front yard setback for construction of new main structures.
  - a. A main structure on an interior lot must have a front yard setback that is within ten feet of the average front yard setback of other structures in the blockface.
  - b. A main structure on a corner lot must have a front yard setback that is within ten feet of the front yard of the closest main structure in the same blockface.
- 9.12 Front, rear, interior side, and cornerside yards are illustrated in attached Exhibit E.

- 9.13 New construction and additions must be designed so that connections between new construction or additions and the historic structure are clearly discernible as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the historic structure must be established and maintained. Historic details in the coping, eaves and parapet of the historic structure must be preserved and maintained at the point where the historic structure abuts new construction or additions.

## 10. ACCESSORY BUILDINGS

- 10.1 Accessory buildings are permitted only in the rear yard.
- 10.2 Accessory buildings must be compatible with the scale, shape, roof form, materials, detailing, and color of the main building. Imitation siding is allowed on accessory buildings if consistent with the main structure. Metal storage buildings are allowed if not seen from the street.
- 10.3 Accessory buildings must be at least eight feet from the main structure.
- 10.4 Accessory buildings must not exceed 800 square feet in area, unless documentation shows that an original building exceeding this size was previously on the building site.
- 10.5 Accessory buildings may have garage doors located at the established rear yard setback from the alley if electric garage door openers are installed.
- 10.6 The minimum rear yard setback for accessory structures is two feet, six inches, with a one foot, six inch roof overhang encroachment permitted.
- 10.7 The minimum side yard setback for accessory structures is three feet, with a one foot, six inch roof overhang encroachment permitted.
- 10.8 Accessory structures may be rebuilt in the location of a former accessory structure if the location of the former accessory structure is properly documented.

## 11. SIGNS

- 11.1 Temporary political campaign signs as defined in Chapter 15A of the Dallas City Code, as amended, and real estate signs may be erected without a certificate of appropriateness.
- 11.2 Signs may be erected if appropriate.
- 11.3 All signs must comply with the provisions of the Dallas City Code, as amended.

## 12. PRESERVATION CRITERIA SPECIFIC TO 3700 MALCOLM X BOULEVARD

### 12.1 General.

- a. All of the preservation criteria contained in this Exhibit A apply to 3700 Malcolm X Boulevard except as modified in this section.

### 12.2 Building site and landscaping.

- a. Any new mechanical equipment may be erected only in the side or rear yard, and must be screened.
- b. Fences are not permitted in front of or on the side of the building, except fences that are present prior to the effective date of this ordinance may remain.
- c. Asphalt is permitted for resurfacing the parking lot.

### 12.3 Facades.

- a. Signs advertising businesses in building are permitted on protected facades if appropriate.
- b. Retractable and shed-type awnings are allowed on protected facades.

### 12.4 Windows and doors.

- a. The historic storefront window configuration is protected.
- b. Exterior burglar bars are permitted over windows and doors if appropriate and necessary. Interior mounted burglar bars or other methods of security are preferred over exterior burglar bars.
- c. Metal roll-down protection screens are permitted if appropriate and necessary for security of merchandise. Alternatives to covering the exterior of storefront windows should be explored whenever possible.
- d. Burglar bars and protection screens that were present prior to the effective date of this ordinance may remain.

