

# ISSUES & OPTIONS PAPER

regarding

## THREE PROPOSALS

prepared by

Ad-Hoc Vision Implementation Committee of the Dallas Landmark Commission

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## **PART A – INTRODUCTION**

### **1.0 OVERARCHING ISSUE # 1 – THE NEED FOR A SHIFT IN FOCUS**

Since 2015, it was acknowledged that *preservation in Dallas must shift from a position of reaction to one that influences change*. This was further reiterated by the finding that stated: *There must be a major shift in how Dallas views historic preservation. Instead of viewing preservation and development as opposing goals, they must be seen as the same goal*. The major shift in thinking that was to begin by implementing City Council-adopted Task Force recommendations (including broadening staff capabilities and staff priorities to foster efficiency) have not been advanced.

### **2.0 OVERARCHING ISSUE # 2 – BROADENING STAFF CAPABILITIES**

The current regulations and processes of the Office of Historic Preservation (OHP) require all staff to be fully occupied by one aspect of a historic preservation program while other important preservation initiatives remain stalled largely because staff resources are almost exclusively devoted to the processing of certificates of appropriateness.

### **3.0 OVERARCHING ISSUE # 3 - PRIORITIES TO FOSTER EFFICIENCY**

The current regulations set a very low threshold for scopes of work that trigger a requirement that a case be subject to the full public hearing process. This means that minor works or works that would not have a significant effect on the character and appearance of the district require that up to 28 people be involved in the design review process.

### **4.0 SUMMARY**

In 2020, the OHP developed a draft Vision for Historic Preservation in Dallas that recognized the importance of advancing previously authorized public hearings that focused on the needs of the Tenth Street Historic District and the Demolition Delay Ordinance, contributing to the Comprehensive Plan update, developing education and awareness initiatives, and identifying strategies for contributing to broader economic development and environmental objectives. The Vision recognized that to contribute meaningfully to a balanced historic preservation program, the OHP would need to shift the all-encompassing focus on processing certificates of appropriateness to other important aspects of preservation.

The Vision also recognized the one of the most cost-effective ways to help boost the local economy where construction is often a common indicator of a healthy economy, is to streamline OHP's regulations and processes. The first part of streamlining focused on the time that it takes to usher an application through the public hearing process and how that time could be more effectively harnessed for other initiatives if greater administrative authority were afforded staff in the review of certificates of appropriateness. To explain the issue and a streamlining

approach, the OHP embarked upon a series of public presentations and a Practical Solutions Workshop hosted by Preservation Dallas in efforts to cast a wide net that included stakeholders, friends and interested parties invited to share their thoughts about the matter. The details of the various presentations and overviews of public feedback are not intended to be covered here, because they are available online or form part of presentations to the Landmark Commission.

## **5.0 PURPOSE**

The purpose of this paper is as follows:

- a. to offer observations on the three proposals intended to address Issue # 1 as developed by the Ad-Hoc Vision Implementation Committee, and
- b. to place the observations in the wider context of administering a historic preservation program with limited resources and advancing departmental obligations that support the Economic Development Policy while achieving the City Manager's Priorities for the Office of Historic Preservation.

## **PART B – BACKGROUND INFORMATION**

### **6.0 2014 DOWNTOWN HISTORIC PRESERVATION TASK FORCE**

In 2015, the Downtown Dallas Historic Preservation Task Force (the "Task Force") acknowledged the following:

- *The focus of staff is on administrative duties, limiting time for preservation planning.*
- *Dallas's Historic Preservation Program is singularly focused on regulation at the detriment of comprehensive and more valuable planning.*

As part of the context associated with Overarching Issue # 1, it is relevant to note that one of the key recommendations of the Task Force adopted by City Council included a focus on broadening capacities, reviewing priorities, and streamlining for efficiency as follows:

- *Broaden staff capabilities and review staff priorities to foster efficiency.*

### **7.0 THE ESTABLISHMENT OF THE OFFICE OF HISTORIC PRESERVATION**

In October 2019, it was determined that the historic preservation element within Sustainable Development and Construction should be repositioned under the umbrella of the Economic Development and Neighborhood Revitalization Department with an enhanced focus on its important relationship to economic development. The broad impact that historic preservation can have on the local

economy is also addressed in the Texas Historical Commission's analysis undertaken by Rutgers School of Planning and Public Policy and University of Texas at Austin's Center for Sustainable Development titled *Economic Impact of Historic Preservation in Texas* (2015).

Elevating the historic preservation element to form the new Office of Historic Preservation (OHP) was purposeful – acknowledging that historic preservation is much broader than has been practiced in Dallas and that it was important for historic preservation to play a heightened role in other critical aspects of the city including economic development, comprehensive planning, environmental sustainability, affordable housing, policy development, community outreach, planning for equity, special projects and education and awareness. It is therefore safe to say that the establishment of the OHP with the significant opportunity to embrace a more impactful role within the city required a “shift in thinking”. This shift in thinking was a recognized need arising from the 2015 Task Force observations where it stated:

- *Preservation must shift from a position of reaction to one that influences change.*
- *There must be a major shift in how Dallas views historic preservation. Instead of viewing preservation and development as opposing goals, they must be seen as the same goal.*

The establishment of the OHP was therefore intended to capitalize on important opportunities that would allow it to expand its sphere of influence. There is no evidence that the establishment of the OHP sought to maintain the status quo where virtually all of staff's time would be consumed by the processing of certificates of appropriateness. In 2015, the Downtown Task force unanimously agreed that preservation should have a recognized and meaningful role in shaping the city.

## **8.0 THE VISION FOR HISTORIC PRESERVATION IN DALLAS**

After nearly a half century of historic preservation in Dallas, the Vision acknowledged an opportunity to re-think the role that historic preservation could play in identifying, protecting, and celebrating the significant places of Dallas's past with a view towards sustaining their relevance for present and future generations to enjoy.

The draft Vision set out a path to a more balanced historic preservation program that would broaden the OHP's capacity, review staff priorities, and foster efficiencies – all consistent with the 2015 Downtown Historic Preservation Task Force recommendations. In addition, the Vision highlighted several prior authorizations and new initiatives that would benefit the preservation throughout the city if advanced. These included:

- a. Advancing the authorized public hearing to consider a code amendment that would address the criteria that a building must meet to be subject to the Phase II portion of the Demolition Delay Ordinance (May 2018).
- b. Advancing the authorized public hearing to consider the appropriate zoning, use, development standards, preservation criteria for Tenth Street and expanding the historic overlay (September 2019).
- c. Advancing the authorized public hearing to consider a code amendment that would address the Certificate for Demolition of a residential structure with no more than 3,000 square feet of floor area pursuant to a court order (November 2019).
- d. Policy development and ordinance updates/consolidation.
- e. Historic resource survey updates.
- f. Development of Statements of Significance.
- g. Exploring the interface between historic preservation and affordable housing options.
- h. Developing equitable and accessible incentives; and
- i. Community outreach/education and awareness.

## **9.0 RECENT DISCUSSIONS ABOUT CONTEXT**

On February 11, 2021, the Ad-Hoc Vision Implementation Committee incorporated a presentation by Robin McCaffrey, former Chairman of the 1987-1988 Preservation Plan Task Force and Advisor to the 2015 Downtown Historic Preservation Task Force so that members might have a better understanding of the initial thinking behind the Landmark Program with consideration of those aspects that were relevant today.

Mr. McCaffrey confirmed that “the intent of the Landmark Program was to meet local sense of place criteria”, that “in a district, the importance is collective identity”, and that one of the goals moving forward should be to value context. A recurring theme focused on how change relates to its context.

This recurring theme should inform discretionary review. This means that there should be an emphasis on those aspects of change that are likely to have a significant and adverse impact on the overall character and historic context of a district. Requiring a multi-level review of skylights and solar panels that may be

visible from the centerline of the street or the replacement of doors and windows with materials different from the original represents a very low threshold when the aim is to safeguard the special interest of a district. The threshold needs to be responsive to the objective of sustaining the significance of the collective without encumbering the property owner who simply wishes to make minor alterations to an accessory structure that may have a minor to negligible effect on the character and appearance of the district.

## **10.0 RECOGNIZING THE IMPORTANCE OF PRIORITIZING**

Mr. McCaffrey, in response to questions in the Q&A session, urged the LMC to “preserve for yourself those things that are absolute values of context.” This suggestion is central to the objectives of streamlining. If a particular change would result in a minor impact on the character and appearance of a historic district, yet there is still a preference that virtually any material change be subject to a multi-leveled review, this approach would not appear to “foster efficiencies” as an importance customer service attribute. Staff would still have to prepare a report for an application involving work that has a low degree of visibility or have a minor impact, hold monthly task force meetings and then occupy both staff time and the entire LMC every month to discuss a change that would have a negligible to minor effect. If the item is denied, this means that the applicant would need to return to the LMC (in most cases) resulting in more staff time a minimum two-month certificate of appropriateness process for the customer on a scope of work that could be administratively processed in as little as 90 minutes.

Many of Dallas's preservation ordinances are written so as to sustain a practice of assessing the impact of change within a historic district as if each property were individually designated. Best practices acknowledge that the approach for assessing the effects of change is typically different depending on whether the category of the historic property is an object, building, structure, site, or district. The important question for each application that needs to be addressed is – what is the likely impact on the character and appearance of the district? It matters little to the character and appearance of a historic district whether an applicant proposes a design that a reviewer may not prefer if it is unlikely to be visible. Conversely, it matters tremendously if an applicant has their design denied because a preference is allowed to supersede consideration of the effects. Thus determining which applications ought to be required to go through a full TF/LMC review should reflect a judicious consideration – where those applications that are likely to have a significant impact on the character of the district are subject to the full review. This also means that staff and LMC members would not need to devote an entire day to deliberating matters that are likely to have negligible to minor effects, rather their valued time would be prioritized for the cases likely to have the most significant impact.

The explorations undertaken by the AHVIC (February – June 2021) focused, as the AHVIC acknowledged, “on taking minor points and making them staff review.” The “shift in thinking” that emerged as a key recommendation of the 2015 Task Force continued in concept only, however, the approach adopted for the explorations did not appear to embrace the City Council adopted recommendation regarding the broadening of staff capabilities and priorities to foster efficiency, which were to be implemented as a Phase 1: Immediate Solution (i.e. 0-12 months from the date of the recommendation).

The minor changes that focused on assigning staff the review of work that would have negligible to minor impact on the character of the district was sufficient evidence of a continued close adherence to the status quo. This approach reflected a higher priority on ensuring that even minor works, some of which would have little or no visibility from the public right-of-way would continue to go through three levels of review, rather than an approach that embraced a need for a shift in thinking (acknowledged since 2015) and giving weight to the importance of expanding the sphere of influence that historic preservation should be afforded to advance a more balanced program.

## **11.0 ASSESSMENT OF CHANGE**

In addition to considering changes that are likely to result in a negligible to minor effect on the character and appearance of a historic district, a “shift in thinking” might also attract a companion consideration – that being – for scopes of work that are consistent with city policy (i.e. preservation criteria and the Secretary of the Interior’s Standards for the Treatment of Historic Properties) why not embrace the administrative review of these applications? One such response might be, we’ve never done it that way before and we do not feel comfortable relinquishing that scope of administrative review. The reality is that it is not practical to recommend that staff undertake a list of important tasks while at the same time recommending that minor works which are unlikely to have an appreciable impact on the character of a district be subject to a multilevel review.

It is acknowledged that there is a sense that the entire focus of streamlining is about achieving staff efficiencies and that the discussion needs to respond to a great demand for education and awareness. While rationalization of limited resources should always be a goal, it is important that there be a clear and unequivocal understanding that the driver of streamlining is directly related to the need to free up staff time to work on other critical aspects of a more balanced historic preservation program, which includes education and awareness as just one of many examples. Streamlining should not be seen as a staff benefit, rather it is imperative that it be acknowledged as a “preservation in Dallas” benefit, where historic preservation becomes viewed as a positive and influential discipline that plays an important role in the economic, cultural,

environmental, social and ethnic aspects of the entire city. If however, it is desirable to maintain a historic preservation program that resides in its traditional reactive position exclusively for the purpose of processing applications while not embracing the City Council-adopted recommendations of the 2015 Downtown Historic Preservation Task Force, as with any issues and options analysis, the status quo is always an option.

Alternatively, one could consider embracing the approach taken by a number of jurisdictions, whose primary purpose was to streamline the certificate of appropriateness process, thus affording limited resources to be prioritized.

- In Fort Worth, for example, **the administrative review authority includes all exterior alterations, additions, new construction of accessory structures, and demolition/relocation of non-contributing structures.** Applicants wishing to pursue inappropriate alterations, new construction of primary structures, demolition/relocation of primary contributing structures, or seek waivers from the district guidelines must go through a two-level design review process that requires a decision from the Historic and Cultural Landmarks Commission. In Dallas, the design review process incorporates three levels of review.
- In New York City, over 13,000 permit applications are approved each year by the Landmark Preservation Commission for changes to landmark buildings and sites. **More than 90 percent of LPC's permits are issued by the staff,** and the remainder by the full Commission.
- In Philadelphia, the administrative review authority is like that in Fort Worth and New York City, where most permits are approved by staff.

Why do cities consider increasing the administrative review function within their design review process? In Columbus for example:

*Continued growth and development pressure in its historic districts and design review areas has resulted in a significant increase in application review over the past decade. The process improvements were deemed to allow an increase in efficiency, transparency, and predictability in the application process. In addition, many applicants modify their applications so that their work qualifies for a staff-level permit. These permits have a shorter turnaround time, and do not require a public hearing.*

While it is acknowledged that there are many examples of local governments who have assigned a low level of administrative review to staff, it is important to acknowledge that the residents of cities such as Fort Worth, Philadelphia and

New York are just as passionate about safeguarding their historic districts as any other city. They too have valid concerns about transparency, interpretation, or whether something might get missed during an application review, however, they have elected to embrace the need for streamlining. They too have a desire to be active participants in the design review process.

A selection of jurisdictions that approach the concept of administrative reviews differently has been provided below for information.

