

# **THE RECORD**

**3708 S. MALCOLM X BLVD.  
APPEAL  
CD178-013(MP)**

**City Plan Commission  
Hearing  
12/13/2018**

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**3708 S. Malcolm X Boulevard CD178-013(MP)**

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# SECTION 1

## **Certificate for Demolition**

**3708 S. Malcolm X Boulevard  
CD178-013(MP)**

**Certificate for Demolition and Removal (CD)**  
**City of Dallas Landmark Commission**

CD 178 - 013 (MP)  
 Office Use Only

1. Name of Applicant: Allen R. Griffin, Dallas City Attorney's Office  
 MAILING Address: 2014 Main Street Ste. 227 City Dallas State TX Zip 75201  
 Daytime Phone: 214-670-4436 Fax: 214-670-4814  
 Relationship of Applicant to Owner: NA

ADDRESS OF PROPERTY TO BE DEMOLISHED: 3708 S. Malcolm X. Boulevard Zip: 75215

Historic District: Wheatley Place

**Proposed Work:**

2. Indicate which 'demolition standard(s) you are applying:
- Replace with more appropriate/compatible structure
  - No economically viable use
  - Imminent threat to public health / safety
  - Demolition noncontributing structure because newer than period of significance
  - Intent to apply for certificates of demolition pursuant to 51-A-4.501(i) of the Dallas City Code;
- Certificate of Demolition for residential structures with no more than 3,000 square feet of floor area pursuant to a court order

3. Describe work and submit required documents for the demolition standard you are applying:  
 (please see attached checklist)  
Demolition of a structure pursuant to 51-A-4.501(i)

**Application Deadline:**

This form must be completed before the Dallas Landmark Commission can consider the approval of any demolition or removal of a structure within a Historic District. This form along with any supporting documentation must be filed by the first Thursday of each month by 12:00 Noon so it may be reviewed by the Landmark Commission on the first Monday of the following month, 1500 Marilla 5BN, Dallas, Texas, 75201. (See official calendar for exceptions to deadline and meeting dates). You may also fax this form to 214/670-4210, **DO NOT FAX PHOTOGRAPHS**

**RECEIVED BY**

JUN 07 2018

Use Section 51A-3.103 OF THE Dallas City Code and the enclosed checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4209 to make sure your application is complete.

**Current Planning**

Other: In the event of a denial, you have the right to an appeal. You are encouraged to attend the Landmark Commission hearing the first Monday of each month. Information regarding the history of certificates for individual addresses is also available for review.

4. Signature of Applicant: Allen R. Griffin Date: 3/1/2018  
 5. Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

(IF NOT APPLICANT)

Review the enclosed Review and Action Form  
 Memorandum to the Building Official, a Certificate for Demolition and Removal has been:

- APPROVED. Please release the building permit.
- APPROVED WITH CONDITIONS. Please release the building permit in accordance with any conditions.
- DENIED. Please do not release the building permit or allow work.
- DENIED WITHOUT PREJUDICE. Please do not release the building permit or allow work.

March 2018 \_\_\_\_\_ Date: Oct. 18, 2018

Sustainable Development and Construction

Certificate for Demolition & Removal

City of Dallas

Historic Preservation

Rev. 3/27/01, 2-11-02, 1-29-03, 5-1-04, 7-8-04, 2-28-05

# SECTION 2

## Agenda

October 1, 2018

See Pages 28, Item #20

## Landmark Commission Agenda Monday, October 1, 2018

demolition is not a feasible option to alleviate the nuisance in a timely manner.

**Task Force Recommendations:** Demolish residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Deny - Motion to not demolish house. (This recommendation is from the July 10<sup>th</sup> Task Force meeting. Task Force does not review the applications again once they've entered the initial suspension period).

### **20. 3708 S MALCOLM X BLVD**

Wheatley Place Historic District

CD178-013(MP)

Marsha Prior

Extended Suspension

**Request:**

Demolish residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).

**Applicant:** City of Dallas Attorney's Office - Allen Griffin

**Application Filed:** 6/6/2018

**Staff Recommendations:**

Demolish residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Approve – The proposed demolition meets the standards in City Code Section 51A-4.501(i)(7) because the court issued a final order requiring demolition of the structure and the suspension of the certificate of demolition is not a feasible option to alleviate the nuisance in a timely manner.

**Task Force Recommendations:** Demolish residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Deny - Motion to not demolish house – Deny - Motion to not demolish house. (This recommendation is from the July 10<sup>th</sup> Task Force meeting. Task Force does not review the applications again once they've entered the initial suspension period).

### **OTHER BUSINESS ITEMS:**

1. Approval of Minutes from September 4, 2018.
2. Appointments of James Adams and Morgan Harrison to the West End/Individual/Central Business District Task Force, Ann Piper to the Fair Park Task Force, and Aimee Sanborn to the Peak's Suburban Task Force.
3. Approval of the 2019 Landmark Commission Meeting Calendar

### **ADJOURNMENT**

# SECTION 3

- Docket Material
- Power Point presentation



CITY OF DALLAS

**LANDMARK COMMISSION**

**OCTOBER 1, 2018**

FILE NUMBER: CD178-013(MP)  
LOCATION: 3708 S Malcolm X Blvd  
STRUCTURE: Main & Contributing  
COUNCIL DISTRICT: 7  
ZONING: PD No. 595

PLANNER: Marsha Prior  
DATE FILED: June 7, 2018  
DISTRICT: Wheatley Place  
MAPSCO: 46-Y  
CENSUS TRACT: 0037.00

**APPLICANT:** City Attorney's Office

**REPRESENTATIVE:** Allen Griffin

**OWNER:** HUMAN SERVICE NETWORK INC

**REQUEST:**

Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).

**BACKGROUND / HISTORY:**

7/2/2018 – Landmark Commission moved to enter into an initial suspension period.

8/6/2018 – Landmark Commission moved to enter into an extended suspension period.

The structure is listed as contributing to the Wheatley Place historic district.

**ANALYSIS:**

Since no interested party has met the requirements of the extended suspension period and since the City Attorney's office has met all the requirements of the demolition standard, Staff is recommending approval.

**STAFF RECOMMENDATION:**

Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Approve – The proposed demolition meets the standards in City Code Section 51A-4.501(i)(7) because the court issued a final order requiring demolition of the structure and the suspension of the certificate of demolition is not a feasible option to alleviate the nuisance in a timely manner.

**TASK FORCE RECOMMENDATION:**

Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Deny – Motion to not demolish house. (This



recommendation is from the July 10<sup>th</sup> Task Force meeting. Task Force does not review the applications again once they've entered the initial suspension period).

**Certificate for Demolition and Removal (CD)**  
**City of Dallas Landmark Commission**

CD 178 - 013 (MP)  
Office Use Only

1. Name of Applicant: Allen R. Griffin, Dallas City Attorney's Office  
MAILING Address: 2014 Main Street Ste. 227 City Dallas State TX Zip 75201  
Daytime Phone: 214-670-4436 Fax: 214-670-4814  
Relationship of Applicant to Owner: NA

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  - Imminent threat to public health / safety
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  - Intent to apply for certificates of demolition pursuant to 51-A-4.501(i) of the Dallas City Code;
- Certificate of Demolition for residential structures with no more than 3,000 square feet of floor area pursuant to a court order

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(please see attached checklist)

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Use Section 51A-3.103 OF THE Dallas City Code and the enclosed checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4209 to make sure your application is complete.

Other: In the event of a denial, you have the right to an appeal. You are encouraged to attend the Landmark Commission hearing the first Monday of each month. Information regarding the history of certificates for individual addresses is also available for review.

4. Signature of Applicant: Allen R. Griffin Date: 3/1/2018  
5. Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
(IF NOT APPLICANT)

Review the enclosed Review and Action Form  
Memorandum to the Building Official, a Certificate for Demolition and Removal has been:

- APPROVED. Please release the building permit.
- APPROVED WITH CONDITIONS. Please release the building permit in accordance with any conditions.
- DENIED. Please do not release the building permit or allow work.
- DENIED WITHOUT PREJUDICE. Please do not release the building permit or allow work.

Mark Eric \_\_\_\_\_ Date: Oct. 10, 2018

**Affidavit**

Before me the undersigned on this day personally appeared Allen R. Griffin who on his or her oath certifies that the statements contained in the application for a certificate of demolition and removal are true to the best of his or her knowledge and that he or she is the re of the City of Dallas.