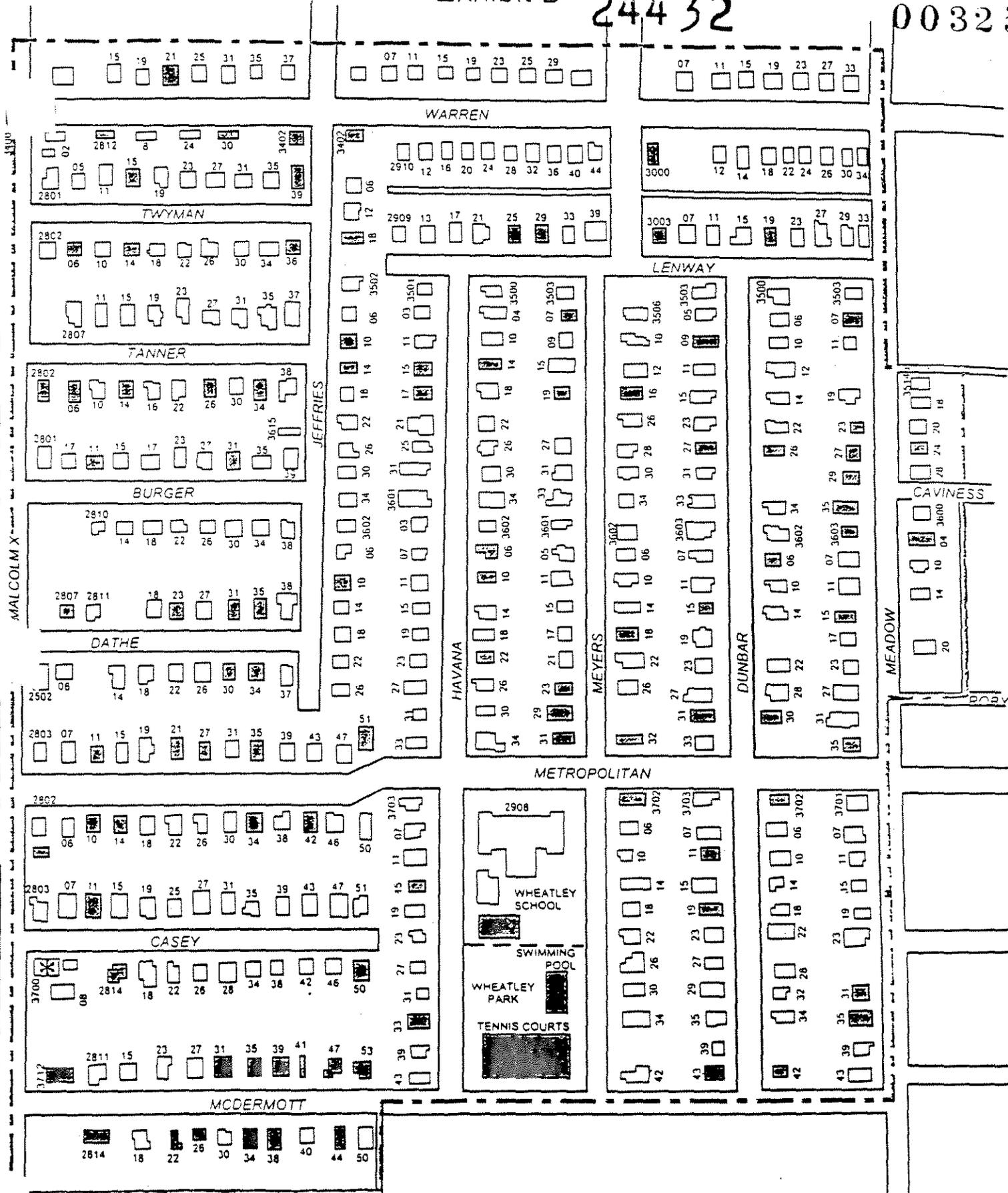
### 12.5 New construction.

- a. The preservation criteria regarding new construction contained in this Exhibit A apply to new construction for commercial uses, except as follows:
  1. Any new construction for commercial uses may not include a front porch.

2. Any new construction for commercial uses must have a front and side yard setback of no more than eight feet.

### 13. ENFORCEMENT

- 13.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
- 13.2 A person is criminally responsible for a violation of these preservation criteria if the person owns part or all of the property where the violation occurs, the person is the agent of the owner of the property and is in control of the property, or the person commits the violation or assists in the commission of the violation.
- 13.3 Any person who adversely affects or demolishes a structure in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.
- 13.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.



OAKLAND CEMETERY



Contributing

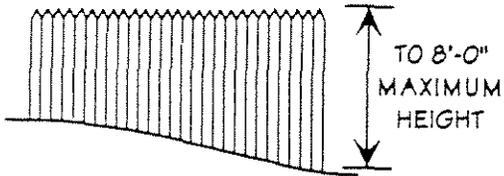


Non-Contributing

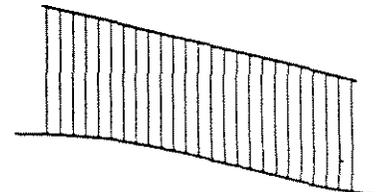
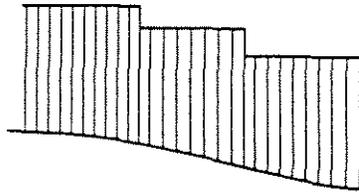
\* Contributing based on (1) History, heritage and culture: Represents the historical development, ethnic heritage or cultural characteristics of the city, state, or country..  
 (2) Historic context: Relationship to other distinctive buildings, sites or areas which are eligible for... architectural characteristics.