**Table A – Administrative Review in Other Cities**

City	Administrative Review Similar to Dallas	Administrative Review Type/Scope
Austin, TX	yes	
Columbus, OH	no	Effects-based <sup>1</sup> Administrative Review
Denton, TX	no	<b>Ordinary maintenance</b> is defined as the process of stabilizing or repairing, deteriorated or damaged architectural features.  <b>Minor exterior alteration</b> shall be defined as the installation of or alteration to signage, fences, gutters and downspouts, incandescent lighting fixtures, landscaping, restoration of original architectural features that constitute a change from existing conditions, painting of wood or other appropriate elements including a change in color and additions and changes not visible from any street, as determined by the HPO, to the rear of the main structure or to an accessory structure
Denver, CO	No	External alterations that are not visible from public streets may be approved administratively if the alterations do not impact the form of the structure or significant architectural details, and clearly meet the guidelines.
Evanston, IL	No	Certificates of Appropriateness are administratively reviewed for minor works. Minor work involves no or minimal alteration to the integrity of a structure in terms of design and/or materials.
Fort Lauderdale, FL	Yes	Projects that are considered to be general maintenance, repair, or in-kind replacement of existing features can be reviewed administratively by the Historic Preservation Planner.
Fort Worth, TX	No	HPO has original jurisdiction to evaluate applications for appropriateness that are not specified as being under the original jurisdiction of the Historic and Cultural Landmarks Commission. Administrative Review includes all exterior alterations, additions, new construction of accessory structures, and demolition/relocation of non-contributing structures.

<sup>1</sup> The "No Adverse Effect" designation is a form of a staff approval Certificate of Appropriateness (or Approval) (COA) and applies to the most common types of applications that currently receive Staff Approval. It has its basis within CCC3116.055 and CCC3116.05, as well as Section 106 of the National Historic Preservation Act, and is defined as an undertaking that does not alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the local district or National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Applications that fall within the NAE designation and meet city standards and guidelines receive the fastest processing times.

Gainesville, GA	No	<p>All certificates of appropriateness for minor work projects shall be administratively reviewed and approved by the director in accordance with the approved design and construction guidelines and this Code.</p> <p><i>Minor work projects.</i> A minor work project involves a change that goes beyond ordinary maintenance but does not constitute a significant or character-altering change in the appearance of a building, structure or site.</p>
Houston, TX	No	<p>The director shall approve a certificate of appropriateness for the construction of any one, but no combination of the following additions to a contributing structure in a historic district:</p> <ul style="list-style-type: none"> <li>a. A rear addition</li> <li>b. A side addition</li> <li>c. A partial second-story addition</li> </ul> <p>The director shall approve a certificate of appropriateness for additions/alterations of a non-contributing structure</p> <p>The director is authorized to issue a CA for the following:</p> <ul style="list-style-type: none"> <li>a. Removal of non-original exterior features or materials</li> <li>b. In-kind replacement of historic materials</li> <li>c. Installation of ramps, awnings, canopies, burglar bars</li> <li>d. Construction of accessory structures including garage apartments of less than 600 sq ft</li> <li>e. Amendments to previously approved CAs</li> </ul>
Independence, MI	Yes	<p>Administrative Reviews may be conducted for contributing structures as follows:</p> <ul style="list-style-type: none"> <li>a. Awnings, decks, in-kind sidewalks/driveways, equipment, fences, landscaping, pools, in-kind roofs, screen-in existing porches, site lighting, storm windows, trim and in-kind windows</li> </ul> <p>Administrative Reviews may be conducted for non-contributing structures as follows:</p> <ul style="list-style-type: none"> <li>b. doors, decks, fences, landscaping, retaining walls, and most activities under a. above</li> </ul> <p>Certain works require no approval</p>
Jacksonville, FL	No	<p>Most work, except for street visible additions, new construction, window replacement, demolition and relocation can be approved administratively by the Historic Preservation Section.</p>
New York, NY	No	<p>A Certificate of Appropriateness is needed if:</p> <ul style="list-style-type: none"> <li>• The proposed work affects the significant protected architectural features of the landmark property</li> <li>• The proposed work does not conform to the <b><u>Rules of the Landmarks Preservation Commission</u></b></li> </ul> <p>The types of work include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Additions</li> </ul>

		<ul style="list-style-type: none"> <li>• Demolitions</li> <li>• New construction</li> <li>• Removal of stoops, cornices, and other significant architectural features</li> </ul> <p>LPC receives and approves over 13,000 permit applications each year for changes to landmark buildings and sites. <b>More than 90 percent of LPC's permits are issued by the staff, and the remainder by the full Commission.</b></p>
Philadelphia, PA	No	<p><b>Staff Approval Authority</b></p> <p>In reviewing permit applications, the staff shall comply with the standards set forth in §14-1005(6)(e) of the Philadelphia Code and, as mandated in Section 6.9 of these Rules &amp; Regulations, shall be guided in their evaluations by The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring &amp; Reconstructing Historic Buildings. The staff shall base its reviews on sufficient evidence including but not limited to physical evidence at the site or similar sites and historic documents such as photographs, architectural plans, insurance surveys, and maps. The staff shall review and may approve without referral to the Architectural Committee and the Commission permit applications proposing:</p> <ol style="list-style-type: none"> <li>1. the restoration of the historic resource to a period of significance, provided the restoration is based on sufficient evidence and the undertaking will not cause the damage or removal of significant original or later historic fabric;</li> <li>2. the replacement of deteriorated features including, but not limited to, windows, doors, shutters, cornices, mantels, and stairways, provided the severity of deterioration requires replacement, the design of the replacement features is based on sufficient evidence, and the replacement features replicate the appearance of the historic features;</li> <li>3. the replacement of roofing materials when the original materials are not extant, provided the proposed materials are based on sufficient evidence and closely approximate or replicate the historic roofing materials;</li> <li>4. the replacement of slate roofing materials, with the exception of mansards, turrets, and other character-defining features, provided the severity of deterioration requires replacement and the substitute materials closely approximate the color and shape of the historic slate roofing materials;</li> <li>5. the alteration of non-historic storefront features when the historic storefront is not extant;</li> <li>6. the alteration of secondary elevations and site features that face service alleys and/or are not visible or have limited visibility from public rights-of-way;</li> <li>7. the alterations of public interior portions including but not limited to plumbing, electrical, mechanical, and</li> </ol>

		<p>weatherproofing work, provided the alterations are not visible to the public and do not cause the damage and/or removal of significant historic fabric;</p> <p>8. the removal and/or alteration of features that are not original, historically significant, or integral to the historic resource including exploratory removals;</p> <p>9. the alteration or addition of minor, non-historic features including but not limited to awnings, signage, light fixtures, door hardware, window boxes, mechanical equipment, railings, fences, walls, gates, fire-suppression systems, and alarm and security systems, provided the new features are compatible with the character of the historic resource, do not block views of its character-defining features, and do not cause the damage and/or removal of significant historic fabric;</p> <p>10. standard maintenance not exempted from review by §14-1006(4) of the Philadelphia Code including but not limited to pointing, masonry cleaning, repainting, and paint removal;</p> <p>11. work that reverses alterations performed without a permit;</p> <p>12. the repair or removal of features determined Unsafe or Imminently Dangerous by the Department of Licenses &amp; Inspections, provided that the permit is issued with the condition that the owner is required to restore such historic Philadelphia Historical Commission Rules &amp; Regulations, 3-12-2021 44 features to their original appearance and location within one year of their removal; and,</p> <p>13. alterations to and demolitions of non-contributing buildings, structures, sites, and objects within historic districts not also individually designated as historic, provided such alterations and demolitions do not adversely impact public interior portions designated as historic</p>
Phoenix, AZ	No	<p>A CERTIFICATE OF NO EFFECT (CNE) may be issued for minor work that does not materially change the historic character of the property and that is clearly within the adopted design guidelines for historic properties, such as a small addition or rear patio cover that is not visible from the street. These certificates are frequently approved at the time of the initial request.</p> <p>A CERTIFICATE OF APPROPRIATENESS (COA) must be applied for if the proposed work will make material changes that may alter, diminish, eliminate or affect the historic or architectural character of the property in any way. Larger additions and street-visible changes fall into this category. These certificates require an HP preapplication meeting and a public hearing to determine whether the proposed project meets the General Design Guidelines for Historic Preservation. This document and other valuable information are available on the HP Web site, <a href="https://www.phoenix.gov/pdd/historic/historicservices">https://www.phoenix.gov/pdd/historic/historicservices</a>. HP staff makes all determinations regarding whether a CNE or COA is required</p>

Round Rock, TX		<p>Administrative review for a CofA can usually be completed within ten days. Staff may also decide to forward the application to the HPC to review at its next meeting.</p> <p>The following projects are considered eligible for administrative review (Section 10-56 (a) (3)):</p> <ul style="list-style-type: none"> <li>a. Paint colors for the exterior of a structure including siding, trim, doors, steps, porches, railings, and window frames. This shall not include painting or otherwise coating previously unpainted masonry;</li> <li>b. The placement and screening, if necessary, of roof-mounted equipment and other mechanical equipment of various types;</li> <li>c. The placement and design of screening treatments for trash and recycling receptacles;</li> <li>d. Fences to be installed in the rear and/or side yard; e. Ground lighting;</li> <li>f. Elements attached to a facade of any building, garage or carriage house including, but not limited to, door hardware, hinges, mailboxes, light fixtures, sign brackets, street address signage and historic interpretive signage;</li> <li>g. Replacing roofing materials or color on a flat roof that will not be visible from the ground or from immediately adjacent taller buildings;</li> <li>h. Gutters and downspouts;</li> <li>i. Installation or removal of landscaping, including trees;</li> <li>j. Accessibility ramps;</li> <li>k. Changes to awning fabric color for an existing awning;</li> <li>l. Landscape elements, including but not limited to, walks, paving, benches, outdoor furniture, planters, pools, trellises, arbors and gazebos;</li> <li>m. Installation of any elements required by other codes such as emergency lighting;</li> <li>n. Modifications that are considered nonpermanent such as, but not limited to, window films and temporary features to weatherize or stabilize a historic resource;</li> <li>o. Minor modifications to an existing certificate of appropriateness that still meets the intent of the original approval; or</li> <li>p. Renewal of an expired certificate of appropriateness</li> </ul>
San Antonio, TX		<b>Certificate of Appropriateness - Administrative Approval.</b>

		<p>Applications for certain minor alterations, additions, ordinary repairs or maintenance may be reviewed and approved administratively by the historic preservation officer without review by the historic and design review commission. Those activities which constitute minor alterations, additions, repairs or maintenance include but are not limited to:</p> <p><b>Ordinary Repair and Maintenance</b></p> <ul style="list-style-type: none"> <li>a) Repair using the same material and design as the original and does not require structural modifications</li> <li>b) Repainting, using the same color</li> <li>c) Reroofing, using the same type and color of material</li> <li>d) Repair of sidewalks and driveways using the same type and color of materials</li> </ul> <p><b>Exterior Alterations</b></p> <p>Doors/Entrances</p> <ul style="list-style-type: none"> <li>a) From non-historic to one in keeping with the character and era in which the home was built</li> <li>b) Removal of burglar bars</li> <li>c) Repair or slight modification to exterior steps or stairways using in-kind material</li> <li>d) Reopening of porch with proper photo documentation or physical evidence</li> </ul> <p>Windows</p> <ul style="list-style-type: none"> <li>a) Removal of non-historic windows to replace with windows that match the original windows as closely as possible in material and design</li> <li>b) Restoring original window openings with documentation</li> <li>c) Removal of residential metal awnings</li> <li>d) Repairing window framing</li> <li>e) Removing inappropriate exterior shutters that are not of historic age</li> <li>f) Louvers and venting in which the vents or louvers are placed in an existing opening, in which there is no change in</li> </ul>
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		<p>the configuration of the fenestration and the only modification to the building is the removal of glazing panels</p> <p>g) Removal of burglar bars</p> <p>Siding</p> <p>a) Removing non-historic siding in order to unencapsulate historic siding materials</p> <p>Roofing</p> <p>a) Removal of composite roof shingles and replacing with clay tiles with documentation</p> <p>b) Removal of composite roof shingles and replacing with metal roofing material with documentation and specifications</p> <p>c) Changing color of composite roofing material</p> <p>d) Changing color of existing metal roof with appropriate specifications and details</p> <p>Additions</p> <p>a) Any rear addition under two hundred (200) square feet using same (non-historic) material as existing structure as well as existing roof ridgeline for non-contributing structures; must include plans with specification</p> <p>Painting</p> <p>a) Reasonable changes to paint colors on previously painted surfaces which are consistent with the district or landmark characteristics</p> <p>b) Paint removal/pressure water washing/graffiti removal</p> <p>Landscaping</p> <p>a) Replacing paved areas with sod or other landscaping</p> <p>b) Fifty (50) percent or less square feet of front yard replacement</p> <p>c) Sprinkler system with site map</p> <p>d) Back yard landscaping</p>
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		<p>e) Removal of existing landscaping or sod areas and replacing with xeriscaping where not removing character defining landscaping elements</p> <p>f) New plantings in keeping with the character of neighborhood</p> <p>Hardscaping with site map and specifications</p> <p>a) Parking pads under one hundred forty-four (144) square feet</p> <p>b) Sidewalks residential/commercial with contextually appropriate placement (such as a traditional planting strip)</p> <p>c) Driveway construction if less than twelve (12) feet in width and consistent with guidelines</p> <p>d) Parking with appropriate landscaping (non-historic properties)</p> <p>Fencing</p> <p>a) Removal of chain, link, plywood, or vinyl and replacing with wood, wrought iron, garden loop, or masonry</p> <p>b) Replacing or recreating any fence or handrail with historic document</p> <p>c) Installing or constructing a fence, railing, or wall where none exists (sides and rear only behind front facade plane of historic structure) with appropriate materials</p> <p>Signage</p> <p>a) Changes in content or configuration (re-facing) that do not involve changes in sign location, dimensions, lighting or total sign area</p> <p>b) Signs that are consistent with HDRC approved master signage plans</p> <p>c) Temporary banners or signs where allowed by this article</p> <p>d) Signs that comply with UDC sections <a href="#">35-678</a>, <a href="#">35-612</a>, <a href="#">35-681</a> or <a href="#">35-645</a>, and have a square footage equal to or less than the requirements outlined. Signage applications above the allowable square footage shall be forwarded to the historic and design review commission for their recommendation.</p> <p>New Construction</p>
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		<ul style="list-style-type: none"> <li>a) Rear ADA ramps</li> <li>b) Rear porch</li> <li>c) Rear deck</li> <li>d) Swimming pools, fountains in back yard</li> </ul> <p>Demolition</p> <ul style="list-style-type: none"> <li>a) Non-historic accessory structure that is made of non-historic materials</li> <li>b) Non-historic additions that are made of non-historic materials</li> <li>c) Reopen enclosed porch</li> <li>d) Carports that are made of non-historic materials</li> <li>e) Non-contributing structures located in historic district that are made of non-historic materials</li> </ul> <p>Miscellaneous</p> <ul style="list-style-type: none"> <li>a) Reasonable changes in color to awning fabric that are consistent with the district or landmark characteristics</li> <li>b) Renewal of expired certificates of appropriateness</li> <li>c) Removal of any prohibited element described in City Code</li> <li>d) Minor changes to existing certificates of appropriateness</li> <li>e) Emergency installation of temporary features to protect a historic resource or to weatherize or stabilize</li> <li>f) Foundation</li> <li>g) Mechanical units</li> <li>h) Exterior electrical</li> <li>i) Exterior plumbing</li> <li>j) Exterior electrical fixtures</li> <li>k) Antennas</li> </ul>
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		<p>l) Glass replacement</p> <p>m) Dumpsters with screening</p> <p>n) Lighting</p> <p>o) Rooftop HVAC, mechanical or communication equipment that is not visible from the public right-of-way and results in no modifications to the visible facades of the building</p> <p>p) Mission protection overlay district applications being reviewed for height/angle conformity only</p>
San Francisco, CA	No	<p>Minor Alterations qualify for an Administrative Certificate of Appropriateness. An Administrative Certificate of Appropriateness does not require a public hearing and is approved by Planning Department Preservation staff.</p> <p>All work not determined to be a Minor Alteration shall be a Major Alteration and subject to HPC approval. If so delegated to Department staff, the categories of Minor Alteration shall include but are not limited to the following:</p> <p>(1) Alterations whose sole purpose and effect is to comply with the UMB Seismic Retrofit Ordinances and that comply with the UMB Retrofit Architectural Design Guidelines, which guidelines shall be adopted by the HPC; or</p> <p>(2) Any other work so delegated to the Department by the HPC.</p> <p>The Department shall review all applications and shall determine within 30 days after the application is filed whether the application is complete.</p>
Torrance, CA	No	<p>The Historic Preservation Commission is hereby given the authority to delegate certain minor projects to the Director of the Community Development Department, and his or her designee for review and administrative decisions of approval, conditional approval or denial.</p> <p>a) Minor projects are those cases involving:</p> <p>1) Exterior alterations that do not adversely affect the historic character of the Historic Landmark, Contributing Resource, or the Historic District, such as:</p> <p>A) In-kind repair of deteriorated character-defining features, including character-defining landscape features, that does not involve a change of design, appearance, or visibility of the feature.</p> <p>B) Replacement of character-defining features too deteriorated to repair. In-kind replacement in the historic material is preferred. Compatible substitute materials that maintains the historic character in</p>