Allen R. Griffin

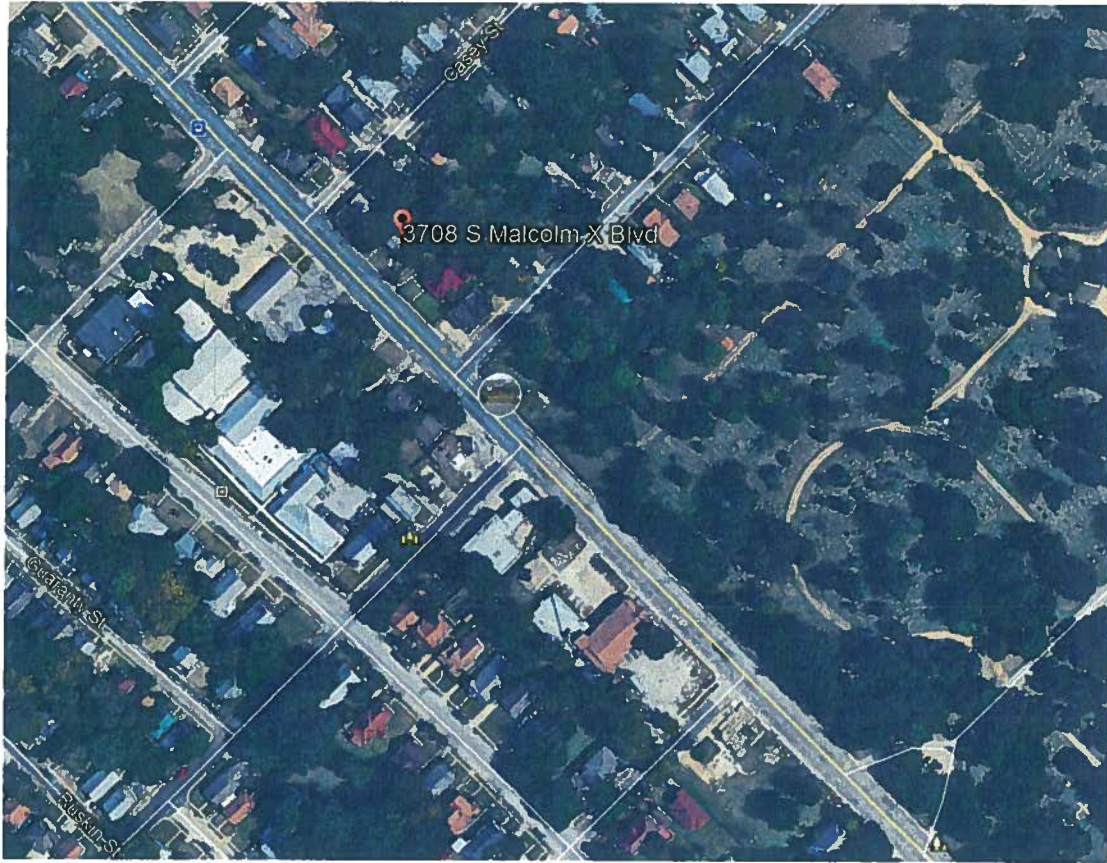
Affiant's signature

Subscribed and sworn to before me this 1<sup>st</sup> day of March, 2018

Michelle Jennings

Notary Public





Aerial view.





West (front) elevation.



View to left (North) of 3708 S Malcolm X.



View to right (South) of 3708 S Malcolm X.





View across (West) from 3708 S Malcolm X.



Right side elevation of 3708 S Malcolm X.



Right side elevation of 3708 S Malcolm X.





Photo submitted by City Attorney's Office.



Photo submitted by City Attorney's Office.





Photo submitted by City Attorney's Office.



Photo submitted by City Attorney's Office.



Photo submitted by City Attorney's Office.



01/19/2018 09:13:31 AM

20180016823  
ORDER 1/2

No. S50-004056-01

CITY OF DALLAS,  
Plaintiff,

VS.

3708 S. MALCOLM X BLVD,  
Defendant.

§  
§  
§  
§  
§  
§  
§

IN THE MUNICIPAL COURT OF

THE CITY OF DALLAS

DALLAS COUNTY, TEXAS

**ORDER AUTHORIZING CITY OF DALLAS TO DEMOLISH STRUCTURE ON PROPERTY**

On November 13, 2017 the Court ORDERED that the structure located in Lot 1 Block A/1969 commonly referred to 3708 S. Malcolm X. Blvd., Texas (the "Property") be demolished by the owner(s), mortgagee(s), lien holder(s) or other persons having an interest in the structure within 30 days. The Court further ORDERED that if said persons fail to abide by the order, within the allotted time, the City of Dallas, through its agents and contractors, is authorized to enter the Property, demolish the structure on the Property, remove all components and personalty, and place a lien on the Property where allowed by law for its incurred expenses.

A copy of the Court's order was mailed to each known owner, mortgagee, lien holder or interested party, via certified mail return receipt requested, within 10 days of the Court's issuance of the order. A copy of the order was also filed with the real property records of Dallas County and with the Dallas City Secretary. Moreover, a copy of the order was posted on the Property and relevant portions of the order, as dictated by law, were published in the November 17, 2017 edition of the Dallas Morning News.

Following the lapse of 30 days from the Court order, the above referenced property was reinspected and the structure was found to be standing, in its same condition, on the property. As a result of the reinspection, a Notice of Noncompliance was mailed to each known owner, mortgagee, lien holder or interested property, via certified mail return receipt requested. A copy of the notice was also posted on the Property and published in the December 20, 2017 edition of the Dallas Morning News.

Upon these findings and pursuant to Article IV-a of Chapter 27 of the Dallas City Code and Section 214.001 of the Local Government Code it is the intention of the City of Dallas to proceed with and act upon the Court's November 13, 2017 orders.

It is therefore ORDERED that the City of Dallas is authorized, through its authorized agents and contractors, to: 1) remove doors, gates, windows, locks, walls, boards and other barriers preventing entry onto the Property; 2) enter the Property to inspect, photograph, and measure for purposes of documentation; 3) demolish the structure and any accessory structure(s) on the Property; 4) remove all components and personalty; and 5) place a lien on the Property where allowed by law for the City's incurred expenses.

Signed this 8th day of January 2018

Presiding Judge



**NOTICE TO SUBSEQUENT GRANTEES, LIENHOLDERS OR TRANSFERREES**

Pursuant to Article IV-a of Chapter 27 of the Dallas City Code and Section 214.001 of the Local Government Code, notice is hereby given that the filing of this order is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of this order, and constitutes notice of the order on any subsequent recipient of any interest in the property who acquires such an interest after the filing of this order.



**DATE:** February 1, 2018  
**TO:** Landmark Commission  
**FROM:** Allen R. Griffin, Assistant City Attorney  
**CC:** David Cossum, Director  
Neva Dean, Interim Assistant Director  
Theresa Pham, Assistant City Attorney  
Mark Doty, Senior Planner  
Trena Law, Landmark Commission Coordinator  
**SUBJECT:** Notice of Court Order for Demolition

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Pursuant to 51A-4.501(l)(4), please be advised that the following properties are located within a City of Dallas Historic District and a court has issued an order for demolition of the structure(s) on these properties:

- (1) 1105 E. 9<sup>th</sup> Street (Tenth Street) Owner of Record per DCAD, Inner City Development Inc., P.O. Box 6366 Tyler, Texas 75711;
- (2) 1107 E. 11<sup>th</sup> Street (Tenth Street) Owner of Record per DCAD, Elizabeth L. Lloyd, 1611 Chapman Street Cedar Hill, Texas 75104;
- (3) 3708 S. Malcolm X Blvd. (Wheatley Place) Owner of Record per DCAD, Human Service Network Inc., 3708 Malcolm X. Boulevard Dallas, Texas 75215;

If you have any questions with regard to these matters, please feel free to contact me at 214-670-4436.

Thank you.



**DATE:** February 9, 2018  
**TO:** Landmark Commission  
**FROM:** Allen R. Griffin, Assistant City Attorney  
**CC:** David Cossum, Director  
Neva Dean, Interim Assistant Director  
Theresa Pham, Assistant City Attorney  
Mark Doty, Senior Planner  
Trena Law, Landmark Commission Coordinator  
**SUBJECT:** Notice of Intent to Apply for Certificates of Demolition

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Pursuant to 51A-4.501(i)(5)(D) of the Dallas City Code, please be advised that the following properties are located within a City of Dallas Historic District, and this serves as the 30-day written notice of the City's intent to apply for certificates of demolition:

- (1) 1105 E. 9<sup>th</sup> Street (Tenth Street) Owner of Record per DCAD, Inner City Development Inc., P.O. Box 6366 Tyler, Texas 75711;
- (2) 1107 E. 11<sup>th</sup> Street (Tenth Street) Owner of Record per DCAD, Elizabeth L. Lloyd, 1611 Chapman Street Cedar Hill, Texas 75104;
- (3) 3708 S. Malcolm X. Blvd. (Wheatley Place) Owner of Record per DCAD, Human Service Network Inc., 3708 Malcolm X. Boulevard Dallas, Texas 75215;

If you have any questions with regard to these matters, please feel free to contact me at 214-670-4436.

Thank you.

## PRESERVATION CRITERIA CITED FOR STAFF RECOMMENDATION

City Code Section 51A-4.501(i)(7).

The landmark commission shall approve the certificate for demolition if it finds that:

- (A) a court or other tribunal has issued a final order requiring that the demolition of the structure pursuant to Texas Local Government Code Chapters 54 or 214; as amended; and
- (B) suspension of the certificate for demolition is not a feasible option to alleviate the nuisance in a timely manner.



