

THE RECORD

**4716 JUNIUS STREET
APPEAL
CA156-087(JKA)**

**City Plan Commission
Hearing
06/30/2016**

VIA CERTIFIED MAIL 7011 1150 0000 0380 7176

INDEX

4716 JUNIUS STREET CA156-087(JKA)

Certificate of Appropriateness Section 1

Landmark Commission Agenda, April 4, 2016 Section 2

Docket Material and Power Point Presentation Section 3

Landmark Commission Minutes, April 4, 2016 Section 4

Transcript of April 4, 2016 Landmark Commission Public Hearing Section 5

Peak's Suburban Addition Neighborhood Historic District Ordinance Section 6

Historic Preservation Criteria Section 7
Dallas Development Code §51A-4.501

Appeal Procedures and Correspondence Section 8

SECTION 1

Certificate of Appropriateness

4716 Junius Street
CA156-087(JKA)

Certificate of Appropriateness (CA)
City of Dallas Landmark Commission

CA 15-6-087 (JKAH)
 Office Use Only

Name of Applicant: Eric Spinazzola
 Mailing Address: 7331 Lakewood Blvd
 City, State and Zip Code: Dallas Texas 75214
 Daytime Phone: _____ Fax: 214 323-6660
 Relationship of Applicant to Owner: SAME

Building Inspection:
 Please see signed drawings before issuing permit:
 Yes No
 Planner's Initials _____

PROPERTY ADDRESS: 4716 Junius
 Historic District: Peak Suburban

PROPOSED WORK:

Please describe your proposed work simply and accurately. Attach extra sheets and supplemental material as requested in the submittal criteria checklist.

- 1) Install ~~1/2"~~ 1/2" Hardi board on rear & rear 25% of side facades of main structure @ corner boards to rear
- 2) Install Hardi board skirting on rear main structure

Signature of Applicant: [Signature] Date: 10/8/15
 Signature of Owner: [Signature] Date: 10/8/15
(IF NOT APPLICANT)

RECEIVED BY

NOV 05 2015

APPLICATION DEADLINE:

Application material must be completed and submitted by the **FIRST THURSDAY OF EACH MONTH, 12:00 NOON**, (see official calendar for exceptions), before the Dallas Landmark Commission can consider the approval of any change affecting the exterior of any building. This form along with any supporting documentation must be filed with a Preservation Planner at City Hall, 1500 Marilla 5BN, Dallas, Texas, 75201. **You may also fax this form to 214/670-4210. DO NOT FAX PAINT SAMPLES OR PHOTOGRAPHS.**

Current Planning

Please use the enclosed criteria checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4538 to make sure your application is complete.

OTHER:

In the event of a denial, you have the right to an appeal within 30 days after the Landmark Commission's decision. You are encouraged to attend the Landmark Commission hearing the first Monday of each month at 1:00 pm in Council Chambers of City Hall (see exceptions). Information regarding the history of past certificates of appropriateness for individual addresses is available for review in 5BN of City Hall.

Please review the enclosed Review and Action Form Memorandum to the Building Official, a Certificate of Appropriateness has been:

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

 Sustainable Construction and Development Date

SECTION 2

Agenda

April 4, 2016

See Page 22, Item #7

Landmark Commission Agenda
Monday, April 4, 2016

if necessary, all 24 historic wood windows. No quorum, recommendations only: Plan is nice, especially restored back to original.

3. Remove security bars and replace front door with new wood door. No quorum, recommendations only: Plan is nice, especially restored back to original.
4. Replace existing front porch sliding door with 15-lite French door. No quorum, recommendations only: Plan is nice, especially restored back to original.
5. Replace existing metal awning over front entryway with canvas awning. No quorum, recommendations only: Plan is nice, especially restored back to original.
6. Install exterior light fixtures and mail slot. No quorum, recommendations only: Plan is nice, especially restored back to original.
7. Remove vinyl siding on detached garage and repair wood siding, or replace up to 25% with wood, add new garage door, and paint, using Brand: Behr. Main Body: PR-W14, Bit of Sugar. Trim: ECC-10-2, Jet Black. No quorum, recommendations only: Plan is nice, especially restored back to original.

7. 4716 JUNIUS ST

Peak's Suburban Addition Neighborhood Historic District
CA156-087(JKA)
Jennifer Anderson

Remanded back to Landmark Commission on March 3, 2016.

1. Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness.

Applicant: Eric Spinnazola

Application Filed: November 5, 2015

Staff Recommendation:

1. Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness. Deny – The work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is not consistent with preservation criteria Section 3.6.

Task Force Recommendation:

1. Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness. Deny.

OTHER BUSINESS ITEMS:

Minutes from March 7, 2016
Appointment of Michael Karnowski to the South Blvd. Park Row Task Force.

ADJOURNMENT

SECTION 3

- **Docket Material**
- **Power Point Presentation**



LANDMARK COMMISSION

APRIL 4, 2016

FILE NUMBER: CA156-087(JKA)
LOCATION: 4716 Junius Street
STRUCTURE: Main, Contributing
COUNCIL DISTRICT: 2
ZONING: PD No. 98

PLANNER: Jennifer Anderson
DATE FILED: November 5, 2014
DISTRICT: Peak's Suburban
MAPSCO: 46-B
CENSUS TRACT: 0015.02

APPLICANT: Eric Spinazzola

OWNER: Eric Spinazzola

REQUEST:

1) Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness.

BACKGROUND / HISTORY:

April 2014 - The applicant was issued a routine maintenance Certificate of Appropriateness to replace no more than 10% of rotted wood siding and trim with matching materials – CA134298(JKA).

May 22, 2014 – Building Inspection issued a Notice of Violation for failure to obtain a CA for foundation repair and installation of metal skirting, and because the scope of work exceed the \$3000 interior remodel permit. Other violations were noted but do not pertain to this application.