		<p>terms of pattern, texture, and detailing may be considered.</p> <p>C) Repair or replacement of roof covering materials, gutters, and downspouts, provided that the replacement is in-kind or maintains the architectural character of the Historic Resource in terms of pattern, texture, and coloration.</p> <p>D) Foundation work with no change in appearance.</p> <p>E) Chimney repair and retrofit with no change in appearance.</p> <p>F) Construction, demolition or alteration of side, rear and front yard fences; 17</p> <p>G) Alterations or removal of landscape features such as walkways, planter walls, paved areas, and fountains not identified as character defining features.</p> <p>H) In-kind replacement of historically faithful features that were previously removed.</p> <p>I) Other minor rehabilitation work as determined by the Director of the Community Development Department.</p> <p>2) Exterior work on Non-Contributing Resources in Historic Districts that is not out of character with the Historic District. Partial demolition, increasing the number of existing stories, and additions that increase the square footage by less than 25% of the existing building area, inclusive of attached garages and exclusive of detached garages, may be reviewed as a Minor Project if they are minimally visible from the public right-of-way and are compatible with the character of the Historic District.</p> <p>3) Additions and Accessory Buildings that are one-story, at the ground floor, not visible from a public right-of-way and increase the building square footage by less than 25% of the existing building's area, inclusive of attached garages and exclusive of detached garages</p>
Urbana, IL	No	Refer to Table XII-1: Level of Review for Contributing Properties and Table XII-2: Level of Review for Non-Contributing Properties below

<b>Table XII-1: Level Of Review for Contributing Properties</b>			
	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
<b>Description of undertaking</b>			
<i>Building ordinary maintenance</i> made in kind and using like materials:			
Architectural features, repair of existing	X		
Masonry repointing with compatible mortar		X	
Painting previously painted surfaces, regardless of paint colors	X		
Roof cladding, with like materials		X	
All other exterior building maintenance and repairs		X	
<i>Site ordinary maintenance</i> made in kind and using like materials:			
Access drives	X		
Outdoor storage, replacement of existing	X		
Steps (not attached to buildings)	X		
Structural landscape features		X	
Walkways	X		
All other repairs of site improvements		X	
<i>Building changes and new construction, including:</i>			
Access ramps/lifts - erection, alteration, removal		X	
Application of same type of roofing materials	X		
Architectural features and details		X	
Awnings		X	
Building additions			X
Construction of new buildings (other than accessory)			X
Decorative glass (colored, leaded, or beveled)			X
Doors (except storm doors)		X	
Gutters and downspouts (integral and attached)		X	
Mailboxes	X		
Painting of unpainted masonry		X	
Porches, decks, and attached steps (including enclosing)			X
Roofs, including roof lines and materials			X
Satellite dishes		X	
Shutters		X	
Siding, removal of non-original synthetic siding		X	
Siding (other)			X
Signs and interpretative displays (permanent)			X
Storm doors and storm windows	X		
Windows (except storm windows and window screens)			X
Window screens	X		
All other new construction and changes to buildings			X

	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
<i>Site changes and new construction, including:</i>			
Accessory buildings (less than 100 sq. ft. in area)	X		
Accessory buildings (greater than 100 sq. ft. in area)			X
Access drives			X
Air conditioner condenser units		X	
Fences		X	
Landscape planting beds and gardens	X		
Mechanical and electrical service equipment		X	
Parking lots			X
Patios		X	
Signs (permanent)			X
Signs (temporary)	X		
Walkways		X	
Walls and screens (as landscape features)		X	
All other site modifications			X
<i>Demolition, removal, and relocation of buildings and other structures:</i>			
Accessory structures (less than 100 sq. ft. in area)		X	
Accessory structures (greater than 100 sq. ft. in area)			X
Fences (nonhistoric)		X	
Fences (historic)			X
All other demolition, removal, and relocation			X

<b>Table XII-2: Level Of Review for Non-Contributing Properties</b>			
	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
<b>Description of undertaking</b>			
<i>Building ordinary maintenance</i> made in kind and using like materials:			
Architectural features, repair of existing	X		
Masonry repointing with compatible mortar	X		
Painting previously painted surfaces, regardless of paint colors	X		
Roof cladding, with like materials	X		
All other exterior building maintenance and repairs	X		
<i>Site ordinary maintenance</i> made in kind and using like materials:			
Access drives	X		
Outdoor storage, replacement of existing	X		
Steps (not attached to buildings)	X		
Structural landscape features	X		
Walkways	X		
All other repairs of site improvements	X		
<i>Building changes and new construction</i> , including:			
Access ramps and lifts (erection, alteration, removal)	X		
Application of same type of roofing materials	X		
Architectural features and details		X	
Awnings		X	
Building additions			X
Construction of new buildings (other than accessory)			X
Decorative glass (buildings less than 50 years old)	X		
Decorative glass (buildings 50+ years old)			X
Doors (except storm doors)		X	
Gutters and downspouts (integral and attached)	X		
Mailboxes	X		
Painting of unpainted masonry (buildings less than 50 years old)	X		
Painting of unpainted masonry (buildings 50+ years old)		X	
Porches, decks, and attached steps (including enclosing)			X
Roofs, including roof lines and materials (buildings less than 50 years old)		X	
Roofs, including roof lines and materials (buildings 50+ years old)			X
Satellite dishes		X	
Shutters	X		

	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
Siding, removal of non-original synthetic siding	X		
Siding (other)		X	
Signs and interpretative displays (permanent)		X	
Storm doors and storm windows	X		
Windows (except storm windows and window screens)		X	
Window screens	X		
All other new construction and changes to buildings		X	
<i>Site changes and new construction, including:</i>			
Accessory buildings (less than 100 sq. ft. in area)	X		
Accessory buildings (greater than 100 sq. ft. in area)			X
Access drives		X	
Air conditioner condenser units		X	
Fences		X	
Landscape planting beds and gardens	X		
Mechanical and electrical service equipment		X	
Parking lots			X
Patios		X	
Signs (permanent)		X	
Signs (temporary)	X		
Walkways		X	
Walls and screens (as landscape features)		X	
All other site modifications		X	
<i>Demolition, removal, and relocation of buildings and other structures:</i>			
Accessory structures (less than 100 sq. ft. in area)	X		
Accessory structures (more than 100 sq. ft. in area)		X	
Fences		X	
All other demolition, removal, and relocation			X

## **ASSESSMENT OF CHANGE (continued)**

The assessment of change within a historic district should consider more aspects related to context and less about physical changes to individual structures (some of which are clearly non-contributing) that are unlikely to result in more than a minor effect on the character and appearance of the district. Historic districts are often more than a collection of buildings, however, that is often how the assessment of change is undertaken. There needs to be greater consideration of the visual effects<sup>2</sup> of change especially those changes that have the greatest potential for significant visual impact such as the placement of solid fences in a manner that adversely impacts the character and appearance of a traditionally landscaped public realm. In this regard, aspects related to viewsheds, cumulative visual effects, and degree of impact should be included in assessments of change within a historic district. Where the change is at least moderate or significant and adverse, the effects of such a change should be mitigated and it is these types of applications that warrant a full staff/TF/LMC review.

### **12.0 THE BUSINESS CASE FOR STREAMLINING**

In 2015, the Dallas Downtown Historic Preservation Task Force included among its key findings, the following “immediate term” recommendation to City Council:

*Recommendation 3: Broaden staff capabilities and review staff priorities to foster efficiencies (Phase 1, 0 to 12 months)*

The City of New York considered streamlining in relation to the theme “Permit Timelines and Costs to Property Owners”. Over the past several years the Landmark Preservation Commission (LPC) has introduced FastTrack Service and Expedited Certificate of No Effect Service programs to expedite permit approvals. This has resulted in improved timeframes for all staff-level approvals.

To streamline the permit approvals process, LPC promotes the creation of master plans for entire historic districts and large commercial and residential buildings to enable landlords, tenants, and residents to obtain staff-level permits for changes that would normally require Commissioner-level approvals.

In Christchurch, New Zealand, for example, applicants are encouraged to develop Conservation Plans for their properties that would enable a streamlined review of the proposed work. In addition, all changes to historic properties are reviewed and mostly decided upon in relation to the national Resource Management Act (RMA) and any local District Plans – administratively. For

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<sup>2</sup> The Virginia Department of Historic Resources have developed a document titled Assessing Visual Effects on Historic Properties, which could be helpful in assessing intangible effects of change within historic districts. Similarly, the TxDOT Environmental Affairs Division have a Standing Operating Procedure for Historic Properties Visual Impacts Assessment

information purposes, the RMA incorporated 'sustainable management as an explicitly stated purpose placed at the heart of the regulatory framework and this purpose is to direct all other policies, standards, plans and decision-making under the RMA. Having the purpose of the RMA at the apex of an unambiguous legislative hierarchy was a unique concept worldwide at the time of the law's inception in 1991.

In Urbana, the Certificate of Appropriateness (COA) application process has been greatly clarified, including the appropriate level of review. There is new language for "exempt undertakings" which would not require review, for minor works which require administrative review, and major works which require HPC review.

The proposed revision substantially clarifies and expands Tables XII-1 and XII-2 (below) outlining the level of review for COA applications: (1) no review, (2) administrative review, or (3) HPC review. The new tables categorize projects into the following categories: ordinary building maintenance, ordinary site maintenance, building changes and new construction, site changes and new construction, and demolition. Many new types of projects have been added and the level of review for some projects has changed.

If a proposed scope of work complies with city policy, the question that could be asked is whether it is an effective use of limited resources to orchestrate such an application through a full public hearing process. In Dallas and in other cities, this question arises daily, especially if a decision that is consistent with the purpose of historic preservation can be rendered in a way that frees up limited staff time to advance other important preservation objectives. This was an important driver leading up to amendments that were made by the nearby City of Fort Worth that embraced the concept of streamlining.

Another example where the administrative review function is tied to city policies may be found in El Paso, where the definition of administrative review makes this clear.

*"Administrative review" means the approval process by which the historic preservation officer (HPO) or his designee administratively approves or denies submitted applications in accordance with the Administrative Review Design Guidelines.*

In Alexandria, for example, proposed projects that are not in compliance with adopted policies, or that are not architecturally compatible or historically appropriate in the opinion of staff, require review and approval of a Certificate of Appropriateness by the BAR at a public hearing. This is an important delegation of administrative review authority, and it is acknowledged that it

would require a “shift in thinking” to implement in some cities. A shift in thinking about historic preservation was a key finding of the Dallas Downtown Historic Preservation Task Force in 2015.

### **13.0 HISTORIC PRESERVATION AND THE ECONOMIC DEVELOPMENT POLICY**

A key aspect of the Economic Development Policy, which the Office of Historic Preservation will contribute, incorporates a one-year Transition Period where the alignment of programs, services, policies, and processes are readied for the implementation of the Economic Development Policy. Given the number of older historic preservation policies and ordinances combined with an interest in developing illustrated guidelines that will require alignment, the need to free up staff time is even more pressing now than perhaps six months ago. The Office of Historic Preservation will need the support of the preservation community to place historic preservation in Dallas on a broader and more relevant foundation.

### **14.0 CITY MANAGER 2021 GOALS (FOR THE OFFICE OF HISTORIC PRESERVATION)**

In addition to the alignment objectives that will characterize the Economic Development Policy's Transition period, the Office of Historic Preservation is also committed to meeting the City Manager's goals for 2021. This will include policy development in relation to demolitions, code amendments/updates, advancing equity objectives, and streamlining the Office's regulations and processes.