**TASK FORCE RECOMMENDATION REPORT**  
**WHEATLEY PLACE / TENTH STREET**

DATE: 6/12/2018

TIME: 4:00 pm

MEETING PLACE: Dallas City Hall, 1500 Marilla, Conference Room 5BN

Applicant Name: Allen Griffin (City Attorney's Office)  
Address: 3708 S Malcolm X Blvd (Wheatley Place HD)  
Date of CA/CD Request: 6/7/2018

**RECOMMENDATION:**

Approve     Approve with conditions     Deny     Deny without prejudice

Recommendation / comments/ basis:

*Motion to NOT DEMOLISH HOME; SECONDEN  
AND PASSEY*

**Task force members present**

Kathleen Lenihan     Jay Taylor  
 Patricia Williams     Andrew Wallace  
 Alonzo Harris   

Ex Officio staff members Present     Marsha Prior   

Simply Majority Quorum:  yes     no (three makes a quorum)

Maker:

2nd:

Task Force members in favor:

Task Force members opposed:

Basis for opposition:

CHAIR, Task Force

DATE

The task force recommendation will be reviewed by the landmark commission in the City Council chamber, Room 5ES, starting at 10:00 with a staff briefing.

The Landmark Commission public hearing begins at 1:00 pm in Room 6EN, the Council Chamber, which allows the applicant and citizens to provide public comment.



# Discussion Item #20: 3708 S Malcolm X



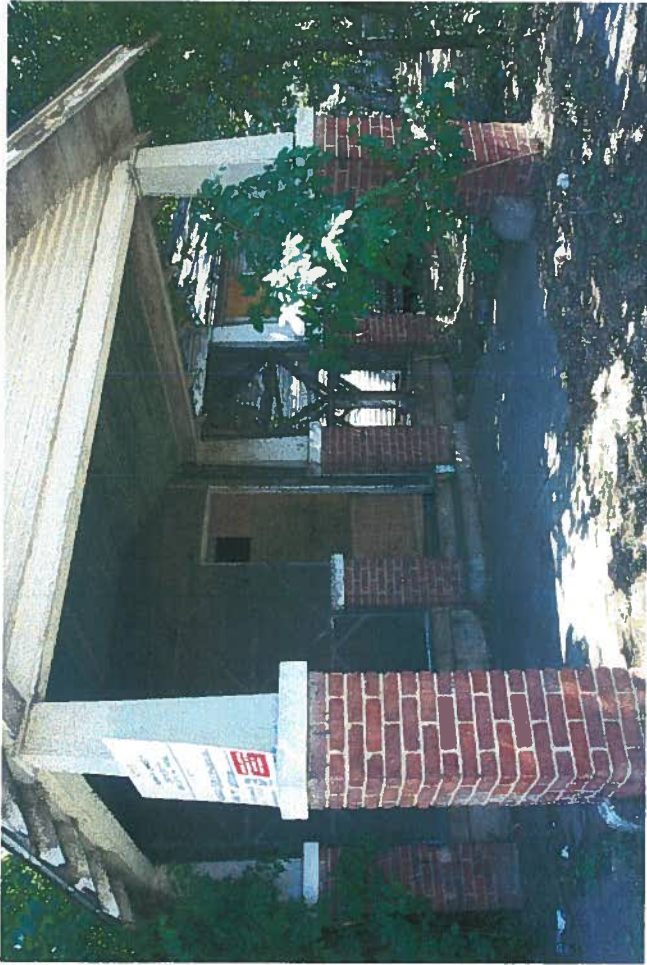
**District: Wheatley Place**

**Request: Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).**

**Staff Recommendation: Approve**

**Task Force Recommendation: Deny (This recommendation is from the July 10<sup>th</sup> Task Force meeting. Task Force does not review the applications again once they've entered the initial suspension period).**





DALLAS LANDMARK COMMISSION  
CASE #CD178-013(MP)

October 1, 2018





DALLAS LANDMARK COMMISSION  
CASE #CD178-013(MP)

October 1, 2018

**Standard for approval: The landmark commission shall approve the certificate for demolition of a residential structure with no more than 3,000 square feet of floor area if it finds that:**

- (A) a court or other tribunal has issued a final order requiring demolition of the structure pursuant to Texas Local Government Code Chapters 54 or 214, as amended; and**
- (B) suspension of the certificate for demolition is not a feasible option to alleviate the nuisance in a timely manner.**

**Dallas Development Code: No. 19455, Section 51A-4.501(f)(8)(A)(i)(aa)**



**Background:**

**7/2/2018 – Landmark Commission moved to enter into an initial suspension period.**

**8/6/2018 – Landmark Commission moved to enter into an extended suspension period.**

**(aa) During the extended suspension period, the interested party shall:**

- [1] submit an application for a predesignation certificate of appropriateness or a certificate of appropriateness;**
- [2] provide evidence that the interested party has or will obtain title to the property and has authority to rehabilitate the structure, or is authorized to rehabilitate the property by a party who has title to the property or has the right to rehabilitate the property;**
- [3] provide evidence that the structure and property have been secured to prevent unauthorized entry; and**
- [4] provide a guaratee that:**

**[A] contains a covenant to rehabilitate the structure by a specific date, in accordance with the predesignation certificate of appropriateness process or certificate of appropriateness, which the landmark commission may extend if the interested party shows circumstances preventing rehabilitation of the structure by that date that are beyond the control of the interested party;**

**[B] is supported by a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other similar enforceable arrangement acceptable to the director to ensure rehabilitation of the structure; and**  
**[C] is approved as to form by the city attorney.**

**Per 51A-4.501(i)(8)(ii)(cc) if during the extended suspension period the interested party meets the requirements of Subparagraph (A)(ii), the landmark commission shall continue to suspend the granting of the certificate of demolition (the continuing suspension period)**

**(Dallas Development Code: No. 19455, Section 51A-4.501(i)(7))**

- Interested party was unable to meet the above requirements.**

**Staff Recommendation:**

**1) Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).**

**Approve – The proposed demolition meets the standards in City Code Section 51A-4.501(i)(7) because the court issued a final order requiring demolition of the structure and the suspension of the certificate of demolition is not a feasible option to alleviate the nuisance in a timely manner.**



# SECTION 4

## Minutes

October 1, 2018

See Pages 25 and 26, Item #20

Speakers: For: Norris Fain  
Against: Shaun Montgomery  
Rosa Medrano  
Larry Johnson

Motion

Demolish residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Approve – The proposed demolition meets the standards in City Code Section 51A-4.501(i)(7) because the court issued a final order requiring the demolition of the structure and the suspension of the certificate of demolition is not a feasible option to alleviate the nuisance in a timely manner.

Maker:	Flabiano				
Second:	Allender				
Results:	7/5				
		Ayes:	-	7	*Allender, Flabiano, Hinojosa, Peach, Richter, Seale, Williams
		Against:	-	5	De La Harpe, Montgomery, Payton, Spellicy, Swann
		Absent:	-	5	Amonett, Bumpas, Strickland, Sherman, Childress
		Vacancies:	-	1	Dist. 3

**20. 3708 S MALCOLM X BLVD**

Wheatley Place Historic District  
CD178-013(MP)  
Marsha Prior

Extended Suspension

Speakers: For: No One  
Motion Against: No One

Demolish residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code) – Approve – The proposed demolition meets the standards in City Code Section 51A-4.501(i)(7) because the court issued a final order requiring demolition of the structure and the suspension of the certificate of demolition is not a feasible option to alleviate the nuisance in a timely manner.

Maker:	Flabiano				<b>MOTION FAILED</b>
Second:	Allender				
Results:	6/6				

		Ayes:	-	6	*Allender, Flabiano, Hinojosa, Montgomery, Richter, Williams
		Against:	-	6	De La Harpe, Payton, Peach, Seale, Spellicy, Swann
		Absent:	-	5	Amonett, Bumpas, Strickland, Childers, Sherman
		Vacancies:	-	1	Dist. 3

10/01/2018 – Landmark Commission motion for approval failed on a split vote; therefore, the request was denied.

**OTHER BUSINESS ITEMS**

**Motion**

Approval of September Minutes.

Maker:	Flabiano				
Second:	Williams				
Results:	12/0				
		Ayes:	-	12	*Allender, De La Harpe, Flabiano, Hinojosa, Montgomery, Payton, Peach, Richter, Seale, Spellicy, Swann, Williams
		Against:	-	0	
		Absent:	-	5	Amonett, Bumpas, Strickland, *Childers*Sherman
		Vacancies:	-	1	Dist. 3

**Motion**

Approval of new Task Force members, James Adams and Morgan Harrison to West End Individual Central Business District, Ann Piper to Fair Park Task Force and Aimee Sanborn to the Peak's Suburban Task Force.

Maker:	Flabiano				
Second:	Swann				
Results:	12/0				
		Ayes:	-	12	*Allender, De La Harpe, Flabiano, Hinojosa, Montgomery, Payton, Peach, Richter, Seale, Spellicy, Swann, Williams
		Against:	-	0	

**SECTION 5**

**Transcript of the  
October 1, 2018  
Landmark Commission  
Hearing  
3708 S. Malcolm X Boulevard  
CD178-013(MP)**

**TRANSCRIPTION OF EXCERPT OF AUDIO RECORDING**

**LANDMARK COMMISSION PUBLIC HEARING**

**CITY OF DALLAS, TEXAS**

**CASE CD178-013 (MP)**

**3708 SOUTH MALCOLM X BOULEVARD**

**DATE OF HEARING: OCTOBER 1, 2018**

**DATE OF TRANSCRIPTION: OCTOBER 16, 2018**

## T R A N S C R I P T I O N

1  
2 THE CHAIRWOMAN: So in opposition we've got  
3 Swann, Montgomery, Payton, De Le Harpe, and Spellicy.  
4 Okay, so, one, two, three, four, five, so the motion  
5 passes. Is that right?

