

9-7-05

ORDINANCE NO. 26107

An ordinance changing the zoning classification on the following property:

BEING a tract of land located at the intersection of Herschel Avenue and Gilbert Avenue, containing all of City Block 11/2039;

by establishing Historic Overlay District No. 124 (Stephen J. Hay Elementary School); providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

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

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

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

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 124 on the following property ("the Property"):

BEING a tract of land located at the intersection of Herschel Avenue and Gilbert Avenue, containing all of City Block 11/2039.

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

SECTION 3. That a person shall not alter the Property, or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, demolish, or remove any structure on the Property without first obtaining a certificate of appropriateness or certificate for demolition or removal in accordance with the Dallas Development Code, as amended, and this ordinance. All alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit A. The preservation criteria do not apply to any portion of the house located at 4005 Herschel Avenue that may encroach on the historic district's boundaries. A certificate of appropriateness or certificate for demolition or removal is not required to place, construct, maintain, expand, demolish, or remove any structure at 4005 Herschel Avenue.

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

SECTION 5. That the director of development services shall correct Zoning District Map No. H-7 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

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

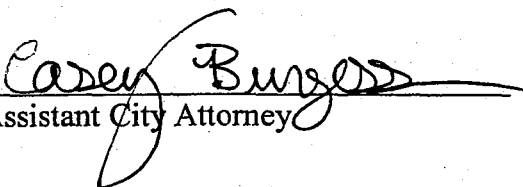
SECTION 7. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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

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

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

Passed SEP 14 2005

EXHIBIT A
PRESERVATION CRITERIA
Stephen J. Hay Elementary School
3801 Herschel Avenue

1. GENERAL

- 1.1 These preservation criteria do not apply to any portion of the house located at 4005 Herschel Avenue that may encroach on the historic district's boundaries.
- 1.2 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.3 Any alterations to property within this district must comply with the regulations in Chapter 51A of the Dallas City Code, as amended. In the event of a conflict, these preservation criteria control.
- 1.4 Certificate of appropriateness
 - a. A person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
 - b. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - d. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The Director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.
- 1.5 A person may not demolish or remove any structure in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code, as amended.

- 1.6 Preservation and restoration materials and methods used must comply with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.
- 1.7 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code, as amended, for regulations concerning demolition by neglect.
- 1.8 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.9 The period of historic significance for this district is the period from 1933 to 1959.

2. DEFINITIONS

- 2.1 Unless defined below, the definitions contained in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 DIRECTOR means the Director of the Department of Development Services or the Director's representative.
- 2.5 DISTRICT means Historic Overlay District No. 124, the Stephen J. Hay Elementary School Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B.
- 2.6 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.7 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.8 MAIN BUILDING means the existing historic Stephen J. Hay Elementary School building, as shown on Exhibit B.

- 2.9 NO-BUILD ZONE means that part of this district in which no new construction may take place.
- 2.10 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.11 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

3. BUILDING SITE AND LANDSCAPING

- 3.1 New construction is prohibited in the no-build zone shown on Exhibit B.
- 3.2 The main building is protected. Other structures may be demolished, removed, or altered without landmark commission review or approval.
- 3.3 New driveways, sidewalks, steps, and walkways must be constructed of brush finish concrete. New drives and parking areas may be concrete or asphalt paving. Exposed aggregate, artificial grass, carpet, or artificially colored monolithic concrete paving is not permitted.
- 3.4 Landscaping
- a. Outdoor lighting must be appropriate and enhance the structure.
 - b. Landscaping must be appropriate, enhance the structure and surroundings, and may not obscure significant views of protected facades.
 - c. It is recommended that landscaping reflect the historic landscaping design.
 - d. Existing mature trees are protected, except that unhealthy or damaged trees may be removed.
- 3.5. Fences
- a. Fences are not permitted in that portion of the no-build zone that is between the main building and Herschel Avenue or Gilbert Avenue as shown in Exhibit B. Fences in other portions of the no-build zone may not exceed four feet in height.
 - b. Fences may be constructed of brick, stone, chain link, or other appropriate material.
 - c. The existing fence located west of 4005 Herschel Avenue can be rebuilt with wood, brick, stone, or chain link not to exceed eight feet in height.