Having regard to the three proposals developed by the Ad-Hoc Vision Implementation Committee therefore requires consideration of the larger context within which the Office of Historic Preservation operates. Part of that context includes the foregoing background information with a view towards elevating the sphere of influence of historic preservation beyond the processing of certificates of appropriateness – recognized in 2015 – that such a limited focus was at the detriment of other important historic preservation initiatives including preservation planning.

## **PART C – THE THREE PROPOSALS**

On June 7, 2021, the Ad-Hoc Vision Implementation Committee (AHVIC) presented three proposals that were developed and informed by the preservation community. The AHVIC were assigned the tasks:

- a. “to define concrete action items that the landmark Commission can enact to help make processes in our department less time-consuming for staff”;
- b. To include actions such as simplifying case reports and using existing task forces more effectively; and
- c. To consider the customer experience

The AHVIC acknowledged that it considered more administrative review authority was appropriate but that the Task Forces preferred even less review authority than that which presently exists, thus the proposals were intended to reflect a compromise. The OHP must also consider the foregoing background information as the larger context within which the responsive purpose of historic preservation in Dallas might be advanced.

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## PROPOSAL # 1

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*The Ad Hoc Committee proposes that a Guide be developed for each Historic District. The Guide would help city staff and applicants by providing guidance to applicants for routine work and certificates of appropriateness. In addition, the Guide would offer both guidance and interpretative parameters for consistent decision-making in routine work and certificate of appropriateness applications by staff, task forces and the Landmark Commission. The Guides would provide pictorial examples, diagrams and illustrations, as well as a lexicon of "soft" terms i.e. appropriate, compatible, continuity, minor, harm, etc.*

*The Committee recommends that Designation Task Force, District Task Forces and Neighborhood Groups be consulted in the development of the Guide applicable to their individual Historic District or Landmark.*

*The Committee recommends city staff or a professional consultant with a depth of experience writing preservation guides, author the Guides.*

### **Context:**

*The Guide would be consistent with the governing Historic District Ordinance, and give further definition and clarity based on district context, historical research, and character-defining details. The Guide would encapsulate customary interpretation based on the lexicon of terms. The Committee does not envision that the Guides be formally approved but rather a standalone document that could be updated by the Landmark Commission from time to time, as needed. If, going forward, a district ordinance requires changes, incorporation of elements of the Guide could be adopted.*

## OHP RESPONSE TO PROPOSAL # 1

### 15.0 EXECUTIVE SUMMARY

#### EXECUTIVE SUMMARY

**The OHP concurs that “a” Guide be developed. The Guide should serve all of the City’s predominantly residential historic districts while accommodating key distinctive characteristics of each historic district where appropriate. The OHP concurs that the Guide would be consistent with the governing Historic District ordinance. The OHP concurs that staff author the Guide and the OHP envisions that the Guide would be adopted by City Council.**

### 16.0 ISSUES ARISING FROM PROPOSAL # 1

#### 16.1 Issue # 1 – Limited Resources to Advance Important Initiatives

The OHP's objective of freeing up staff time to advance other important initiatives would be challenged by the addition of this proposal. This is a large body of work that requires a considerable investment of time. This is an example of an important initiative that the OHP should be positioned to advance. To do this will require more than a minor tweaking of the city code that would afford staff slightly greater administrative review authority. Advancing these types of important initiatives is what drives the need for a “shift in thinking” about historic preservation in Dallas.

#### 16.2 Issue # 2 – Prioritizing Unfunded Initiatives

If this body of work were to be assigned to an external consultant and if it were to be tied to the updating of the preservation ordinances, not only would it require staff time to administer, but it would represent a significant cost element while the most important significant cost element for the OHP remains unfunded – that being an update and development of a citywide historic resource survey.

#### 16.3 Issue # 3 – Alignment and Coordination

Developing a guide without updating the preservation ordinances would create an awkward circumstance where an unofficial guide would sit alongside an official outdated ordinance. This would not achieve the OHP's streamlining objectives.

#### 16.4 Issue # 4 – Streamlining for Better Outcomes

Developing a guide for each historic district would not achieve streamlining objectives when a citywide guide that could accommodate distinctive

characteristics would serve to consolidate, avoid conflicts/inconsistencies, and repetitiveness.

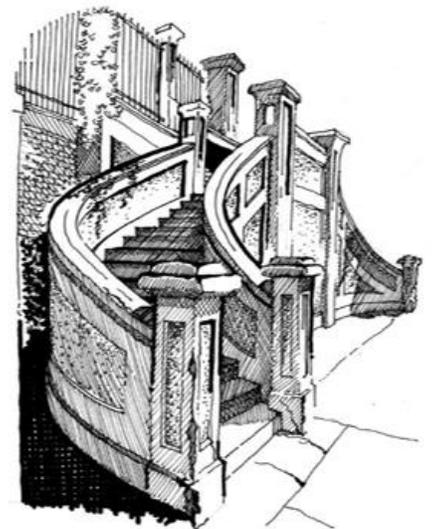
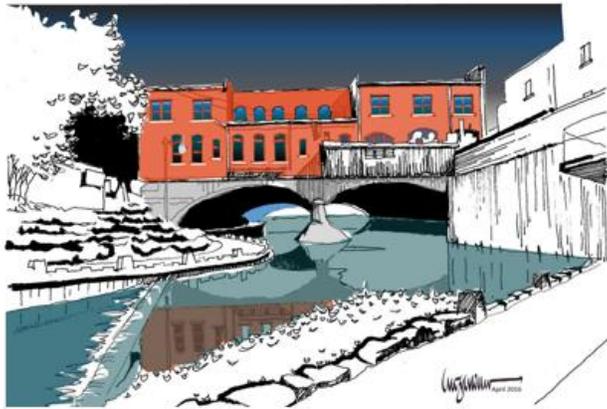
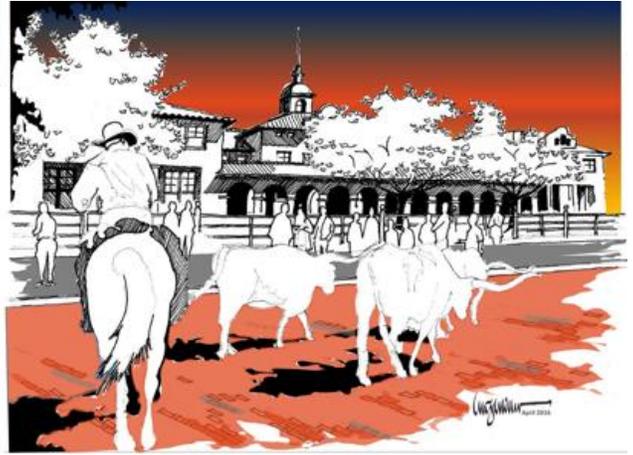
## 17.0 DISCUSSION

The OHP concurs that “a” Guide be developed that serves the City’s historic districts while accommodating key distinctive characteristics of each historic district. The Guide should also recognize the importance of streamlining to benefit its users. One citywide guideline for historic properties would respond better to the need to streamline than 21 guides and its foundation should reflect the City’s longstanding adoption of the Secretary of the Interior’s Standards for the Treatment of Historic Properties as one of the key obligations of a Certified Local Government under the *National Historic Preservation Act*. A citywide guide could accommodate distinctive characteristics of a particular district without the need for a separate guide for each district since there are many commonalities, preservation principles and “appropriate” approaches between districts related to historic preservation. A citywide guide could be split between residential and non-residential, or two guides could be developed accordingly.

The OHP concurs that the Guide would be consistent with the governing Historic District ordinance. Since many of the ordinances are dated and are the primary regulations requiring clarification and illustration, the Guide should be informed by updated preservation ordinance.

The OHP concurs that staff author the Guide since it has developed illustrations for one of the state’s most significant historic districts (the Stockyards in Fort Worth) (see Figure 1 below), presented/illustrated more than 100 issues related to certificate of appropriateness applications and work-in-progress/work undertaken at the Texas Historical Commission’s statewide conference Real Places in 2020 titled: **Real Challenges Informing Historic District Guidelines** (see Figures 2-4 below). In addition, the OHP have developed historic district guidelines in private practice and are currently developing illustrations for the preservation ordinance update for the Tenth Street Historic District (see Figure 5).

The OHP envisions that the Guide would be adopted by City Council.



Murray G. Miller, Assoc. AIA, MRAIC, CAHP, MCIP, IHBC, MICTP, MRTPI, RPP  
Historic Preservation Officer  
City of Fort Worth  
Planning and Development Department

Figure 1 – Illustrations developed for the Fort Worth Stockyards Form-Based Code & Design Guidelines, adopted May 2017.

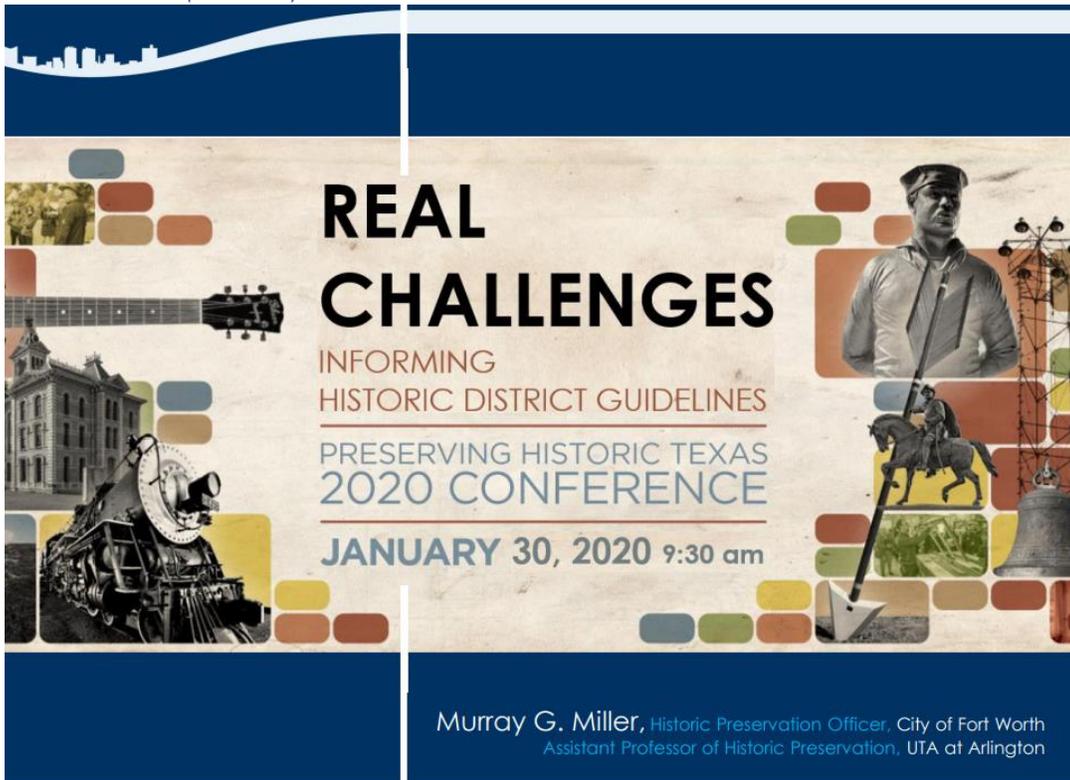


Figure 2 – Presentation illustrating best practices in the development of historic district guidelines.

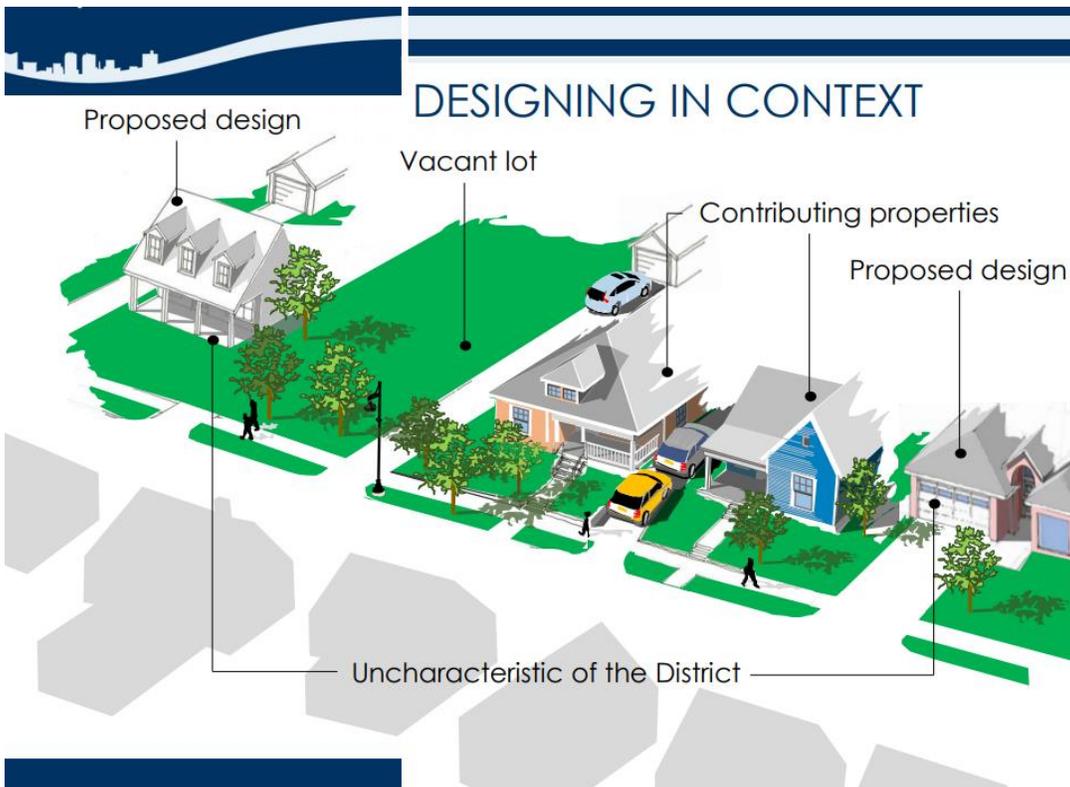


Figure 3 – Example of illustrations that supported the discussion regarding the need for contextual responses to the predominant character of the block, streetscape, and district.