6 Okay, so does everybody know the motion on  
7 the floor? It's to approve the demolition.

8 UNKNOWN SPEAKER: For staff recommendation.

9 THE CHAIRWOMAN: For staff recommendation.  
10 Okay. So Swann, Montgomery, Payton, De Le Harpe are  
11 voting in favor of the motion; is that right?

12 UNKNOWN SPEAKER: No, no, voting in  
13 opposition.

14 THE CHAIRWOMAN: Voting in opposition, I'm  
15 so sorry. Spellicy, you're in opposition? Okay. So  
16 the motion still carries. Okay. D-20.

17 UNKNOWN SPEAKER: D-20, 3708 South Malcolm X  
18 Boulevard, Wheatley Place Historic District,  
19 CD178-013(MP).

20 Request; demolish residential structure,  
21 3,000 square feet or less, pursuant to court order  
22 51A-4.501(1), of the Dallas City Code. Staff  
23 recommendation, approve.

24 The proposed demolition meets the standards  
25 in City Code Section 51A-4.501(17) because the court

1 issued a final order requiring demolition of the  
2 structure and the suspension of the certificate of  
3 demolition is not a feasible option to alleviate the  
4 nuisance in a timely manner.

5 UNKNOWN SPEAKER: Task force recommendation,  
6 deny. Motion to not demolish house, deny. This  
7 recommendation is from the July 10th task force meeting.  
8 Task force does not review the applications again once  
9 they've entered the initial suspension period.

10 THE CHAIRWOMAN: We have Mr. Griffin here  
11 from the City Attorney's office and I believe we have no  
12 other speakers on this item.

13 MR. GRIFFIN: I'm sorry. Allen Griffin,  
14 again, for the City Attorney's office. On August 6th,  
15 like the previous two cases, the commission entered into  
16 an extended suspension for this matter because there was  
17 an interested party that was identified.

18 That party has kind of disappeared  
19 apparently and I was not contacted by him and he did not  
20 contact anyone else that we're aware of.

21 As a result, the interested party did not  
22 provide the information and evidence required by section  
23 51A-4.510.

24 And therefore we request that the commission  
25 grant the City's application for the certificate of

1 demolition at this time.

2 That being said, if someone comes forward,  
3 I'm agreeing to wait four months for that before we act  
4 on it. If that person comes forward, and I think  
5 Commissioner Payton said something regarding he knew a  
6 couple of folks that were interested in maybe purchasing  
7 the property but they were deterred from that because  
8 they thought someone had already taken up the mantle.

9 We're willing to wait for at least four  
10 months in order to see if that can be accomplished  
11 within that period of time.

12 THE CHAIRWOMAN: Mr. Payton.

13 COMMISSIONER PAYTON: Yes, what happened on  
14 that house is that when it came up before, Marsha said,  
15 Ms. Price said that she had an interested person. And I  
16 talked with City Councilman Felder about it.

17 And he said, well, somebody has shown  
18 interest and I just kind of moved on to working on some  
19 other projects because I was under the assumption that  
20 Marsha had told Councilman Felder that there was  
21 somebody that was interested in it and I had mentioned  
22 it to a couple of people but I couldn't follow up on it  
23 because somebody was already -- I was under the  
24 impression that somebody was already interested or in  
25 line for that house.



1           Today I found out that this person has not  
2 touched bases with you, with Ms. Prior or anybody about  
3 it. So I'm glad to get some time on it because now I  
4 can call these people and say, look, this is the move  
5 that you need to make on this.

6           So what I'm going to need is that the rules  
7 and regulations are to get in touch with you or get in  
8 touch with Councilman Felder or whoever you would  
9 suggest that I talk to the people who are interested in  
10 purchasing that property.

11           And I kind of left the ball in Felder's  
12 hands, in Councilman Felder's hand and he told me that  
13 you had talked with him.

14           UNKNOWN SPEAKER: I would like to set the  
15 record straight, I've never spoken to Councilman Felder.  
16 The way the process generally works is if somebody  
17 contacts me and says they're an interested party, then I  
18 immediately send it to Mr. Griffin.

19           We e-mailed this interested party a couple  
20 of times. As far as we knew, I mean, technically he  
21 could walk in right this second and say, hey, I've got  
22 everything here and he would still be an interested  
23 party.

24           But so we didn't have any way of knowing,  
25 with him not communicating with us, we didn't have any

1 way of knowing if he was working on it, had dropped it,  
2 or what. But no, I never spoke with Councilman Felder.  
3 I mean, he may have found out about it somehow, but it  
4 wasn't directly through me.

5 COMMISSIONER PAYTON: All right. I was just  
6 kind of the middle person in there and he said we've got  
7 somebody and that was kind of how I left it.

8 I had mentioned to somebody about the  
9 history of the house and how beautiful the house would  
10 be being fixed up and what a jewel it would be to be  
11 right in the middle of South Dallas there and all fixed  
12 up. And with gentrification coming, that house would be  
13 a beautiful contribution to the neighborhood.

14 And if it's pulled, if it's demolished down,  
15 then that's a big empty spot right on the main boulevard  
16 in the middle of South Dallas and we're talking about  
17 building up South Dallas, but in the process of building  
18 up South Dallas, we're tearing down the oldest house. I  
19 think Commissioner Swann told me the house was 18 --

20 COMMISSIONER SWANN: 1892.

21 COMMISSIONER PAYTON: So a house built in  
22 1892 and it's still standing so it must mean that it's  
23 pretty solid, you see. And so that's where I am on it.

24 So I will get in contact with some people  
25 who have shown interest and I'll find out what's

1 happening with Councilman Felder to see if --

2 THE CHAIRWOMAN: Thank you, Commissioner  
3 Payton. This is question time, remember. We're asking  
4 questions of the Applicant or staff.

5 Any other questions? Commission Richter.

6 COMMISSIONER RICHTER: So is this the  
7 situation where we know where the homeowner or the  
8 person who holds title is or are they absent, taxes  
9 owed, service requests, liens?

10 MR. GRIFFIN: The owner -- I thought I had  
11 that written down.

12 COMMISSIONER PAYTON: HSN.

13 MR. GRIFFIN: Okay. Yeah, it's --

14 COMMISSIONER PAYTON: And it no longer  
15 exists.

16 MR. GRIFFIN: Yeah, don't know.

17 COMMISSIONER RICHTER: So are taxes owed  
18 from some period of time?

19 MR. GRIFFIN: I don't have that information  
20 on me. I could look it up, but I don't know off the top  
21 of my head.

22 COMMISSIONER PAYTON: The house was some  
23 kind of rehab center or something and HSN had several  
24 different addresses so I went and tracked down all of  
25 the addresses and nobody's ever heard of HSN.

1           And so the people that was on their board, I  
2       tried to call them and three of them are deceased. And  
3       the lady who was director, she had a phone number and  
4       address down in Smith County down in Tyler so I tried to  
5       call her and nobody responded there.

6           So the house is just kind of up in the air  
7       now. And so I don't know, you know, who the owner is.  
8       But I've tried. I called Louisiana. I called Tyler. I  
9       drove all around Dallas because I tracked all of the  
10      addresses because all of their mail and all of their pay  
11      slips and all of that stuff is still in the house.

12          So I mean, the house is full of HSN stuff  
13      but nobody knows where HSN is or where it is or what it  
14      is anymore. So the house owner doesn't exist anymore I  
15      don't think.

16           THE CHAIRWOMAN: Commissioner Williams.

17           COMMISSIONER WILLIAMS: Mr. Griffin, do you  
18      have a history of the code violations on this house  
19      similar to what you gave us on the other houses?

20           MR. GRIFFIN: I do, 53 service requests in  
21      that ten-year period, May to May, 2008 to 2018.

22           THE CHAIRWOMAN: Mr. Flabiano.

23           COMMISSIONER FLABIANO: Yeah, I have a  
24      motion so we can go to discussion.

25           THE CHAIRWOMAN: Great. Any other



1 questions?

2 COMMISSIONER FLABIANO: Discussion item 20  
3 located at 3708 South Malcolm X Boulevard, Wheatley  
4 Place Historic District, CD178-013(MP), make a motion  
5 that we approve the demolition of the structure  
6 following staff recommendation.

7 THE CHAIRWOMAN: Thank you, Commissioner  
8 Flabiano. Thank you, Commissioner Allender.

9 Any discussion? Commissioner Peach.

10 COMMISSIONER PEACH: Do we know what happens  
11 to the bits and pieces of these when they are  
12 demolished? Part of me wonders could any of it be  
13 salvaged. We have people coming here all the time  
14 looking for old windows, old doors, trim, siding, all of  
15 the bits that are so precious to us.

16 Is it all just going to be thrown in a  
17 dumpster?

18 THE CHAIRWOMAN: Yes.

19 UNKNOWN SPEAKER: Yes.

20 THE CHAIRWOMAN: That's correct. There's no  
21 possibility, we've tried this many times. There's no  
22 way the City will entertain anything. They have no  
23 process to salvage any of it.