EXHIBIT C

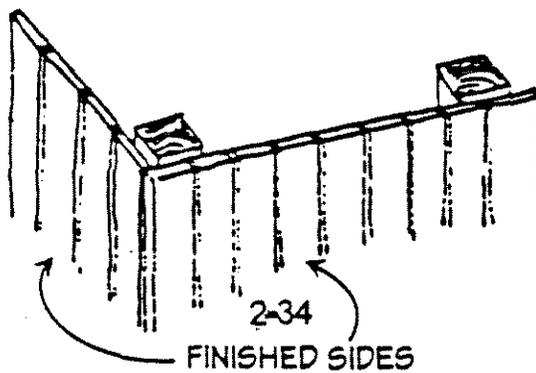
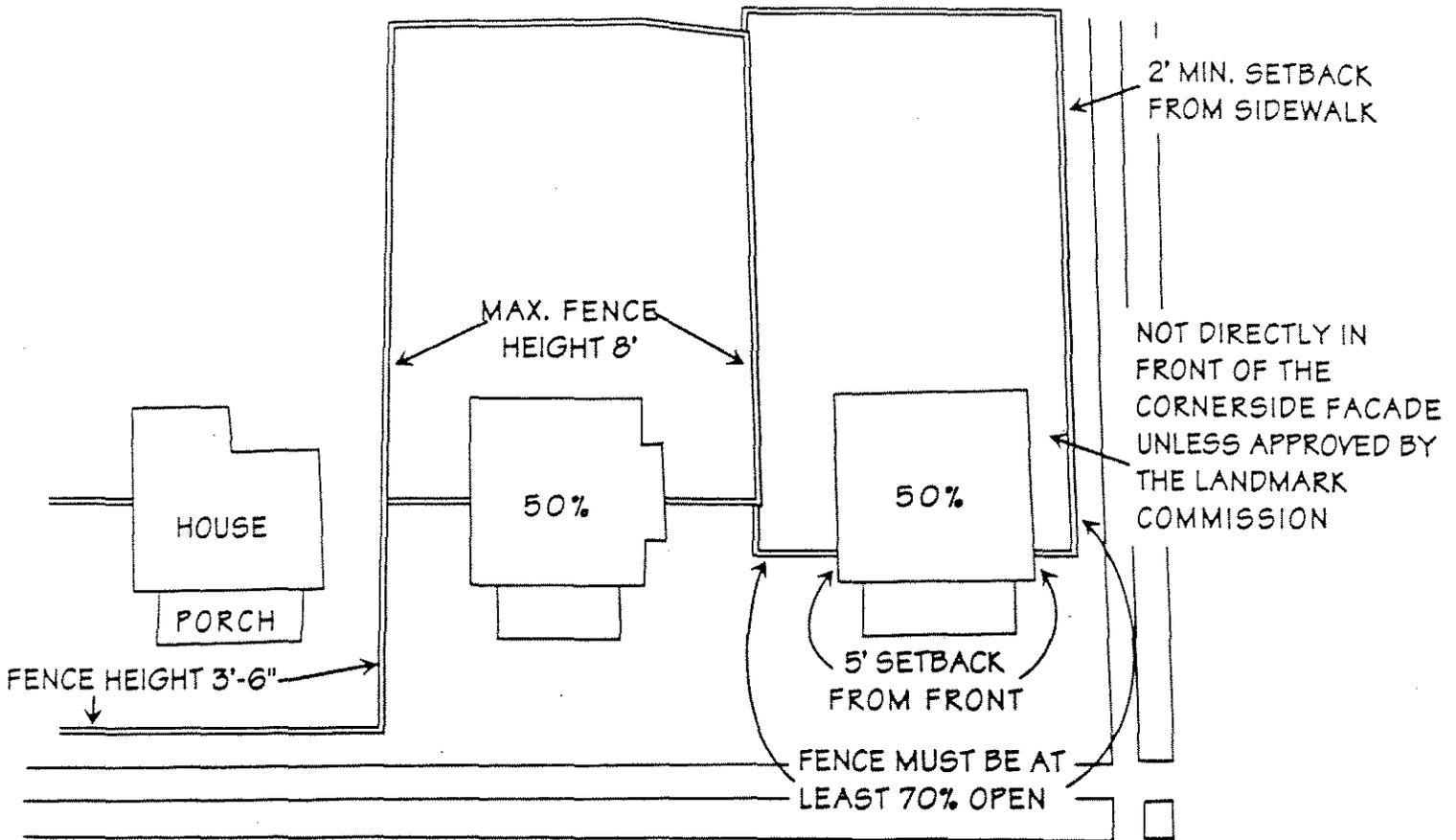
FENCES