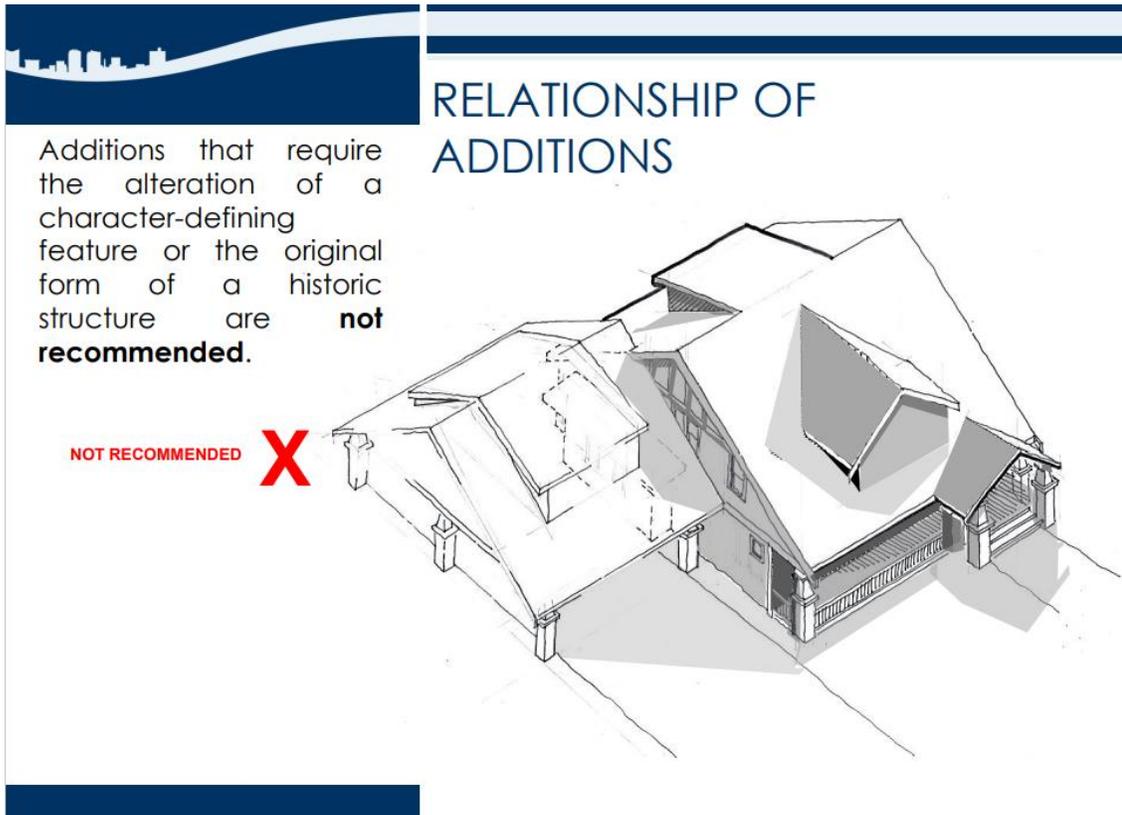


Figure 4 – Example of illustrations that supported the discussion regarding appropriate horizontal relationships between proposed additions and primary contributing structures.



Figure 5 – Example of illustrations used to depict baseline conditions that reflect distinctive character.

## 18.0 OPTIONS

### 18.1 Format

- a. Develop separate guides for each of the 21 historic districts (AHVIC).
- b. In the spirit of streamlining, develop a citywide set of guides that consolidates the common aspects of preservation guidance for historic districts while accommodating the most important distinct characteristics of each district, as necessary (OHP).
- c. Status quo (i.e. do not develop illustrated guidelines until preservation ordinances are updated)

### 18.2 Authorship

- a. By external consultants
- b. By the OHP

### 18.3 Consistent with Preservation Ordinances

- a. The Guide would be developed while preservation ordinances remain in need of updating and alignment with the Guide (AHVIC).
- b. The Guide would be a product of streamlining, informed by consolidating and updating preservation ordinances (OHP).

### 18.4 Adoption

- a. The Guide is not formally approved but rather would exist as a standalone document that could be updated by the Landmark Commission from time to time (AHVIC).
- b. The Guide would be adopted by City Council (OHP).

## 19.0 OHP RECOMMENDATION

The OHP recommends:

### 19.1 Format

That a citywide set of illustrated guidelines that consolidate/streamline the common aspects of preservation guidance for historic districts be developed.

### 19.2 Authorship

That the illustrated guide be authored by the OHP.

19.3 Consistent with Preservation Ordinances

That the Guide be a product of streamlining, informed by consolidating and updating preservation ordinances.

19.4 Adoption

That the Guide be adopted by City Council.

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## PROPOSAL # 2

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Proposal # 2 proposes minor adjustments to the Dallas City Code, Sec. 51A-4.501 Historic Overlay District, which are highlighted in red and blue below.

**TABLE B – Existing Sec. 51A-4.501 vs AHVIC Proposed Amendments**

Sec. 51A-4.501 HISTORIC OVERLAY DISTRICT (Existing Language)	AHVIC (Proposed Language – Draft)
(g) Certificate of appropriateness.  (1) When required. A person shall not alter a site within a historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained and in the historic overlay district ordinance.	(g) Certificate of appropriateness.  (1) When required. A person shall not alter a site within a historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained and in the historic overlay district ordinance.
(2) Penalty. A person who violates this subsection 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	(2) Penalty. A person who violates this subsection 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.	appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
Sec, 51A-4.501 Historic Overlay District (Existing Language) (continued)	AHVIC (Proposed Language – Draft) (continued)
(4) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the application is to be reviewed under the routine work review procedure or the standard certificate of appropriateness review procedure.	(4) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the application is to be reviewed under the routine work review procedure or the standard certificate of appropriateness review procedure.
(5) Routine maintenance work review procedure.  (A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize only routine maintenance work, he may review the application to determine whether the proposed work complies with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance and approve or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. Upon request, staff will forward copies of applications to the task force. The application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The director may forward any application to the landmark commission for review.  (B) Routine maintenance work includes:	(5) Routine <del>maintenance</del> work review procedure.  (B) (A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize only routine <del>maintenance</del> work, he may review the application to determine whether the proposed work complies with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance and approve or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. Upon request, staff will forward copies of applications to the task force. The application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The director may forward any application to the landmark commission for review.  (B) Routine work includes: <i>(i) Work that has no visible effect on protected facades;</i>
(i) the installation of a chimney located on an accessory building, or on the rear	(i) installation of chimneys, gutter and downspouts, or awnings on <del>non-</del>

50 percent of a main building and not part of the corner side facade;	protected facades or accessory buildings;
Sec, 51A-4.501 Historic Overlay District (Existing Language) (continued)	AHVIC (Proposed Language – Draft) (continued)
(ii) the installation of an awning located on an accessory building, or on the rear facade of a main building;	(ii) replacement of a roof;
(iii) the replacement of a roof of the same or an original material that does not include a change in color;	(iii) installation or replacement of fences;
(iv) the installation of a wood or chain link fence that is not painted or stained;	(iv) the installation of a wood or chain link fence that is not painted or stained;
(iv) installation or replacement of fences	
	(iv) installation of antenna or receiving devices;
(v) the installation of gutters and downspouts of a color that matches or complements the dominant trim or roof color;	(v) the installation of gutters and downspouts of a color that matches or complements the dominant trim, roof or body color;
(vi) the installation of skylights and solar panels;	(vi) installation of skylights and solar panels when not visible from the centerline of the primary street;
(vi) the installation of storm windows and doors;	(vi) installation of storm windows and doors;
(vii) the installation of window and door screens;	(vii) installation of window and door screens;
	(viii) replacement of windows or doors when of the same material and configuration as the original (review by LMC if different);
(ix) the application of paint that is the same as the existing or that is an appropriate dominant, trim, or accent color;	(ix) the application of paint that is the same as the existing approved color or that is an appropriate dominant, trim, or accent color to the district;

(x) the restoration of original architectural elements;	(x) the restoration of original architectural elements;
<b>Sec, 51A-4.501 Historic Overlay District (Existing Language)(continued)</b>	<b>AHVIC (Proposed Language – Draft) (continued)</b>
(xi) minor repair using the same material and design as the original;	(xi) minor repair using the same material and design as the original, <b>replacement is limited to 30 percent of the original material;</b>
(xii) repair of sidewalks and driveways using the same type and color of materials;	(xii) repair <b>or replacement</b> of sidewalks and driveways using the <b>same materials</b> and color;
(xiii) the process of cleaning (including but not limited to low-pressure water blasting and stripping), but excluding sandblasting and high-pressure water blasting; and	(xiii) the process of cleaning (including but not limited to low-pressure water blasting and stripping), but excluding sandblasting and high-pressure water blasting; and
(xiv) painting, replacing, duplicating, or stabilizing deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, and siding) in order to maintain the structure and to slow deterioration.	(xiv) painting, replacing, duplicating, or stabilizing deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, and siding) in order to maintain the structure and to slow deterioration.
	<b>(xv) alterations to non-protected facades;</b>
	<b>(xvi) minor alterations to existing accessory structures, including but not limited to 30% replacement of eave materials, siding or cladding, relocation of doors or windows, lighting, or locations for mechanical equipment;</b>
	<b>(xvii) construction of non-inhabitable accessory structures when not visible from the street;</b>
	<b>xviii) landscape alteration in the front yard, that does not obscure significant character defining features and is</b>

	typical to the style and period of the District and is not detrimental to the block face;
Sec, 51A-4.501 Historic Overlay District (Existing Language)(continued)	AHVIC (Proposed Language – Draft) (continued)
	(xix) landscape alteration to the side or rear yards;
	(xx) construction of a <del>rear</del> deck, patio or terrace less than 24 inches above the finish grade, <del>in the rear yard</del> ;
	(xxi) construction of a pool or water feature;
	(xxii) installation of ramps or chairlifts or;
	(xxiii)-removal of diseased or dying trees, when submitted with a verifying letter issued by a certified arborist, <del>or Landscape Architect</del> ;
(B) The applicant may appeal the directors decision by submitting to the director a written request for appeal within 10 days of the decision. The written request for appeal starts the standard certificate of appropriateness review procedure by the landmark commission.	(B) The applicant <del>may request re-consideration of</del> the directors decision by submitting <del>to the director</del> a written request <del>for appeal</del> within 10 days of the decision. The written request for <del>appeal re-consideration</del> starts the standard certificate of appropriateness review procedure by the landmark commission.
(6) Standard certificated of appropriateness review procedure.  (A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine maintenance work, or if the director's decision concerning a certificate of appropriateness to authorize only routine maintenance work is appealed, the director shall immediately forward the application to the landmark commission for review.	(6) Standard certificated of appropriateness review procedure.  (A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine <del>maintenance</del> work, or if the director's decision concerning a certificate of appropriateness to authorize only routine <del>maintenance</del> work is appealed, the director shall <del>immediately</del> forward the application to the landmark commission for review. <del>at the next landmark commission meeting</del> .

<b>Sec, 51A-4.501 Historic Overlay District (Existing Language) (continued)</b>	<b>AHVIC (Proposed Language – Draft) (continued)</b>
<p>(B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing.</p> <p>Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director.</p>	<p>B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing.</p> <p>Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director.</p>
<p>Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the 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 that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed</p>	<p>Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the 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 that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed</p>

<p>work is historically accurate and is consistent with the spirit and intent of the preservation criteria and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness.</p> <p>The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.</p> <p>(C) Standard for approval. The landmark commission must grant the application if it determines that:</p> <p>(i) for contributing structures:</p> <p>(aa) the proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;</p> <p>(bb) the proposed work will not have an adverse effect on the architectural features of the structure;</p> <p>(cc) the proposed work will not have an adverse effect on the historic overlay district; and</p> <p>(dd) the proposed work will not have an adverse effect on the</p>	<p>work is historically accurate and is consistent with the spirit and intent of the preservation criteria and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness.</p> <p>The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.</p> <p>(C) Standard for approval. The landmark commission must grant the application if it determines that:</p> <p>(i) for contributing structures:</p> <p>(aa) the proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;</p> <p>(bb) the proposed work will not have an adverse effect on the architectural features of the structure;</p> <p>(cc) the proposed work will not have an adverse effect on the historic overlay district; and</p> <p>(dd) the proposed work is not detrimental to the districts'</p>
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<p>future preservation, maintenance and use of the structure or the historic overlay district.</p> <p>(ii) for noncontributing structures, the proposed work is compatible with the historic overlay district.</p>	<p>character, visual continuity, uses, or visual impact;</p> <p>(ee) the proposed work will not have an adverse effect on future preservation.</p> <p>(ii) for noncontributing structures or compatible structures, where non-contributing status is the result of age or apparent lack of integrity, the proposed work is consistent with the regulations contained in this section and in the preservation criteria contained in the historic district ordinance.</p> <p>(iii) for non-contributing structures, where non-contributing status is due to incongruity of the structure within the district,</p> <p>(aa) the proposed work does not alter character-defining features, or materials;</p> <p>(bb) does not try to change the style of the existing or make it look older than its age;</p> <p>(cc) confuse the character by the mixing of styles, or periods.</p>
<p>(D) Issuance. If a certificate of appropriateness has been approved by the landmark commission or if final action has not been taken by the landmark commission within 40 days (for a noncontributing structure) or 65 days (for a contributing structure) after a complete application is filed: (i) the director shall issue the certificate of</p>	

<p>appropriateness to the applicant; and (ii) if all requirements of the development and building codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work.</p>	
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## OHP RESPONSE TO PROPOSAL # 2

### 20.0 EXECUTIVE SUMMARY

**EXECUTIVE SUMMARY**

**The OHP concurs with the effort to expand the scope of work that could be considered routine**, and it welcomes the suggestion offered by the AHVIC that additional recommendations proposed by the OHP would be appropriate. To elevate the threshold that triggers a public hearing, the OHP suggests companion and supplementary scopes of work that may not be routine but is work that demonstrably satisfies preservation criteria/principles, the City Code, and it would constitute the type of change that is unlikely to have a significant adverse effect on the overall character and appearance of the district or the significance/integrity or setting of a landmark.