24 COMMISSIONER PEACH: It just seems like just  
25 such a --

1           THE CHAIRWOMAN: It just goes to the  
2 landfill.

3           UNKNOWN SPEAKER: It goes through  
4 procurement to the low bidder and the low bidder is not  
5 going to go through a salvage process.

6           COMMISSIONER PEACH: That just seems like  
7 such a shame.

8           UNKNOWN SPEAKER: We've asked that a million  
9 times.

10          THE CHAIRWOMAN: Commissioner Swann.

11          COMMISSIONER SWANN: Yeah, there's not much  
12 to say. I mean, the best estimate, and it's a good one  
13 from City that the house was built in 1892 by  
14 Mrs. McDermott, a widow.

15                 Her daughter inherited the house and  
16 operated a flower shop there. There were a lot of  
17 flower shops because it was next to the Oakland cemetery  
18 so there was a market for flowers.

19                 At the time that it was built, it had no  
20 house number. It was outside of the city and the houses  
21 weren't numbered. At the time it was built, it stood on  
22 Burr Lane, which is what the street was called. It was  
23 really just a country lane at the time, B-U-R-R.

24                 It later became Oakland Avenue and of course  
25 now it's Malcolm X and the house has stood there for

1 what would that be, like, 126 years through all those  
2 street name changes.

3 That's all I have to say.

4 THE CHAIRWOMAN: Thank you, Commissioner.  
5 Commissioner Montgomery.

6 COMMISSIONER MONTGOMERY: On this particular  
7 one given that the City Attorney has promised us the  
8 four months if we can find an interested party and the  
9 fact that I don't think we'll ever find the owner of  
10 this house, and want us to move forward with solving  
11 future problems by finding a way to deal with that.

12 I think we might have to give up on this one  
13 other than letting the four months go and perhaps  
14 Commissioner Payton can find that person that said they  
15 were interested in doing it. We can try.

16 Completely unrelated, you know when that  
17 blue house in The Cedars was published as about to be  
18 pulled down, a whole lot of people who had absolutely  
19 showed up and started taking off mantles and windows and  
20 all sorts of pieces so it was salvaged illegally.

21 But that's what happened.

22 THE CHAIRWOMAN: Thank you, Commissioner  
23 Montgomery. All right. All of those in favor of the  
24 motion, please say aye. Let's call for a hand vote,  
25 Allender, Hinojosa, Williams, Flabiano, Richter.

1                   And those in opposition --

2                   UNKNOWN SPEAKER: Indiscernible.

3                   THE CHAIRWOMAN: Meaning that you're going  
4 to vote against the motion to demolish.

5                   Okay, so Swann, Payton, De Le Harpe, Peach.  
6 So I'm in opposition, but I think the motion still  
7 passes. One, two, three, four, five, six of us in  
8 opposition. And we had -- how many are left? One, two,  
9 three, four, five, six, seven, eight, nine, ten, eleven,  
10 twelve, thirteen, so that's 7-4; is that correct?

11                   So in opposition, Swann, Payton, De Le  
12 Harpe, Spellicy, Peach, Seale. Anybody else in  
13 opposition? Okay. So that's six so the motion carries.

14                   (End of audio file excerpt.)

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1     **STATE OF TEXAS    )**  
2     **COUNTY OF DALLAS)**

3           **I, Leslie McDonald Wilkins, Registered Professional**  
4     **Reporter No. 029319, certify that the foregoing**  
5     **proceeding was transcribed from an audio recording and**  
6     **that it was transcribed to the best of my ability.**

7           **GIVEN UNDER MY HAND on this the 16th day of October,**  
8     **2018.**

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# SECTION 6

**City of Dallas Demolition  
Standards (Standard 5)  
Dallas Development Code  
§ 51A-4.501**

case back to the landmark commission in accordance with Subsection (m). In reviewing the landmark commission decision the city plan commission shall use the substantial evidence standard in Subsection (m). The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings. Appeal to the city plan commission constitutes the final administrative remedy.

(F) **Reapplication.** If a final decision is reached denying a certificate of appropriateness, no further applications may be considered for the subject matter of the denied certificate of appropriateness for one year from the date of the final decision unless:

(i) the certificate of appropriateness has been denied without prejudice; or

(ii) the landmark commission waives the time limitation because the landmark commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the landmark commission is required to grant the request for waiver of the time limitation.

(G) **Suspension of work.** 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.

(H) **Revocation.** The director may, in writing, revoke a certificate of appropriateness if:

(i) the certificate of appropriateness was issued on the basis of incorrect information supplied;

(ii) the certificate of appropriateness was issued in violation of the regulations contained in this section, the preservation

criteria contained in the historic overlay district ordinance, the development code, or building codes; or

(iii) the work is not performed in accordance with the certificate of appropriateness, the development code, or building codes.

(I) **Amendments to a certificate of appropriateness.** A certificate of appropriateness may be amended by submitting an application for amendment to the director. The application shall then be subject to the standard certificate of appropriateness review procedure.

(8) **Emergency procedure.** If a structure on a property subject to the predesignation moratorium or a structure in a historic overlay district is damaged and the building official determines that the structure is a public safety hazard or will suffer additional damage without immediate repair, the building official may allow the property owner to temporarily protect the structure. In such a case, the property owner shall apply for a predesignation certificate of appropriateness, certificate of appropriateness, or certificate for demolition or removal within 10 days of the occurrence which caused the damage. The protection authorized under this subsection must not permanently alter the architectural features of the structure.

(h) **Certificate for demolition or removal.**

(1) **Findings and purpose.** Demolition or removal of a historic structure constitutes an irreplaceable loss to the quality and character of the city. Therefore, demolition or removal of historic structures should be allowed only for the reasons described in this subsection.

(2) **Application.** A property owner seeking demolition or removal of a structure on a property subject to the predesignation moratorium or a structure in a historic overlay district must submit a complete application for a certificate for demolition or removal to the landmark commission. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. The application must be accompanied by the following documentation before it will be considered complete:

(A) An affidavit in which the owner swears or affirms that all information submitted in the application is true and correct.

(B) An indication that the demolition or removal is sought for one or more of the following reasons:

(i) To replace the structure with a new structure that is more appropriate and compatible with the historic overlay district.

(ii) No economically viable use of the property exists.

(iii) The structure poses an imminent threat to public health or safety.

(iv) The structure is noncontributing to the historic overlay district because it is newer than the period of historic significance.

(C) For an application to replace the structure with a new structure that is more appropriate and compatible with the historic overlay district:

(i) Records depicting the original construction of the structure, including drawings, pictures, or written descriptions.

(ii) Records depicting the current condition of the structure, including drawings, pictures, or written descriptions.

(iii) Any conditions proposed to be placed voluntarily on the new structure that would mitigate the loss of the structure.

(iv) Complete architectural drawings of the new structure.

(v) A guarantee agreement between the owner and the city that demonstrates the owner's intent and financial ability to construct the new structure. The guarantee agreement must:

(aa) contain a covenant to construct the proposed structure by a specific date in accordance with architectural drawings approved by the city through the predesignation certificate of

appropriateness process or the certificate of appropriateness process;

(bb) require the owner or construction contractor to post a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other arrangement acceptable to the director to ensure construction of the new structure; and

(cc) be approved as to form by the city attorney.

(D) For an application of no economically viable use of the property:

(i) The past and current uses of the structure and property.

(ii) The name of the owner.

(iii) If the owner is a legal entity, the type of entity and states in which it is registered.

(iv) The date and price of purchase or other acquisition of the structure and property, and the party from whom acquired, and the owner's current basis in the property.

(v) The relationship, if any, between the owner and the party from whom the structure and property were acquired. (If one or both parties to the transaction were legal entities, any relationships between the officers and the board of directors of the entities must be specified.)

(vi) The assessed value of the structure and property according to the two most recent tax assessments.

(vii) The amount of real estate taxes on the structure and property for the previous two years.

(viii) The current fair market value of the structure and property as determined by an independent licensed appraiser.

(ix) All appraisals obtained by the owner and prospective purchasers within the previous two years in connection with the potential or



actual purchase, financing, or ownership of the structure and property.

(x) All listings of the structure and property for sale or rent within the previous two years, prices asked, and offers received.

(xi) A profit and loss statement for the property and structure containing the annual gross income for the previous two years; itemized expenses (including operating and maintenance costs) for the previous two years, including proof that adequate and competent management procedures were followed; the annual cash flow for the previous two years; and proof that the owner has made reasonable efforts to obtain a reasonable rate of return on the owner's investment and labor.

(xii) A mortgage history of the property during the previous five years, including the principal balances and interest rates on the mortgages and the annual debt services on the structure and property.

(xiii) All capital expenditures during the current ownership.

(xiv) Records depicting the current conditions of the structure and property, including drawings, pictures, or written descriptions.

(xv) A study of restoration of the structure or property, performed by a licensed architect, engineer or financial analyst, analyzing the physical feasibility (including architectural and engineering analyses) and financial feasibility (including pro forma profit and loss statements for a ten year period, taking into consideration redevelopment options and all incentives available) of adaptive use of restoration of the structure and property.