HORIZONTAL



PARALLEL TO GRADE

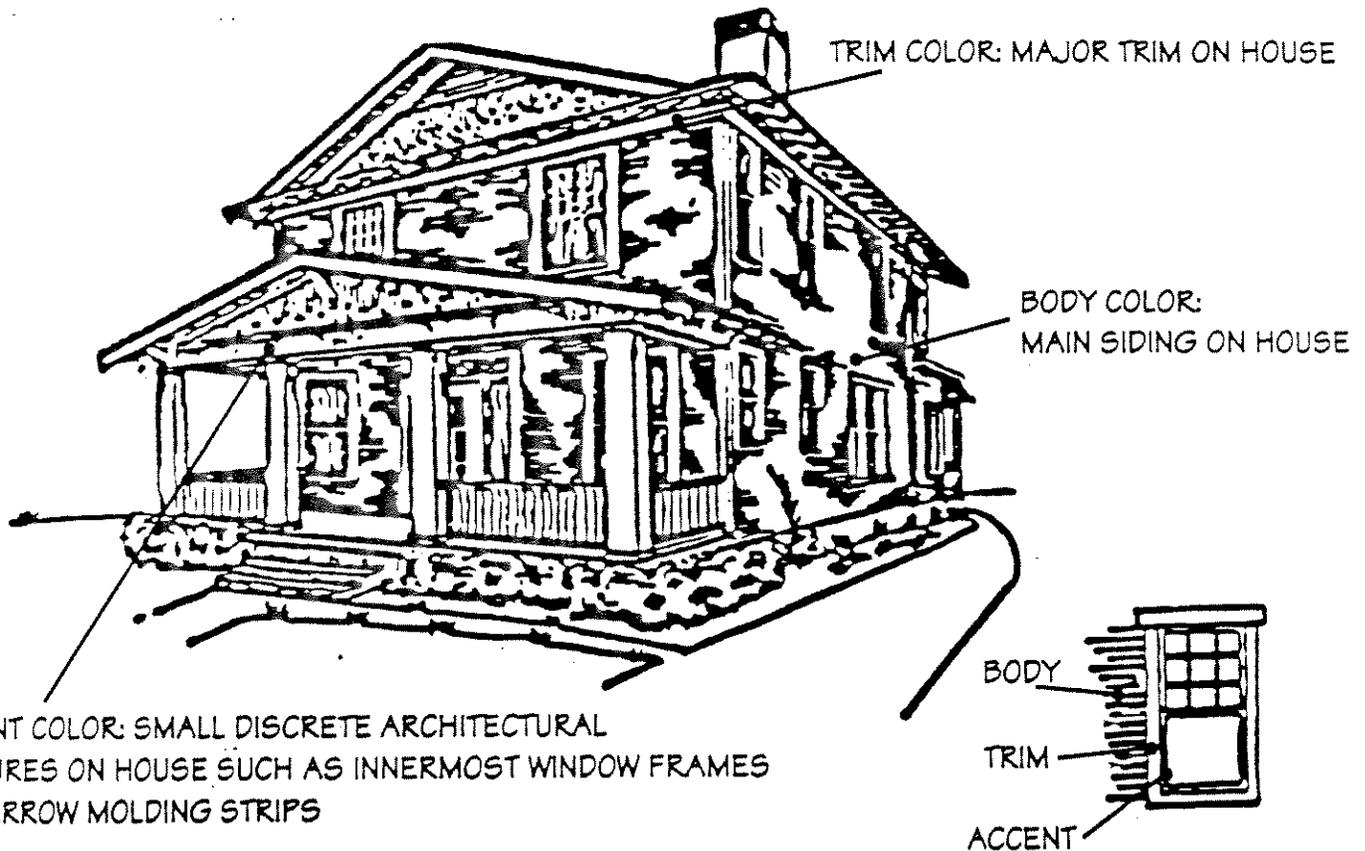


24432

EXHIBIT D

COLOR PLACEMENT

COLUMN COLOR: SHOULD BE  
PAINTED WHITE OR A LIGHT COLOR



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EXHIBIT E