The OHP acknowledges that Proposal # 2 is focused on one aspect of OHP's regulations and processes - routine work. This limited focus would essentially result in a minor adjustment to the status quo and has already been acknowledged as such by the AHVIC. In order to free up a considerable amount of staff time to advance other important preservation initiatives as noted in the Concluding Observations (last page of this response) plus advance Proposal # 1 and any new tasks associated with Proposal # 3, there would need to be a "shift in thinking" about the process of preservation (i.e. the management of change) and the regulations/processes that are designed to sustain the special interest of historic districts. The need for a shift in thinking was a key observation in 2015 and a related recommendation (*Broaden staff capabilities and review staff priorities to foster efficiency*) was to be implemented within 12 months of the date that City Council adopted Task Force recommendations. This reflected its high priority. The OHP's recommendations for streamlining would therefore advance a key Council-adopted recommendation.

With the recent launch of the Economic Development Policy the OHP is certain that minor adjustments to Sec. 51A-4.501, Historic Overlay District would not be commensurate with the purpose of establishing the OHP under the Economic Development and Neighborhood Services Department in 2019, nor would the minor adjustments be sufficient to begin advancing the substantial body of work that now presents itself as a tremendous opportunity at a critical juncture for historic preservation in Dallas.

The OHP therefore includes specific recommendations to the existing/proposed text amendments related to Sec. 51A-4.501 in Table C below with the objective of achieving a substantial increase in the provisions for administrative review in the City Code so that it might also include the advancement of the AHVIC's highest priority, which is understood to be Proposal # 1.

## 21.0 ISSUES ARISING FROM PROPOSAL # 2

### 21.1 Issue # 1 – Exclusive Focus on the Minor

The OHP has had to “park” very important preservation initiatives and authorized hearings for years. As the workload continues to increase and the extent to which realignment and reevaluation of its programs, regulations and processes becomes more critical, minor adjustments will ensure that more important initiatives continue to be parked so that staff can spend virtually all their time navigating scopes of work through the public hearing process that are unlikely to have noticeable effects on the character and appearance of the district. In terms of prioritizing limited resources, it is unlikely that this approach will increase the sphere of influence or advance the relevancy of historic preservation in Dallas.

### 21.2 Issue # 2 – Threshold for Triggering a Public Hearing

The threshold for most works (i.e. whether a gutter is painted to match the dominant color of the main house) is too low and as a result, it triggers the need for a public hearing for work that is unlikely to have a significant adverse effect on the character and appearance of the district. It also triggers a high volume of minor works requiring staff reports, which is the fundamental issue that prevents staff from having any time to advance other important initiatives.

### 21.3 Issue # 3 – Focus on Absolute Values Rather than Effects

Whether 30% of original material is replaced or a skylight is visible from the centerline of a primary street is potentially moot. The meaningful measure of change is the effect that it might have on the character and appearance of the district.

Recently, an application was required to go through the full public hearing process for a minor portion of several solar panels that would be slightly visible from the public right-of-way. The trigger was whether the installation was visible. This meant that up to 26 people were involved in the consideration of a scope of work that demanded an assessment of the effects of the very small portion of panels that would be visible – an assessment that could have been undertaken in as little as 90 minutes.

The focus on absolute measures such as “if it is visible” means that the important assessment of effects is unlikely to occur and cases will continue to be placed on a public hearing agenda when they could be addressed administratively.

#### 21.4 Issue # 4 – Requiring the Consideration of a Non-Contributor as if it were a Contributor

While it is acknowledged that surveys are dated and need to be updated at least every five years, if a non-contributor may be eligible as a contributor, then an evaluation of the non-contributor is the path to that determination. Requiring the consideration of a non-contributor as a contributor in the absence of an appropriate evaluation may be considered to be regulatory overreach.

## 22.0 DISCUSSION

In relation to (g)(2) Penalty – the OHP expects to develop a policy regarding unauthorized demolition as a separate task that is not intended to be part of streamlining regulations and processes.

In relation to (g)(3) Application – the OHP notes that the scheduling of numerous task force meetings does not provide staff with a 10-day window to review applications for a determination of completeness. In some instances, cases are required to be posted for task forces on the same day that submission intake occurs. Consolidating the task forces or having task forces provide feedback to LMC without staff involvement may be practical solutions.

In relation to “Routine work includes: Work that has no visible effect on protected facades.” The measure of effects should be in relation to the character and appearance of the district. When the focus is on effects to the structure, such an assessment begins to take on the status of a landmark structure, where the focus is appropriately on the structure itself. If each structure within a district is treated as if it were an individually designated landmark, it adds considerably to the nature and scope of assessment, when the focus should be on safeguarding the special interest of the district as a collection of properties and spatial characteristics within a defined area.

### **Specific examples**

### 22.1 Location of Minor Works

The installation of a chimney, gutters or downspouts on a protected façade should be based on effects, rather than being an absolute condition that triggers a public hearing. In other words, the installation of a chimney, gutters or downspouts may have a minor effect on the character and appearance of the district. It is the degree of effect that should determine whether a case should be subject to a full public hearing rather than just that it represents a change – regardless of effect.

### 22.2 Finishes on Materials

The installation of a wood fence, if it is not painted or stained is proposed to be administratively reviewed. However, if the fence is painted, it would trigger a full public hearing. In this recommended amendment, there is no mention of important factors such as the degree of visibility or the impact on character – just whether it is painted or stained. The finish of a material should not be considered as an absolute measure, rather it should focus on the effects associated with the use of those materials on the character and appearance of the district.

### 22.3 Color of Minor Elements

The installation of gutters and downspouts of a color that matches the dominant trim, roof or body color is proposed to be administratively reviewed. This means that if a gutter color does not match or compliment the dominant trim color of the house, such a minor scope of work would trigger a requirement for a public hearing, which would necessitate the development of a staff report and three levels of review involving up to 28 people. This scope of work should be administratively reviewed and the assessment as to whether it would warrant the issuance of a certificate of appropriateness should be based on effects.

### 22.4 Visibility as an Absolute Measure

The installation of skylights and solar panels when not visible from the centerline of the primary street is proposed to be administratively reviewed. The effects of change on the character and appearance of a historic district are typically assessed from the sidewalk. The fact that a change will be visible should not trigger a public hearing involving up to 28 people in a three-level review for a scope of work that is unlikely to result in a significant adverse effect on the character and appearance of a historic district. This scope of work should be administratively reviewed and the assessment as to whether it would warrant the issuance of a certificate of appropriateness should be based on effects.

### 22.5 Different Materials

Replacement windows and doors, if using a different material or configuration from the original would trigger a public hearing involving up to 28 people in a three-level review for a scope of work that is unlikely to result in a significant adverse effect on the character and appearance of a historic district. This scope

of work should be administratively reviewed and the assessment as to whether it would warrant the issuance of a certificate of appropriateness should be based on effects.

#### 22.6 Matching Original

Similarly, in relation to the approach requiring a “match to original” for paint and sidewalks/driveways, a proposal that does not match the original or if the original condition is unknown would trigger a public hearing involving up to 28 people in a three-level review for a scope of work that is unlikely to result in a significant adverse effect on the character and appearance of a historic district. This scope of work should be administratively reviewed and the assessment as to whether it would warrant the issuance of a certificate of appropriateness should be based on effects.

#### 22.7 Missing Architectural Elements

The restoration of original architectural elements should recognize the four appropriate treatments and include the restoration, preservation, reconstruction, and rehabilitation of such elements.

#### 22.8 Scope of Replacement

Limiting the administrative review for replacement of original materials to 30% may be considered as being arbitrary and should be effects-based. It is possible to consider a scope of work that proposes 10% replacement that could have an adverse effect on the character and appearance of a historic district (or an individual landmark). Alternatively, a 50% replacement could be designed to meet the preservation criteria for replacing historic materials and have a minor effect. It is the degree of impact that should trigger a requirement for a public hearing.

#### 22.9 Alterations to Non-protected Facades

Alterations to non-protected facades should be addressed administratively. Even alterations to protected facades can be appropriate without producing a significant adverse effect on the character and appearance of a historic district (or an individual landmark). These types of alterations should not trigger a requirement for a public hearing. With limited staff resources and a tremendous workload yet to be advanced, the types of cases that should be subject to a public hearing are those that are likely to result in a significant adverse effect on the character and appearance of a historic district.

If we go back to “*Routine work includes: Work that has no visible effect on protected facades*”, it would appear to be superfluous to subsequently limit the administrative review of minor alterations to accessory structures including a maximum 30% replacement materials.

If the work has no visible effect on protected facades of the main contributing structure, care is warranted not to trigger a requirement that a minor alteration to an accessory structure be subject to a public hearing that might involve up to 28 people in a three-level review for a scope of work that is unlikely to result in a significant adverse effect on the character and appearance of a historic district.

#### 22.10 Consideration of Use

Construction of non-habitable accessory structures when not visible from the street

It is unclear what effect a “habitable” condition might have on the exterior appearance of a historic property. “Use” is not typically an aspect that is relevant in terms of managing the effects of change on a historic property. The relevant aspects of “use” are:

- a. The “effects” of use on a historic property; and
- b. Standard 1 (Secretary of the Interior’s Standards for the Treatment of Historic Properties) - A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

#### 22.11 Visibility

The frequent reference to change being “not visible” is an exceptionally low threshold for a city experiencing the type of growth and change that communities in the DFW metroplex are subject to. Change is inevitable. Preservation is a great deal about “managing change”. The important aspect to be considered are the “effects” of change, not simply whether change is visible.

#### 22.12 Built and Natural Environment

Landscape alterations are also about the degree of compatibility with the character and appearance of the district and the important spatial characteristics that forms the “glue” between the elements of the built environment. A focus only on the effects to the built environment may lead to oversights in relation to important characteristics of the natural environment.

#### 22.13 Location of Works

Construction of a deck, patio or terrace less than 24” above the finish grade in the rear yard.

Recall the introductory scope assigned to routine work. “*Routine work includes: Work that has no visible effect on protected facades*”. Whether a deck is 24” above finished

grade or 120" above grade is irrelevant – if it does not have an effect on the character and appearance of the district.

#### 22.14 Appeal of Director Decision

The applicant may request a reconsideration of a Director decision. This should remain as an appeal of a decision. Appeals require that certain grounds be cited as the reasons for an appeal. It should not be “just because” since this would also trigger a requirement for a staff report and for the case to involve up to 28 individuals for a scope of work that is unlikely to result in a significant adverse effect on the character and appearance of a historic district.

Applicants need to know who/where to submit an appeal. Consistent with how other cities handle an appeal of an administrative decision, it should be to the Director and it could include the City Secretary’s Office, however, the proposed amendment should not be silent on this matter.

#### 22.15 (6)(A) Standard certificated of appropriateness review procedure

*If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine **maintenance** work, or if the director's decision concerning a certificate of appropriateness to authorize only routine **maintenance** work is appealed, the director shall **immediately** forward the application to the landmark commission for review. **at the next landmark commission meeting.***

It would appear to be superfluous to state that an application be forwarded to the landmark commission “immediately” followed by “at the next landmark commission meeting.” In relation to Standard CAs, the first step is always to confirm within 10 days that the application is complete. The proposed amendment would also appear in conflict with the procedures that follow, where it stipulates a 40-day and 65-day window for holding a public hearing.

#### 22.16 Clarifying the Special Interest

The OHP recommends that “the historic character of the property/or integrity of the historic overlay district” be replaced by “**the character and appearance of the historic district**” – for historic districts; and “**the historic character and setting of the property**” – for individual landmarks.

#### 22.17 Non-contributing Structures

The proposed amendment appears superfluous. If proposed work is compatible, then it would also be “consistent with the regulations contained in this section and in the preservation, criteria contained in the historic district ordinance.”

Non-contributing structures should not be assessed in the same way as contributing structures, rather, they should be evaluated against significance criteria and aspects of

integrity when it is considered that a non-contributing structure might satisfy the contributing status criteria.

**(bb) does not try to change the style of the existing or make it look older than its age;**

The OHP recommends that Standard 3 (Secretary of the Interior's Standards for the Treatment of Historic Properties) be used, which states: *Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

**(cc) confuse the character by the mixing of styles, or periods.**

In relation to non-contributing structures, this is perhaps an overreach of the regulation or the spirit and intent of preservation within a historic district, which typically affords greater flexibility for changes to non-contributing structures. The effect of this proposed amendment would afford non-contributing structures a similar status as contributing structures, which would be inappropriate.

A substantial increase in the administrative review function would be a step in the direction already practiced in cities such as New York (where more than 90% of the 13,000 applications per year are resolved administratively), Philadelphia and closer to home, in Fort Worth.

## **23.0 OPTIONS**

### **23.1 Scope of Administrative Review**

- a. Make minor adjustments to allow additional scopes of work to fall within routine work as proposed by AHVIC.
- b. Make substantial adjustments to allow additional scopes of work to fall within routine work and additional scopes of work that may not be routine but would not likely result in a significant adverse effect on the character and appearance of the historic district (OHP).
- c. Status quo – make no adjustments to the City Code.

### **23.2 Threshold that Triggers a Public Hearing**

- a. Maintain a low threshold (high number of cases involving minor works would go to LMC)(AHVIC)
- b. Reserve public hearings for those cases that are likely to result in significant adverse effects on the character and appearance of the district (OHP).

- c. Status quo (high number of cases involving minor works go to LMC)

### 23.3 Absolute Measures versus Effects-Based Assessments

- a. Continue to use and add new absolute measures (i.e. 30% of original materials, visibility from centerline of a primary street, not exceeding 24" above finished grade, etc)(AHVIC)
- b. Use effects-based measures that aim to safeguard the special interest of a place and to trigger requirements for a public hearing when effects are likely to be significant and adverse (OHP).
- c. Status quo – continue to use absolute measures that require cases, which may have minor to negligible effects to be subject to a public hearing.

### 23.4 Non-contributor versus Contributor

- a. Include proposed text amendments that would effectively afford contributing status to a non-contributor (AHVIC).
- b. Require that non-contributors that may be contributors be evaluated according to significance and integrity criteria (OHP).
- c. Status quo – make no changes.

## 24.0 OHP RECOMMENDATION

### 24.1 Scope of Administrative Review

That substantial adjustments allow additional scopes of work to fall within routine work and that additional scopes of work that may not be routine but would not likely result in a significant adverse effect on the character and appearance of the historic district be incorporated.