(xvi) Any consideration given by the owner to profitable adaptive uses for the structure and property.

(xvii) Construction plans for any proposed development or adaptive reuse, including site plans, floor plans, and elevations.

(xviii) Any conditions proposed to be placed voluntarily on new development that would mitigate the loss of the structure.

(xix) Any other evidence that shows that the affirmative obligation to maintain the structure or property makes it impossible to realize a reasonable rate of return.

(E) For an application to demolish or remove a structure that poses an imminent threat to public health or safety:

(i) Records depicting the current condition of the structure, including drawings, pictures, or written descriptions.

(ii) A study regarding the nature, imminence, and severity of the threat, as performed by a licensed architect or engineer.

(iii) A study regarding both the cost of restoration of the structure and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer.

(F) For an application to demolish or remove a structure that is noncontributing to the historic overlay district because the structure is newer than the period of historic significance:

(i) Documentation that the structure is noncontributing to the historic overlay district.

(ii) Documentation of the age of the structure.

(iii) A statement of the purpose of the demolition.

(G) Any other evidence the property owner wishes to submit in support of the application.

(H) Any other evidence requested by the landmark commission or the historic preservation officer.

(3) Certificate of demolition or removal review procedure.

(A) Economic review panel. For an application of no economically viable use of the property, the landmark commission shall cause to be established an ad hoc three-person economic review panel. The economic review panel must be comprised of three independent experts knowledgeable in the economics of real estate, renovation, and redevelopment. "Independent" as used in this subparagraph means that the expert has no financial interest in the property, its renovation, or redevelopment; is not an employee of the property owner; is not a city employee; is not a member of the landmark commission; and is not compensated for serving on the economic review panel. The economic review panel must consist of one person selected by the landmark commission, one person selected by the property owner, and one person selected by the first two appointees. If the first two appointees cannot agree on a third appointee within 30 days after submission of the documentation supporting the application, the third appointee will be selected by the director within 5 days. Within 35 days after submission of the documentation supporting the application, all appointments to the economic review panel shall be made. Within 35 days after appointment, the economic review panel shall review the submitted documentation; hold a public hearing; consider all options for renovation, adaptive reuse, and redevelopment; and forward a written recommendation to the landmark commission. The historic preservation officer shall provide administrative support to the economic review panel. The economic review panel's recommendation must be based on the same standard for approval to be used by the landmark commission. An application of no economically viable use will not be considered complete until the economic review panel has made its recommendation to the landmark commission. If the economic review panel is unable to reach a consensus, the report will indicate the majority and minority recommendations.

(B) Within 65 days after submission of a complete application, the landmark commission shall hold a public hearing and shall approve or deny the application. If the landmark commission does not make a final decision within that time, the building official shall issue a permit to allow the

requested demolition or removal. The property owner has the burden of proof to establish by clear and convincing evidence the necessary facts to warrant favorable action by the landmark commission.

(4) Standard for approval. The landmark commission shall deny the application unless it makes the following findings:

(A) The landmark commission must deny an application to replace a structure with a new structure unless it finds that:

(i) the new structure is more appropriate and compatible with the historic overlay district than the structure to be demolished or removed; and

(ii) the owner has the financial ability and intent to build the new structure. The landmark commission must first approve the predesignation certificate of appropriateness or certificate of appropriateness for the proposed new structure and the guarantee agreement to construct the new structure before it may consider the application to demolish or remove.

(B) The landmark commission must deny an application of no economically viable use of the property unless it finds that:

(i) the structure is incapable of earning a reasonable economic return unless the demolition or removal is allowed (a reasonable economic return does not have to be the most profitable return possible);

(ii) the structure cannot be adapted for any other use, whether by the owner or by a purchaser, which would result in a reasonable economic return; and

(iii) the owner has failed during the last two years to find a developer, financier, purchaser, or tenant that would enable the owner to realize a reasonable economic return, despite having made substantial ongoing efforts to do so.

(C) The landmark commission must deny an application to demolish or remove a structure that poses an imminent threat to public health or safety unless it finds that:

(i) the structure constitutes a documented major and imminent threat to public health and safety;

(ii) the demolition or removal is required to alleviate the threat to public health and safety; and

(iii) there is no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.

(D) The landmark commission must deny an application to demolish or remove a structure that is noncontributing to the historic overlay district because it is newer than the period of historic significance unless it finds that:

(i) the structure is noncontributing to the historic overlay district;

(ii) the structure is newer than the period of historic significance for the historic overlay district; and

(iii) demolition of the structure will not adversely affect the historic character of the property or the integrity of the historic overlay district.

(5) **Appeal.** The chair of the landmark commission shall give verbal notice of the right to appeal at the time a decision on the application is made. If the applicant is not present at the hearing, the director shall inform the applicant of the right to appeal in writing within 10 days after the hearing. Any interested person may appeal the decision of the landmark commission to the city plan commission by filing a written notice with the director within 30 days after the date of the decision of the landmark commission. If no appeal is made of a decision to approve the certificate for demolition or removal within the 30-day period, the building official shall issue the permit to allow demolition or removal. If an appeal is filed, the city plan commission shall hear and decide the appeal within 65 days after the date of its filing. The director shall forward to the city plan commission a complete record of the matter being appealed, including a transcript of the tape of the hearing before the landmark commission. In considering an appeal, the city plan

commission shall review the landmark commission record and hear and consider arguments from the appellant and the representative for the landmark commission. The city plan commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the landmark commission to determine whether that testimony or evidence was available at the landmark commission hearing. If the city plan commission determines that new testimony or evidence exists that was not available at the landmark commission hearing, the city plan commission shall remand the case back to the landmark commission in accordance with Subsection (m). In reviewing the landmark commission decision the city plan commission shall use the substantial evidence standard in Subsection (m). The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings. Appeal to the city plan commission constitutes the final administrative remedy.

(6) **Reapplication.** If a final decision is reached denying a certificate for demolition or removal, no further applications may be considered for the subject matter of the denied certificate for demolition or removal for one year from the date of the final decision unless:

(A) the certificate for demolition or removal has been denied without prejudice; or

(B) the landmark commission waives the time limitation because the landmark commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the landmark commission is required to grant the request for waiver of the time limitation.

(7) **Expiration.** A certificate for demolition or removal expires if the work authorized by the certificate for demolition or removal is not commenced within 180 days from the date of the certificate for demolition or removal. The director may extend the time for commencement of work upon written request by the applicant showing circumstances beyond the control of the applicant. If the certificate for demolition or removal expires, a new certificate for demolition or removal must first be obtained before the work can be commenced.

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(i) Certificate for demolition for a residential structure with no more than 3,000 square feet of floor area pursuant to court order.

(1) Findings and purpose. Demolition of a historic structure constitutes an irreplaceable loss to the quality and character of the city. Elimination of substandard structures that have been declared urban nuisances and ordered demolished pursuant to court order is necessary to prevent blight and safeguard the public health, safety, and welfare. Therefore, the procedures in this subsection seek to preserve historic structures while eliminating urban nuisances.

(2) Notice to landmark commission by email. A requirement of this subsection that the landmark commission be provided written notice of a matter is satisfied if an email containing the required information is sent to every member of the landmark commission who has provided an email address to the director.

(3) Referral of demolition request to landmark commission and director. When a city department requests the city attorney's office to seek an order from a court or other tribunal requiring demolition of a residential structure with no more than 3,000 square feet of floor area on a property subject to a predesignation moratorium or in a historic overlay district, that department shall provide written notice to the landmark commission and director of that request within two business days after the date it makes the request. The notice must include a photograph of the structure, the address of the property, and (if known) the name, address, and telephone number of the property owner. If the city attorney's office determines that the department did not provide the required notice, the city attorney's office shall provide that notice within two business days after the date it determines that the department did not provide the notice.

(4) Notice of court proceedings to landmark commission and director. The city attorney's office shall provide written notice to the landmark commission and director at least 10 days before any hearing before a court or other tribunal where the city attorney's office seeks an order requiring demolition of a residential structure with no more than 3,000 square feet of floor area subject to a

predesignation moratorium or in a historic overlay district. If a court or other tribunal orders demolition of the structure subject to a predesignation moratorium or in a historic overlay district, the city attorney's office shall provide written notice to the landmark commission and director within five days after the order is signed and provided to the city attorney's office.

(5) Application. If the city or a property owner seeks demolition of a residential structure with no more than 3,000 square feet of floor area subject to a predesignation moratorium or in a historic overlay district pursuant to an order from a court or other tribunal requiring demolition obtained by the city, a complete application for a certificate for demolition must be submitted to the landmark commission. Within 10 days after submission of an application, the director shall notify the city's representative or the property owner in writing of any documentation required but not submitted. The application must be accompanied by the following documentation before it will be considered complete:

(A) An affidavit in which the city representative or the property owner affirms that all information submitted in the application is correct.

(B) Records depicting the current condition of the structure, including drawings, pictures, or written descriptions, and including Historic American Buildings Survey or Historic American Engineering Records documentation if required by law or agreement.

(C) A signed order from a court or other tribunal requiring the demolition of the structure in a proceeding brought pursuant to Texas Local Government Code Chapters 54 or 214, as amended.