4. FACADES

4.1 Protected facades

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

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

4.3 Wood detailing should be restored wherever practical.

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

4.5 Historic materials should be repaired where possible; they may be replaced only when necessary.

4.6 Paint must be removed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, prior to refinishing.

4.7 Aluminum siding, stucco, and vinyl cladding are not permitted on the main building.

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

4.9 Exposing and restoring historic finish materials is recommended.

- 4.10 Cleaning of the exterior of a structure must be in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

5. FENESTRATION AND OPENINGS

- 5.1 Historic doors and windows must remain intact except when replacement is necessary due to damage or deterioration.
- 5.2 Replacement of doors and windows that have been altered and no longer match the historic appearance is recommended.
- 5.3 Replacement doors and windows must express profile, muntin and mullion size, light configuration, and material to match the historic.
- 5.4 Storm doors and windows are permitted if they are appropriate and match the existing doors and windows in profile, width, height, proportion, glazing material, and color.
- 5.5 Decorative ironwork and burglar bars are not permitted over doors or windows of protected facades. Interior mounted burglar bars are permitted if appropriate.
- 5.6 Glass and glazing must match historic materials as much as practical. Films and tinted or reflective glazings are not permitted on glass.
- 5.7 New door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled or the safety of life is threatened.
- 5.8 The Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, should be referred to for acceptable techniques to improve the energy efficiency of historic fenestration.

6. ROOFS

- 6.1 The historic configuration of the roof must be preserved and maintained.
- 6.2 The following roofing materials are allowed on flat roofs: single-ply membrane or built-up.

- 6.3 Historic coping, cornices, parapets, and roof trim must be retained, and should be repaired with material matching in size, finish, module, and color.
- 6.4 Mechanical equipment, skylights, and solar panels on the roof must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.

7. EMBELLISHMENTS AND DETAILING

- 7.1 Existing original light fixtures at all three front entrances are protected. Where replacement is necessary due to decay or damage, new fixtures must match the original in design, size, material, and finish.
- 7.2 The following elements of the protected facades are considered important features and are protected:
 - a. Stone, cast stone, and brick trim and detailing.
 - b. Cast stone on door surrounds.
 - c. Copings.
 - d. Cornice.
 - e. Front walkways.
 - f. Steps at all front entrances.

8. NEW CONSTRUCTION AND ADDITIONS

- 8.1 Stand-alone new construction is permitted only in the areas shown on Exhibit B.
- 8.2 Vertical additions to the main building are not permitted.
- 8.3 Horizontal additions to the main building are not permitted on protected facades. Horizontal additions to the main building are permitted only in the areas shown on Exhibit B.
- 8.4 The form, materials, and general exterior appearance of new construction, new permanent accessory buildings, and vertical or horizontal extensions to existing non-protected structures must be compatible with the main building.

- 8.5 New construction, new permanent accessory buildings, and vertical or horizontal additions to existing non-protected structures must have appropriate massing, roof form, shape, materials, detailing, color, fenestration patterns, and solids-to-voids ratios.
- 8.6 Aluminum siding, stucco, and vinyl cladding are not permitted on new construction, additions, and new permanent accessory buildings.
- 8.7 The height of new construction, new permanent accessory buildings, or vertical or horizontal additions to existing non-protected structures must not exceed the height of the main building.
- 8.8 New construction and additions must be designed so that connections between new construction or additions and the main building are clearly discernible as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the main building must be established and maintained. Historic details in the coping, eaves, and parapet of the main building must be preserved and maintained at the point where the main building abuts new construction or additions.
- 8.9 Temporary portable buildings are permitted outside the no-build zone with a routine maintenance certificate of appropriateness.

9. SIGNS

- 9.1 All signs must comply with the provisions of the Dallas City Code, as amended.
- 9.2 Street signs, DISD standard school identification signs, protective signs, and directional signs that are appropriate and sensitive to the appearance of the main building are permitted.
- 9.3 The DISD identification sign located in front of the main building, as shown on Exhibit B, is permitted.
- 9.4 Temporary real estate signs may be erected without a certificate of appropriateness.

10. ENFORCEMENT

- 10.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

- 10.2 A person is criminally responsible for a violation of these preservation criteria if the person owns part or all of the property where the violation occurs, the person is the agent of the owner of the property and is in control of the property, or the person commits the violation or assists in the commission of the violation.
- 10.3 Any person who adversely affects or demolishes a structure in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the Director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.
- 10.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

Exhibit B