### 24.2 Threshold that Triggers a Public Hearing

Reserve public hearings for those cases that are likely to result in significant adverse effects on the character and appearance of the district.

### 24.3 Absolute Measures versus Effects-Based Assessments

That effects-based measures whose purpose is to safeguard the special interest of a place and trigger requirements for a public hearing when effects are likely to be significant and adverse be incorporated.

### 24.4 Non-contributor versus Contributor

That non-contributors that may be contributors be evaluated according to significance and integrity criteria.

**TABLE C – AHVIC Proposed Amendments vs OHP Recommended Amendments**

AHVIC (Proposed Language – Draft)	OHP (Proposed Language – Draft)
<p>(g) Certificate of appropriateness.</p> <p>(1) When required. A person shall not alter a site within a historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained and in the historic overlay district ordinance.</p>	<p>(g) Certificate of appropriateness.</p> <p>(1) When required. A person shall not alter a site within a historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained and in the historic overlay district ordinance.</p>
<p>(2) Penalty. A person who violates this subsection 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.</p>	<p>(2) Penalty. A person who violates this subsection 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.</p>
<p>(3) Application. An application for a certificate of appropriateness must be submitted to the director. The application must include complete documentation of the proposed work. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other</p>	<p>(3) Application. An application for a certificate of appropriateness must be submitted to the director. The application must include complete documentation of the proposed work. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other</p>

exhibits required by the director. The applicant may consult with the department before and after the submission of an application.	exhibits required by the director. The applicant may consult with the department before and after the submission of an application.
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AHVIC (Proposed Language – Draft)	OHP (Proposed Language – Draft)
(4) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the application is to be reviewed under the routine work review procedure or the standard certificate of appropriateness review procedure.	(4) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the application is to be reviewed <u>under the routine work review procedure administratively</u> or <u>through</u> the standard certificate of appropriateness review procedure.
	<b><u>(5) Routine work review procedure.</u></b>
(5) Routine <del>maintenance</del> work review procedure.  (C) (A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize only routine <del>maintenance</del> work, he may review the application to determine whether the proposed work complies with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance and approve or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. Upon request, staff will forward copies of applications to the task force. The application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The director may forward any	<del>(5) Routine maintenance work review procedure.</del>  (A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize only <u>non-Standard routine maintenance</u> work, he/ <u>she</u> may review the application to determine whether the proposed work complies with the regulations contained in this section, <del>and</del> the preservation criteria contained in the historic overlay district ordinance, <u>and the Secretary of the Interior's Standards for the Treatment of Historic Properties</u> and approve, <u>approve subject to conditions</u> or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. <del>Upon request, staff will forward copies of applications to the task force.</del> The application shall be deemed to be filed <u>when</u> <del>until</del> it is made on forms promulgated by the director and

<p>application to the landmark commission for review.</p> <p>(B) Routine work includes:  <i>(i) Work that has no visible effect on protected facades;</i></p>	<p>contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The director may forward any application to the landmark commission for review.</p> <p>(B) Routine work includes:  <del><i>(i) Work that has no visible effect on protected facades;</i></del></p>
<p>(i) installation of chimneys, gutter and downspouts, or awnings on <del>non-protected facades or accessory buildings;</del></p>	<p>(i) installation of chimneys, gutter and downspouts<sup>3</sup>, or awnings on <del>non-protected facades or accessory buildings;</del></p>
<p>(ii) replacement of a roof;</p>	<p>(ii) replacement of a roof;</p>
<p>(iii) installation or replacement of fences;</p>	<p>(iii) installation or replacement of fences;</p>
<p>(iv) the installation of a wood or chain link fence that is not painted or stained;</p>	<p>(iv) the installation of a wood or chain link fence <del>that is not painted or stained;</del></p>
<p>(iv) installation of antenna or receiving devices;</p>	<p>(iv) installation of antenna or receiving devices;</p>
<p><del>(v) the installation of gutters and downspouts of a color that matches or complements the dominant trim, roof or body color;</del></p>	<p><del>(v) the installation of gutters and downspouts of a color that matches or complements the dominant trim, roof or body color;</del></p>
<p>(vi) installation of skylights and solar panels <del>when not visible from the centerline of the primary street;</del></p>	<p>(vi) installation of skylights and solar panels <del>when not visible from the centerline of the primary street;</del></p>
<p>(vi) installation of storm windows and doors;</p>	<p>(vi) installation of storm windows and doors;</p>
<p>(vii) installation of window and door screens;</p>	<p>(vii) installation of window and door screens;</p>

<sup>3</sup> [Administrative review in Round Rock, Denton, Torrance, Urbana and Fort Worth](#)

(viii) replacement of windows or doors when of the same material and configuration as the original (review by LMC if different);	<del>(viii) replacement of windows or doors when of the same material and configuration as the original (review by LMC if different);</del>
(ix) the application of paint that is the same as the existing approved color or that is an appropriate dominant, trim, or accent color to the district;	<del>(ix) the application of paint<sup>4</sup> that is the same as the existing approved color or that is an appropriate dominant, trim, or accent color to the district;</del>
(x) the restoration of original architectural elements;	(x) the <u>reconstruction or</u> restoration of original architectural elements;
(xi) minor repair using the same material and design as the original, replacement is limited to 30 percent of the original material;	(xi) <u>in-kind minor repairs and replacement consistent with preservation criteria and the Secretary of the Interior's Standards for the Treatment of Historic Properties and where appropriate/required, supported by condition assessments/surveys undertaken by the relevant discipline/trade using the same material and design as the original, replacement is limited to 30 percent of the original material;</u>

(xii) repair or replacement of sidewalks and driveways using the same materials and color;	<del>(xii) repair or replacement of sidewalks and driveways using the same materials and color;</del>
(xiii) the process of cleaning (including but not limited to low-pressure water blasting and stripping), but excluding sandblasting and high-pressure water blasting; and	(xiii) the process of cleaning (including but not limited to low-pressure water blasting and stripping), but excluding sandblasting and high-pressure water blasting; <del>and</del>
(xiv) painting, replacing, duplicating, or stabilizing deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, and siding) in order to maintain the structure and to slow deterioration.	<del>(xiv) painting, replacing, duplicating, or stabilizing deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, and siding) in order to maintain the structure and to slow deterioration.</del>

<sup>4</sup> [Administrative review in Round Rock, San Antonio and Fort Worth](#)

(xv) alterations to non-protected facades;	<del>(xv) alterations to non-protected facades;</del>
(xvi) minor alterations to existing accessory structures, including but not limited to 30% replacement of eave materials, siding or cladding, relocation of doors or windows, lighting, or locations for mechanical equipment;	<del>(xvi) minor alterations to existing accessory structures, including but not limited to 30% replacement of eave materials, siding or cladding, relocation of doors or windows, lighting, or locations for mechanical equipment;</del>
(xvii) construction of non-inhabitable accessory structures when not visible from the street;	<del>(xvii) construction of non-inhabitable accessory structures when not visible from the street;</del>
xviii) landscape alteration in the front yard, that does not obscure significant character defining features and is typical to the style and period of the District and is not detrimental to the block face;	xviii) landscape alteration in the front yard, that does not obscure significant character defining features and is <u>compatible with the historic character and appearance typical to the style and period of the District<sup>5</sup></u> and is not detrimental to the block face;
(xix) landscape alteration to the side or rear yards;	(xix) landscape alteration to the side or rear yards;
(xx) construction of a <del>rear</del> deck, patio or terrace less than 24 inches above the finish grade, in the rear yard;	(xx) construction of a <del>rear</del> deck, patio or terrace less than 24 inches above the finish grade, in the rear yard;
(xxi) construction of a pool or water feature;	(xxi) construction of a pool or water feature;
(xxii) installation of ramps or chairlifts or;	(xxii) installation of ramps or chairlifts <del>or</del> ;
(xxiii)-removal of diseased or dying trees, when submitted with a verifying letter issued by a certified arborist, <del>or Landscape Architect;</del>	(xxiii)-removal of diseased or dying trees, when submitted with a verifying letter issued by a certified arborist, <del>or Landscape Architect;</del>
(B) The applicant may request re-consideration of the directors decision by submitting <del>to the director</del> a written request <del>for appeal</del> within 10 days of the decision. The written request for <del>appeal</del>	(B) The applicant may <u>appeal request re-consideration of</u> the director's decision by submitting <del>to the director</del> a written <u>statement outlining the grounds for the appeal to the director</u>

<sup>5</sup> [Administrative review in San Antonio and Fort Worth](#)

<p><del>re-consideration</del> starts the standard certificate of appropriateness review procedure by the landmark commission.</p>	<p><del>request for appeal</del> within 10 days of the decision<sup>6</sup>. The written request <del>to</del><del>for</del><del>appeal</del> <u>appeal a decision</u><del>re-consideration</del> starts the standard certificate of appropriateness review procedure by the landmark commission.</p>
	<p><b><u>Administrative review.</u></b>  <u>(X) Work under this category includes:</u>  <u>(i) Work that would not have a major adverse effect on the significance or integrity of the landmark or the character and appearance of the district;</u></p>
	<p><b><u>Additions</u></b> that are consistent with the <u>preservation criteria and the Secretary of the Interior's Standards for the Treatment of Historic Properties and are of a size, design and location whose visibility would unlikely produce a significant adverse effect on the character and appearance of the district or the significance/integrity or setting of a landmark</u><sup>7</sup></p>
	<p><b><u>Exterior alterations</u></b> that are consistent with the <u>preservation criteria and the Secretary of the Interior's Standards for the Treatment of Historic Properties and that are of a scope and location whose visibility would unlikely produce a significant adverse effect on the character and appearance of the district or the significance/integrity or setting of a landmark</u><sup>8</sup></p>
	<p><b><u>Demolition/relocation of non-contributing structures/non-historic additions</u></b><sup>9</sup> support by a <u>significance and integrity assessment undertaken by a preservation professional</u></p>

<sup>6</sup> [Fort Worth](#)

<sup>7</sup> [Administrative review in Fort Worth](#)

<sup>8</sup> [Administrative review in Fort Worth](#)

<sup>9</sup> [Administrative review in San Antonio, Philadelphia, and Fort Worth](#)

	<a href="#"><u>Signs/awnings</u></a> that are consistent with the preservation criteria and the Secretary of the Interior's Standards for the Treatment of Historic Properties and are of a size, design and location whose visibility would unlikely produce a significant adverse effect on the character and appearance of the district or the significance/integrity or setting of a landmark
	<a href="#"><u>Extension of expired CAs</u></a> <sup>10</sup> for the same scope of work or for amendments that are in general conformity with the approved CA
	<a href="#"><u>Amendments to Approved CAs</u></a> <sup>11</sup> for amendments that are in general conformity with the approved CA
	Routine or Administrative Work undertaken without a CA <sup>12</sup>
	<a href="#"><u>Emergency demolition</u></a> of contributing structures that are deemed to be an eminent threat to public health or safety <sup>13</sup>
	<a href="#"><u>(6) Standard certificated of appropriateness review procedure.</u></a> Work that could have a major effect on the significance or integrity of a landmark or the character and appearance of a historic district;
	<a href="#"><u>New construction</u></a> of primary structures
	<a href="#"><u>Demolition/relocation</u></a> of landmarks or primary contributing structures
	<a href="#"><u>Additions</u></a> that are inconsistent with preservation criteria or the Secretary of the Interior's Standards for the Treatment

<sup>10</sup> [Administrative review in Round Rock, San Antonio, and Fort Worth](#)

<sup>11</sup> [Administrative review in Round Rock, San Antonio, and Fort Worth](#)

<sup>12</sup> [Administrative review in Fort Worth](#)

<sup>13</sup> [Administrative review in Fort Worth](#)

	<a href="#">of Historic Properties or that are of a size, design or location that would likely produce a significant adverse effect on the character and appearance of the district or the significance/integrity or setting of a landmark</a>
	<a href="#">appeal cases;</a>
	<a href="#">Exterior alterations that are inconsistent with the preservation criteria or the Secretary of the Interior's Standards for the Treatment of Historic Properties and that are of a scope and location whose visibility would likely produce a significant adverse effect on the character and appearance of the district or the significance/integrity or setting of a landmark</a>
	<a href="#">Demolition/relocation of non-contributing structures that are not support by a significance and integrity assessment undertaken by a preservation professional</a>
	<a href="#">Courtesy reviews</a>
	<a href="#">Standard Work undertaken without a CA</a>
	<a href="#">Any application referred to the LMC by the Director</a>
<p>(6) Standard certificated of appropriateness review procedure.</p> <p>(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine <b>maintenance</b> work, or if the director's decision concerning a certificate of appropriateness to authorize only routine <b>maintenance</b> work is appealed, the director shall <b>immediately</b> forward the application to the landmark commission for review. <b>at the next landmark commission meeting.</b></p>	<p>(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine <a href="#">or administrative review</a> <b>maintenance</b> work, or if the director's decision concerning a certificate of appropriateness to authorize only routine <b>maintenance</b> <a href="#">or administrative review</a> work is appealed, the director shall <b>immediately</b> forward the application to the landmark commission for review <a href="#">in accordance with the provisions below.</a> <del>at the next landmark commission meeting.</del></p>

<p>B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing.</p> <p>Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director.</p>	<p>B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing.</p> <p>Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director.</p>
<p>Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the 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 that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the 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 that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district.</p>	<p>Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the 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 that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the 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 that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district.</p>

<p>The landmark commission may impose conditions on the certificate of appropriateness.</p> <p>The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.</p> <p>(C) Standard for approval. The landmark commission must grant the application if it determines that:</p> <ul style="list-style-type: none"> <li>(i) for contributing structures: <ul style="list-style-type: none"> <li>(aa) the proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;</li> <li>(bb) the proposed work will not have an adverse effect on the architectural features of the structure;</li> <li>(cc) the proposed work will not have an adverse effect on the historic overlay district; and</li> <li>(dd) the proposed work is not detrimental to the districts' character, visual continuity, uses, or visual impact;</li> <li>(ee) the proposed work will not have an adverse effect on future preservation.</li> </ul> </li> </ul>	<p>The landmark commission may impose conditions on the certificate of appropriateness.</p> <p>The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.</p> <p>(C) Standard for approval. The landmark commission must grant the application if it determines that:</p> <ul style="list-style-type: none"> <li>(i) for contributing structures: <ul style="list-style-type: none"> <li>(aa) the proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;</li> <li>(bb) the proposed work will not have an adverse effect on the architectural features of the structure;</li> <li>(cc) the proposed work will not have an adverse effect on the historic overlay district; and</li> <li><del>(dd) the proposed work is not detrimental to the districts' character, visual continuity, uses, or visual impact;</del></li> <li><del>(ee) the proposed work will not have an adverse effect on future preservation.</del></li> </ul> </li> </ul>
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(ii) for noncontributing structures or compatible structures, where non-contributing status is the result of age or apparent lack of integrity, the proposed work is consistent

with the regulations contained in this section and in the preservation criteria contained in the historic district ordinance.