(D) A copy of a written notice of intent to apply for a certificate for demolition that was submitted to the director and the landmark commission at least 30 days before the application.

(E) Any other evidence the city representative or property owner wishes to submit in support of the application.

(6) **Hearing.** Within 40 days after submission of a complete application, the landmark commission shall hold a public hearing to determine whether the structure should be demolished. If the landmark commission does not make a final decision on the application or suspend the granting of the certificate of demolition pursuant to this subsection within that time, the building official shall issue a demolition permit to allow the demolition. The city representative or the property owner has the burden of proof to establish by a preponderance of the evidence the necessary facts to warrant favorable action by the landmark commission.

(7) **Standard for approval.** The landmark commission shall approve the certificate for demolition if it finds that:

(A) a court or other tribunal has issued a final order requiring the demolition of the structure pursuant to Texas Local Government Code Chapters 54 or 214, as amended; and

(B) suspension of the certificate for demolition is not a feasible option to alleviate the nuisance in a timely manner.

(8) **Suspension.** The purpose of the suspension periods is to allow an interested party to rehabilitate the structure as an alternative to demolition.

(A) Residential structures with no more than 3,000 square feet of floor area.

(i) **Initial suspension period.**

(aa) The landmark commission may suspend the granting of the certificate for demolition until the next regularly scheduled landmark commission meeting (the initial suspension period) to allow time to find a party interested in rehabilitating the structure.

(bb) If during the initial suspension period no interested party is identified, the landmark commission shall grant the certificate for demolition.

(cc) If during the initial suspension period an interested party is identified, the landmark commission shall suspend the granting of the certificate for demolition for no more than two more regularly scheduled landmark commission meetings (the extended suspension period).

(ii) **Extended suspension period.**

(aa) During the extended suspension period, the interested party shall:

[1] submit an application for a predesignation certificate of appropriateness or a certificate of appropriateness;

[2] provide evidence that the interested party has or will obtain title to the property and has authority to rehabilitate the structure, or is authorized to rehabilitate the property by a party who has title to the property or has the right to rehabilitate the property;

[3] provide evidence that the structure and property have been secured to prevent unauthorized entry; and

[4] provide a guarantee agreement that:

[A] contains a covenant to rehabilitate the structure by a specific date, in accordance with the predesignation certificate of appropriateness process or certificate of appropriateness, which the landmark commission may extend if the interested party shows circumstances preventing rehabilitation of the structure by that date that are beyond the control of the interested party;

[B] is supported by a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other similar enforceable arrangement acceptable to the director to ensure rehabilitation of the structure; and

[C] is approved as to form by the city attorney.

(bb) If during the extended suspension period the interested party does not meet the requirements of Subparagraph (A)(ii), the landmark commission shall grant the certificate for demolition.

(cc) If during the extended suspension period the interested party meets the requirements of Subparagraph (A)(ii), the landmark commission shall continue to suspend the granting of the certificate for demolition (the continuing suspension period).

(iii) Continuing suspension period.

(aa) The interested party must rehabilitate the structure to comply with Dallas City Code Chapter 27 and request an inspection by the city before the end of the continuing suspension period.

(bb) At each landmark commission meeting during the continuing suspension period, the interested party shall provide a progress report demonstrating that reasonable and continuous progress is being made toward completion of the rehabilitation.

(cc) If during the continuing suspension period the landmark commission finds that the interested party is not making reasonable and continuous progress toward completion of the rehabilitation, the landmark commission shall grant the certificate for demolition, unless the interested party shows circumstances preventing reasonable and continuous progress that are beyond the control of the interested party.

(dd) If during the continuing suspension period the landmark commission finds that the interested party has rehabilitated the structure to comply with Dallas City Code Chapter 27, the landmark commission shall deny the certificate for demolition.

(9) Appeal. The city representative or property owner may appeal a decision of the landmark commission under this subsection to the city plan commission by filing a written notice with the director within 10 days after the date of the decision of the landmark commission. The city plan

commission shall hear and decide the appeal at the next available city plan commission meeting. The standard of review shall be *de novo*, but the director shall forward to the city plan commission a transcript of the landmark commission hearing. In considering the appeal, the city plan commission may not hear or consider new evidence unless the evidence corrects a misstatement or material omission at the landmark commission hearing or the evidence shows that the condition of the property has changed since the landmark commission hearing. The city plan commission chair shall rule on the admissibility of new evidence. The city plan commission shall use the same standard required for the landmark commission. The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings; however, the city plan commission shall give deference to the decision of the landmark commission. Appeal to the city plan commission constitutes the final administrative remedy.

(10) Expiration. A certificate for demolition expires if the work authorized by the certificate for demolition is not commenced within 180 days after the date of the certificate for demolition. The director may extend the time for commencement of work upon written request by the city representative or the property owner showing circumstances justifying the extension. If the certificate for demolition expires, a new certificate for demolition must first be obtained before the work can be commenced.

(11) Procedures for all other structures. If the city or a property owner seeks demolition of any structure other than a residential structure with no more than 3,000 square feet of floor area subject to a predesignation moratorium or in a historic overlay district pursuant to an order from a court or other tribunal requiring demolition obtained by the city, an application must be filed under Subsection (h) of this section.

(j) Summary abatement by fire marshal. If the fire marshal finds that conditions on a structure subject to a predesignation moratorium or in a historic overlay district are hazardous to life or property and present a clear and present danger, the fire marshal may summarily abate those conditions without a

predesignation certificate of appropriateness, certificate of appropriateness, or certificate for demolition.

(k) Demolition by neglect.

(1) Definition. Demolition by neglect is neglect in the maintenance of any structure on property subject to the predesignation moratorium or in a historic overlay district that results in deterioration of the structure and threatens the preservation of the structure.

(2) Demolition by neglect prohibited. No person shall allow a structure to deteriorate through demolition by neglect. All structures on properties subject to the predesignation moratorium and in historic overlay districts must be preserved against deterioration and kept free from structural defects. The property owner or the property owner's agent with control over the structure, in keeping with the city's minimum housing standards and building codes, must repair the structure if it is found to have any of the following defects:

(A) Parts which are improperly or inadequately attached so that they may fall and injure persons or property.

(B) A deteriorated or inadequate foundation.

(C) Defective or deteriorated floor supports or floor supports that are insufficient to carry the loads imposed.

(D) Walls, partitions, or other vertical supports that split, lean, list, or buckle due to defect or deterioration, or are insufficient to carry the loads imposed.

(E) Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or buckle due to defect or deterioration, or are insufficient to support the loads imposed.

(F) Fireplaces and chimneys which list, bulge, or settle due to defect or deterioration, or are of insufficient size or strength to carry the loads imposed.

(G) Deteriorated, crumbling, or loose exterior stucco or mortar.

(H) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken or open windows and doors.

(I) Defective or lack of weather protection for exterior wall coverings, including lack of paint or other protective covering.

(J) Any fault, defect, or condition in the structure which renders it structurally unsafe or not properly watertight.

(K) Deterioration of any exterior feature so as to create a hazardous condition which could make demolition necessary for the public safety.

(L) Deterioration or removal of any unique architectural feature which would detract from the original architectural style.

(3) Demolition by neglect procedure.

(A) Purpose. The purpose of the demolition by neglect procedure is to allow the landmark commission to work with the property owner to encourage maintenance and stabilization of the structure and identify resources available before any enforcement action is taken.

(B) Request for investigation. Any interested party may request that the historic preservation officer investigate whether a property is being demolished by neglect.

(C) First meeting with the property owner. Upon receipt of a request, the historic preservation officer shall meet with the property owner or the property owner's agent with control of the structure to inspect the structure and discuss the resources available for financing any necessary repairs. After the meeting, the historic preservation officer shall prepare a report for the landmark commission on the condition of the structure, the repairs needed to maintain and stabilize the structure, any resources available for financing the repairs, and the amount of time needed to complete the repairs.



## SECTION 7

# Correspondence

- Notice of application denied
- Request to Appeal from applicant
- Appeal Procedures

October 18, 2018

City of Dallas Attorney's Office  
2014 Main Street, Suite 227,  
Dallas, TX 75201

RE: **CA178-013(MP)**  
**REVIEW OF YOUR CERTIFICATE OF APPROPRIATENESS APPLICATION**  
**3708 S MALCOLM X BLVD**

Dear City of Dallas Attorney's Office:

Enclosed is a copy of the Certificate of Appropriateness (CA) application that you submitted for review by the Landmark Commission on June 6, 2018.

Please see the enclosed Certificate of Appropriateness for Details.

PLEASE NOTE: You have the right to appeal this decision within 30 days from the Landmark Commission review date. The enclosed ordinance lists the fee schedule for appeals. Also enclosed is an application for appeal which is due in our office by 5:00 P.M on October 31, 2018. For information regarding the appeals process, please call Elaine Hill at 214-670-420

Encl. Application for Appeal

If you have any questions, please contact me by phone at (214) 670-4131 or email at [marsha.prior@dallascityhall.com](mailto:marsha.prior@dallascityhall.com).



Marsha Prior  
Senior Planner

**Certificate of Appropriateness**

July 2, 2018

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Standard	July 2, 2018	<b>PLANNER:</b>	Marsha Prior
<b>FILE NUMBER:</b>	CA178-013(MP)	<b>DATE FILED:</b>	June 6, 2018
<b>LOCATION:</b>	3708 S MALCOLM X BLVD	<b>DISTRICT:</b>	Wheatley Place Historic District
<b>COUNCIL DISTRICT:</b>	7	<b>MAPSCO:</b>	46-Y
<b>ZONING:</b>	PD-595	<b>CENSUS TRACT:</b>	0037.00

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**APPLICANT:** City of Dallas Attorney's Office  
**REPRESENTATIVE:**  
**OWNER:** HUMAN SERVICE NETWORK INC

The Landmark Commission decision is: Denied

Information regarding requests:

1) Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).

Deny

Conditions: 10/01/2018 Landmark Commission motion for approval failed on a split vote; therefore, the request was denied.



Landmark Commission Chair

July 2, 2018

Date

Please take any signed drawings to Building Inspection for permits.

**Certificate for Demolition and Removal (CD)**  
**City of Dallas Landmark Commission**

CD 178 - 013 (MP)  
Office Use Only

1. Name of Applicant: Allen R. Griffin, Dallas City Attorney's Office  
MAILING Address: 2014 Main Street Ste. 227 City Dallas State TX Zip 75201  
Daytime Phone: 214-670-4436 Fax: 214-670-4814  
Relationship of Applicant to Owner: NA  
ADDRESS OF PROPERTY TO BE DEMOLISHED: 3708 S. Malcolm X. Boulevard Zip: 75215  
Historic District: Wheatley Place

**Proposed Work:**

2. Indicate which 'demolition standard(s) you are applying:
- Replace with more appropriate/compatible structure
  - No economically viable use
  - Imminent threat to public health / safety
  - Demolition noncontributing structure because newer than period of significance
  - Intent to apply for certificates of demolition pursuant to 51-A-4.501(i) of the Dallas City Code;
- Certificate of Demolition for residential structures with no more than 3,000 square feet of floor area pursuant to a court order
3. Describe work and submit required documents for the demolition standard you are applying:  
(please see attached checklist)  
Demolition of a structure pursuant to 51-A-4.501(i)

**Application Deadline:**

This form must be completed before the Dallas Landmark Commission can consider the approval of any demolition or removal of a structure within a Historic District. This form along with any supporting documentation must be filed by the first Thursday of each month by 12:00 Noon so it may be reviewed by the Landmark Commission on the first Monday of the following month, 1500 Marilla 5BN, Dallas, Texas, 75201. (See official calendar for exceptions to deadline and meeting dates). You may also fax this form to 214/670-4210, **DO NOT FAX PHOTOGRAPHS**

Use Section 51A-3.103 OF THE Dallas City Code and the enclosed checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4209 to make sure your application is complete.

Other: In the event of a denial, you have the right to an appeal. You are encouraged to attend the Landmark Commission hearing the first Monday of each month. Information regarding the history of certificates for individual addresses is also available for review.

4. Signature of Applicant: Allen R. Griffin Date: 3/1/2018  
5. Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
(IF NOT APPLICANT)

Review the enclosed Review and Action Form  
Memorandum to the Building Official, a Certificate for Demolition and Removal has been:

- APPROVED. Please release the building permit.
- APPROVED WITH CONDITIONS. Please release the building permit in accordance with any conditions.
- DENIED. Please do not release the building permit or allow work.
- DENIED WITHOUT PREJUDICE. Please do not release the building permit or allow work.

Mark Linn \_\_\_\_\_ Date: Oct. 10, 2018



# APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is October 31, 2018

Director, Development Services Department  
Dallas City Hall  
1500 Marilla St., RM 5/B/N  
Dallas Texas 75201  
Telephone 214-670-4209

Office Use Only  
Date Received

Landmark Case/File No.: CD178-013(MP)

Property Address: 3708 S Malcolm X Blvd

Date of Landmark Commission Action: October 1, 2018

Applicant's Name: \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Applicant's Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

Applicant's Email: \_\_\_\_\_

**IF DIFFERENT FROM ABOVE, PROVIDE PROPERTY OWNER'S INFORMATION.**

Owner's Name: \_\_\_\_\_

Owner's Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Owner's Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

Owner's Email: \_\_\_\_\_

Applicant's Signature

Date

Owner's Signature (if individual)

Date

or Letter of Authorization (from corporation/partnership)

Fee for Single Family use/structure: **\$300.00**

Fee for any other use/structure: **\$700.00**

# APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is October 31, 2018

Director, Development Services Department  
Dallas City Hall  
1500 Marilla St., RM 5/B/N  
Dallas Texas 75201  
Telephone 214-670-4209

Office Use Only  
Date Received

Landmark Case/File No.: CD178-013(MP)

Property Address: 3708 S Malcolm X Blvd

Date of Landmark Commission Action: October 1, 2018

Applicant's Name: City of Dallas c/o Dallas City Attorney's Office, Allen R. Griffin + Andrew M. Gilbert

Applicant's Mailing Address: 2014 Main Street, Rm. 227

City: Dallas State: TX Zip: 75201

Applicant's Phone Number: 214-670-4436 Fax: 214-670-4814

Applicant's Email: allen.griffin@dallascityhall.com + andrew.gilbert@dallascityhall.com

IF DIFFERENT FROM ABOVE, PROVIDE PROPERTY OWNER'S INFORMATION.

Owner's Name: Human Services Network, Inc.

Owner's Mailing Address: 3708 Malcolm X Blvd.

City: Dallas State: TX Zip: 75215

Owner's Phone Number: unknown Fax: unknown

Owner's Email: unknown

Allen R. Griffin 10/25/2018  
Applicant's Signature Date

Owner's Signature (if individual) Date  
or Letter of Authorization (from corporation/partnership)

Fee for Single Family use/structure: **\$300.00**  
Fee for any other use/structure: **\$700.00**

**PROCEDURE FOR APPEAL OF  
CERTIFICATES OF APPROPRIATENESS  
TO THE CITY PLAN COMMISSION**

(Revised April 2014)

1. **Postponements.**
  - a. The City Plan Commission may grant a postponement if it wishes.
  - b. Dallas Development Code §51A-4.701(e), regarding postponement of zoning applications by the applicant, does not apply.
  
2. **Content of the record.**
  - a. Copies of the complete record will be distributed by staff to the City Plan Commission two weeks before the scheduled hearing.
  - b. The parties may request that the record be supplemented.
  
3. **Additional correspondence and briefs.**
  - a. Additional correspondence or briefs, if any are desired to be submitted by the parties, should be provided to the planning staff for distribution to the City Plan Commission.
  - b. The parties should provide each other with copies of any information they submit to the City Plan Commission.
  - c. Interested parties should not make any contacts with commission members other than those submitted through the city staff.
  
4. **Representation of the Landmark Commission.**
  - a. The Landmark Commission will be represented by Laura Morrison.

5. **Order of the hearing.**

- a. Each side will receive 20 minutes (exclusive of questions from the City Plan Commission) with 5 minutes for rebuttal by appellant.
- b. Order of the hearing.
  - (1) Preliminary matters.
    - (A) Introduction by the Chair
  - (2) Appellant's case (20 minutes). \*
    - (A) Presentation by the appellant's representative.
    - (B) Questions from Commission Members.
  - (3) Landmark Commission's case (20 minutes). \*
    - (A) Presentation by the Landmark Commission's representative.
    - (B) Questions from Commission Members.
  - (4) Rebuttal/closing by the appellant's representative (5 minutes).
  - (5) Decision by the City Plan Commission. \*\*

\* If a party requires additional time to present its case, including testimony and evidence concerning the previous recommendations and actions of the city staff and the Landmark Commission and its task forces, the party shall request that additional time be granted by the City Plan Commission. If the Commission grants one party additional time, the opposing party shall also be granted a similar time extension.

\*\* In considering the appeal, the City Plan Commission shall hear and consider testimony and evidence concerning the previous recommendations and actions of the city staff and the Landmark Commission and its task forces.



**6. Introduction of new evidence at the hearing.**

- a. The City Plan Commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the Landmark Commission to determine whether that testimony or evidence was available at the Landmark Commission hearing.
- b. If the City Plan Commission determines that new testimony or evidence exists that was not available at the Landmark Commission hearing, the City Plan Commission shall remand the case back to the Landmark Commission.
- c. The party attempting to introduce new evidence bears the burden of showing that the evidence was not available at the time of the Landmark Commission's hearing.
- d. Newly presented evidence is subject to objection and cross examination by the opposing party.

**7. Remedies of the City Plan Commission.**

- a. The City Plan Commission may reverse or affirm, in whole or in part, or modify the decision of the Landmark Commission.
- b. The City Plan Commission shall give deference to the Landmark Commission decision and may not substitute its judgment for the Landmark Commission's judgment. The City Plan Commission shall affirm the Landmark Commission decision unless it finds that it:
  - (1) violates a statutory or ordinance provision;
  - (2) exceeds the Landmark Commission's authority; or
  - (3) was not reasonably supported by substantial evidence considering the evidence in the record.
- c. The City Plan Commission may remand a case back to the Landmark Commission for further proceedings.