(iii) for non-contributing structures, where non-contributing status is due to incongruity of the structure within the district,

(aa) the proposed work does not alter character-defining features, or materials;

(bb) does not try to change the style of the existing or make it look older than its age;

(cc) confuse the character by the mixing of styles, or periods.

(ee) the proposed work is consistent with Standard 10 of Secretary of the Interior's Standards for the Treatment of Historic Properties where it states: New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired

(ii) for noncontributing structures or compatible structures, where non-contributing status is the result of age or apparent lack of integrity, the proposed work is consistent with the regulations contained in this section and in the preservation criteria and is compatible with the character and appearance of the district contained in the historic district ordinance.

(iii) for non-contributing structures, where non-contributing status is due to incongruity of the structure within the district,

(aa) the proposed work is consistent with Standard 3 of Secretary of the Interior's Standards for the Treatment of Historic Properties where it states: Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken does not alter character-defining features, or materials;

	<p><del>(bb) does not try to change the style of the existing or make it look older than its age;</del></p> <p><del>(cc) confuse the character by the mixing of styles, or periods.</del></p>

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### PROPOSAL # 3

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The Ad Hoc Committee suggests that the following be considered by staff in the formulation of their recommendations on measures to make the Certificate of Appropriateness (CA) process more efficient:

1. Investigate online application and filing system.
2. Update form for CA applications and checklist. Provide sample CA's illustrating the information to be included for typical CA's. Develop a better process diagram and create a user friendly "CA Process" website that is easy to use.
3. Require submission of all items necessary for review of applications (complete applications) before any formal review process is scheduled, such as task force meetings or Landmark Commission hearings.
4. Return a dedicated code compliance officer to the Historic Preservation Office.
5. Provide or facilitate additional training generally, including but not limited to training on the enabling ordinance, specific district ordinances and the applicable Guide, and the application process, to neighborhoods, task forces and Landmark Commission.
6. Update all surveys. Since this work will take time, the following 2 items suggest ways to address concerns while the surveys are being updated.

7. Create a stopgap measure to create a more sophisticated review of noncontributing structures. See draft language in Ad Hoc Committee Proposal 2, 51A-4.501(g)(6)(C)(ii), which illustrates the desire to reach properties that are technically classified as noncontributing by inaccurate or outdated surveys and, in the CA review process, to make those structures more compatible, consistent, and contributing rather than less so. While the committee endorsed the objective of the drafted provision, it deferred to staff and city attorney to develop the precise language.
8. Create definitions in the Preservation Ordinance of terms such as contributing, noncontributing, nonconforming, compatible, which trigger application of regulations. Similarly, it is contemplated that the District Guides, as set out in Ad Hoc Committee Proposal 1, will include a lexicon of terms used, and the updated surveys should do so as well, if appropriate.
9. If the city attorney deems it necessary, clarify the term "non-inhabitable" accessory structures. Some confusion existed as to whether this includes structures such as dog houses and chicken coops.
10. Prioritize educational efforts-Developing Guidelines, Training for everyone including Task Force members and Landmark Commission.

## OHP RESPONSE TO PROPOSAL # 3

### 25.0 EXECUTIVE SUMMARY

#### EXECUTIVE SUMMARY

**The OHP concurs with the suggestion that the OHP investigate an online application and filing system.**

**The OHP concurs with the suggestion that the OHP update form for CA applications and checklist, provide sample CA's illustrating the information to be included for typical CA's, and develop a better process diagram and create a user friendly "CA Process" website that is easy to use.**

**The OHP concurs with the suggestion that the OHP require submission of all items necessary for review of applications (complete applications) before any formal review process is scheduled, such as task force meetings or Landmark Commission hearings.**

**The OHP concurs with the suggestion regarding the importance of having a dedicated code compliance officer.**

The OHP concurs with the suggestion that the OHP provide or facilitate additional training generally, including but not limited to training on the enabling ordinance, specific district ordinances and the applicable Guide, and the application process, to neighborhoods, task forces and Landmark Commission.

The OHP concurs with the suggestion regarding the importance of updating all surveys.

The OHP concurs with the suggestion that the OHP create a stopgap measure to create a more sophisticated review of noncontributing structures.

The OHP concurs with the suggestion that the OHP create definitions in the Preservation Ordinance and that the District Guides will include a lexicon of terms used.

The OHP concurs with the suggestion that the OHP if the city attorney deems it necessary, clarify the term "non-inhabitable" accessory structures.

The OHP concurs with the suggestion that the OHP prioritize educational efforts- Developing Guidelines, Training for everyone including Task Force members and Landmark Commission.

## 26.0 ISSUES ARISING FROM PROPOSAL # 3

### 26.1 Issue # 1 – Budget

The cost of developing an online application and filing system is a new item that has not been budgeted.

### 26.2 Issue # 2 – Budget

The OHP does not have a budget or approval to return a dedicated code compliance officer to the OHP.

### 26.3 Issue # 3 – Important Initiatives - Training

Providing additional training is an important initiative that the OHP have previously identified. It is an important aspect of a more balanced historic preservation program that the OHP seeks, however, the OHP do not have resources to invest in other important initiatives as long as the OHP's regulations and processes require a disproportionate commitment of staff time to the processing of certificates of appropriateness.

### 26.4 Issue # 4 – Important Initiatives - Surveys

The OHP does not have a budget to update all surveys.

### 26.5 Issue # 5 – Interim Measures – Non-contributing Structures

The proposed measure would appear to amount to regulatory overreach because it seeks to confer contributing status to a non-contributing property.

#### 26.6 Issue # 6 – Limited Resources

While the OHP concurs with Proposal # 3, it does not free up staff time from the CA process, rather it adds tasks and initiatives.

### 27.0 **DISCUSSION**

#### 27.1 Online Application

The OHP are presently engaged with departments and providers regarding the development of an online application system.

#### 27.2 CA Application Form

The OHP are presently updating the form and checklist for CA applications. The OHP will endeavor to provide sample CA's illustrating the information to be included for typical CA's, developing a better process diagram, and creating a user friendly "CA Process" website that is easy to use.

#### 27.3 Complete Applications

The OHP is presently requiring the submission of all items necessary for review of applications before any formal review process is scheduled, however, this is a work-in-progress that is best facilitated by a "shift in thinking" by all parties to the CA process.

#### 27.4 Dedicated Code Compliance Officer

The OHP are unable to return a position that resided in a different department (Sustainable Development and Construction) and under a different budget. While the OHP have previously identified that the absence of a dedicated code compliance officer created critical issues for the OHP and was an essential position to the OHP, this position is not funded for the OHP.

#### 27.5 Important Initiatives

The tasks and initiatives associated with Proposal # 3 are all important to historic preservation in Dallas. In addition, the OHP have identified a substantial body of work that staff are unable to advance because a key recommendation to broaden staff capabilities and review staff priorities to foster efficiency in 2015 was not implemented and because the OHP's recent efforts to streamline regulations and processes has not been viewed by all as beneficial.

With limited resources, it will be necessary to acknowledge that it will not be possible to expend nearly 90% of staff time processing CAs and advance any of the many preservation initiatives. It is in effect a balancing act, however, the

status quo or minor adjustments to the status quo will almost certainly guarantee the continuance of a significant imbalance within the OHP.

## 28.0 **OPTIONS**

### 28.1 Budget

- a. OHP continue to advocate for a dedicated code compliance officer to the OHP.
- b. Seek opportunities to generate revenue that would fund a position.

### 28.2 Important Initiatives - Training

- a. OHP to provide additional training as resources allow.
- b. All TF/LMC members to become active members of the national Alliance of Preservation Commissions.
- c. All LMC members to attend at least one Texas Historical Commission training opportunities every two years.
- d. OHP to seek opportunities for interdepartmental training.
- e. Appointments to TFs/LMCs to be consistent with the required makeup of a Certified Local Government commission.
- f. OHP to identify training opportunities through external preservation agencies.
- g. OHP to partner with individuals/entities to offer training.

### 28.3 Important Initiatives - Surveys

- a. Include a budget enhancement request through the FY22-23 budget process.
- b. Seek opportunities to generate revenue that would advance unfunded initiatives and explore the potential to leverage partnership funding.
- c. Status quo

### 28.4 Interim Measures – Non-contributing Structures

- a. Incorporate adjustments as presented in Proposal # 3.
- b. Incorporate adjustments that serve as an interim measure without conferring contributing status to a non-contributor.

- c. Status quo – make no changes.

## 29.0 OHP RECOMMENDATION

### 29.1 Budget

- a. That the OHP continue to advocate for a dedicated code compliance officer.
- b. That the OHP continue to seek opportunities to generate revenue that would fund a position.

### 29.2 Important Initiatives - Training

- a. That the OHP provide additional training as resources allow.
- b. That all TF/LMC members to be become active members of the national Alliance of Preservation Commissions.
- c. That all LMC members to attend at least one Texas Historical Commission training opportunities every two years.
- d. That the OHP to seek opportunities for interdepartmental training.
- e. That the OHP encourage appointments to TFs/LMCs consistent with the required makeup of a Certified Local Government historic preservation commission.
- f. That the OHP identify training opportunities through external preservation agencies.
- g. That the OHP partner with individuals/entities to offer training.

### 29.3 Important Initiatives - Surveys

- a. Include a budget enhancement request through the FY22-23 budget process.
- b. Seek opportunities to generate revenue that would advance unfunded initiatives and explore the potential to leverage partnership funding.
- c. Status quo

### 29.4 Interim Measures – Non-contributing Structures

- a. Incorporate adjustments as presented in Proposal # 3.
- b. Incorporate adjustments that serve as an interim measure without conferring contributing status to a non-contributor.

- c. Status quo – make no changes.

## PART D – CONCLUDING OBSERVATIONS

On December 7, 2020, the Ad-Hoc Vision Implementation Committee (AHVIC) were assigned the following tasks:

- a. “to define concrete action items that the landmark Commission can enact to help make processes in our department less time-consuming for staff”;
- b. To include actions such as simplifying case reports and using existing task forces more effectively; and
- c. To consider the customer experience

### 30.0 REGARDING ITEM “a”

In relation to item “a”, streamlining was intended to apply to regulations and processes. Regulations include the existing dated preservation ordinances; however, the three proposals do not appear to offer concrete actions items for regulations other than considering the scope of work that might fall under the heading of routine work in the CA process.

#### 30.1 Resource-intensive Reporting for Insignificant Effects

A key time-consuming aspect of the CA process is report preparation. A significant reduction in the number of reports that need to be prepared for a public hearing would not only free up staff time, but it would also mean that the valued time of task forces and LMC members is prioritized, thus avoiding the need to occupy up to 28 individuals (LMC – 14, TF up to 8 plus staff of 6) for the purpose of reviewing a scope of work that is not likely to have a significant effect on the character and appearance of a historic district.

### 31.0 REGARDING ITEM “b”

In relation to item “b”, the three proposals do not appear to offer concrete action items for using existing task forces more effectively, however, the OHP offers the following observation on this important aspect of streamlining.

#### 31.1 Resource-intensive Processes

Existing processes include a three-level review of minor work or work which would have a minor impact on the character and appearance of a district. The amount of time that staff are required to allocate administering the certificate of

appropriateness process for example, is disproportionate to the time that many other cities allocate to the need for community input. In Fort Worth for example, communities can review applications and provide feedback in a way that does not draw from limited staff time. Since the important objective to be met is community involvement, this could still be satisfied with a streamlined approach that sought to free up staff time in at least two ways:

1. Adjustments could be made so that task forces could review applications and provide their feedback to the LMC without the time commitment that is currently required of staff; or
2. The LMC could streamline the review process by consolidating task forces into one commercial and one residential historic district task force, with representatives from each residential district making up the residential task force.

The former approach is already practiced in other cities.

### **32.0 REGARDING ITEM “c”**

The OHP has worked with customers who have proposed minor work that satisfies the preservation criteria or who simply wish to have a new CA issued for one that has expired. If such a customer enquires the day or two after the submission deadline, that could mean that they would need to wait 1 ½ cycles or 6 weeks just to be heard by the LMC. If that application is denied when it complies with city policy, the applicant would have to return a month later or appeal the decision. This means a 2 ½ cycle wait or 10 weeks for a scope of work that could be resolved administratively in as little as 90 minutes. Streamlining OHP's regulations and processes is a critical consideration of the customer experience.

### **33.0 ON BALANCE**

The impact of Proposals 1 and 3 on the limited resources that need to be freed up far outweigh the degree to which staff would be freed up by Proposal # 2. In other words, the OHP raised the need to streamline its regulations and processes to free up staff time in August 2020, noting the need to advance the following:

- Authorized Public Hearings (Demolition Delay, Court Ordered Demolitions and Tenth Street Historic District)
- Economic Development Policy
- Policy Development (Demolition)
- Consolidating Preservation Criteria
- Ordinance Updates
- Advancing Equity Objectives

- Special Projects (Hensley Field, Dart, etc)
- Incentives
- Partnerships
- Comprehensive Plan
- Contribution to Affordable Housing Options
- Education and Awareness
- Fees for Service

The OHP acknowledges that on balance, the proposals described herein would add a significant workload at a time when the Office expects to assume a greater commitment to the Economic Development Policy, while the important initiatives that had been identified previously might remain without sufficient resources to advance.

The AHVIC acknowledged that it considered more administrative review authority was appropriate, however, this is not reflected in Proposal # 2. The OHP concurs with this acknowledgement and therefore has offered supportive, companion and supplementary recommendations accordingly. The OHP acknowledges that even if all its recommended amendments to the City Code were implemented, the level of administrative review authorized would still be less than that which is already afforded by Dallas's closest comparable city – Fort Worth.