May 28, 2014 – Staff sent Mr. Spinazzola a reminder of what his Routine Maintenance Certificate of Appropriateness allowed, specifying that **no more than** 10% of the wood siding could be replaced and that replacement must be with matching wood siding.

June 10, 2014 – Mr. Spinazzola and his assistant met with Staff to discuss the window survey for the property. During this meeting, the applicant questioned why synthetic siding, Hardiboard, and metal skirting cannot be used on main structures. Staff explained that Section 3.6 states that imitation cannot be used on main structures and that it applies to all facades on a main structure. Staff also explained that the use of imitation materials on accessory structures violates the Secretary of Interior standards stating that original materials should be replaced with like materials.

July 2014 - Landmark Commission denied the metal skirting installation and no other application was submitted after the Denial (CA134-406(JKA)).

July 2015 – The applicant was issued a Notice of Violation for installing Hardiboard siding on the rear and sides of the main structure.

August 2015 – The applicant requested to withdraw the application to retain the Hardiboard skirting because he could not attend the hearing. Because the request was made past the withdrawal deadline, Landmark Commission denied all of the requests without prejudice to give the applicant another opportunity to resubmit an application and attend the hearing.

December 2015 – The Landmark Commission denied the installation of Hardiboard on the sides and rear of the main structure. The installation of Hardiboard skirting was approved with the condition that the Hardiboard stops at the drip edge.

March 2016 – The applicant appealed Landmark Commission’s decision to deny Hardiboard on the sides and rear of the main structure to the City Plan Commission (CPC). The CPC affirmed the Landmark Commission’s decision to deny the Hardiboard on the sides of the main structure; however, they remanded the decision to deny Hardiboard on the rear of the main structure to the Landmark Commission.

Note: The approval to install Hardiboard skirting up to the water line on the rear and denial to install Hardiboard siding on the sides of the main structure are not a part of this application.

CITY PLAN COMMISSION ACTION (MARCH 3, 2016):

The City Plan Commission remanded the decision to deny Hardiboard on the rear of the main structure to the Landmark Commission. MOTION I to affirm the Landmark Commission’s decision to Deny the work failed. (VOTE 7:7. For: Emmons, Ridley, Houston, Haney, Jung, Housewright, Peadon. Against: Anglin, David, Shidid, Anantasomboon, Schultz, Murphy, Tarpley). MOTION II to affirm the Landmark Commission’s decision to Deny Hardiboard on the sides façade passed unanimously. MOTION III to remand the Landmark Commission’s decision to Deny the work on the rear façade passed (VOTE 12:2. For: Anglin, Emmons, Houston, David, Shidid, Jung, Housewright, Schultz, Peadon, Murphy, Ridley, Tarpley. Against: Anantasomboon, Haney).

Discussion at City Plan Commission centered around the issue of protected vs. non-protected facades and to whether or not Section 3.6 is applicable to protected facades.

ANALYSIS:

Section 3.6 states:

Wood siding, trim, and detailing must be carefully restored wherever practical. Historic materials should be repaired, they may be replaced only when necessary. Badly deteriorated paint should be removed in accordance with the Department of Interior standards prior to refinishing. All exposed wood must be painted, stained, or otherwise protected. No resurfacing with vinyl or aluminum siding or stucco is permitted on main

structures. Imitation materials are allowed on accessory structures only if they are in keeping with the style and materials of the main structure.

Section 3.1 states:

The front and side facades are protected facades.

While the rear of the main structure is not considered a protected façade, Staff interprets Section 3.6 as applying to all facades, including the rear façade. Staff believes that if Section 3.6 had only been intended for protected facades it would have specified as it does elsewhere in the ordinance. Section 3.6 also states that imitation materials are allowed on accessory structures only if they are in keeping with the style and materials of the main structure. The ordinance does not state that imitation materials are allowed on main structures, and Staff believes that if the criteria had intended to allow imitation materials on main structures, it would have specified here. Therefore, Staff believes that Hardiboard on the rear of the main structure violates Section 3.6 and is recommending Denial.

STAFF RECOMMENDATION:

1) Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness – Deny – The work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is not consistent with preservation criteria Section 3.6.

TASK FORCE RECOMMENDATION:

1) Install 4" Hardiboard on rear façade of the main structure. Work completed without a Certificate of Appropriateness – Deny.

**Certificate of Appropriateness (CA)
City of Dallas Landmark Commission**

CA 156-087(JKA)
Office Use Only

Name of Applicant: Eric Spinazzola
 Mailing Address: 7331 Lakewood Blvd
 City, State and Zip Code: Dallas Texas 75214
 Daytime Phone: _____ Fax: 214 321-6660
 Relationship of Applicant to Owner: SAME

Building Inspection:
 Please see signed drawings before issuing permit:
 Yes ___ No ___
 Planner's Initials

PROPERTY ADDRESS: 4716 Junius
 Historic District: Peak Suburban

PROPOSED WORK:
 Please describe your proposed work simply and accurately. Attach extra sheets and supplemental material as requested in the submittal criteria checklist.

1) Install ~~1/2"~~ "1/2" Hardi board on rear & rear 25% of side facades of main structure @ corner boards to rear

2) Install Hardi board skirting on rear main structure

Signature of Applicant: Eric Spinazzola Date: 10/8/15
 Signature of Owner: Eric Spinazzola Date: 10/8/15
 (IF NOT APPLICANT)

RECEIVED BY

NOV 05 2015

Current Planning

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- DENIED WITHOUT PREJUDICE.** Please do not release the building permit or allow work.

Sustainable Construction and Development _____ Date _____

Certificate of Appropriateness City of Dallas Historic Preservation
 Rev. 111408

4716 Junius

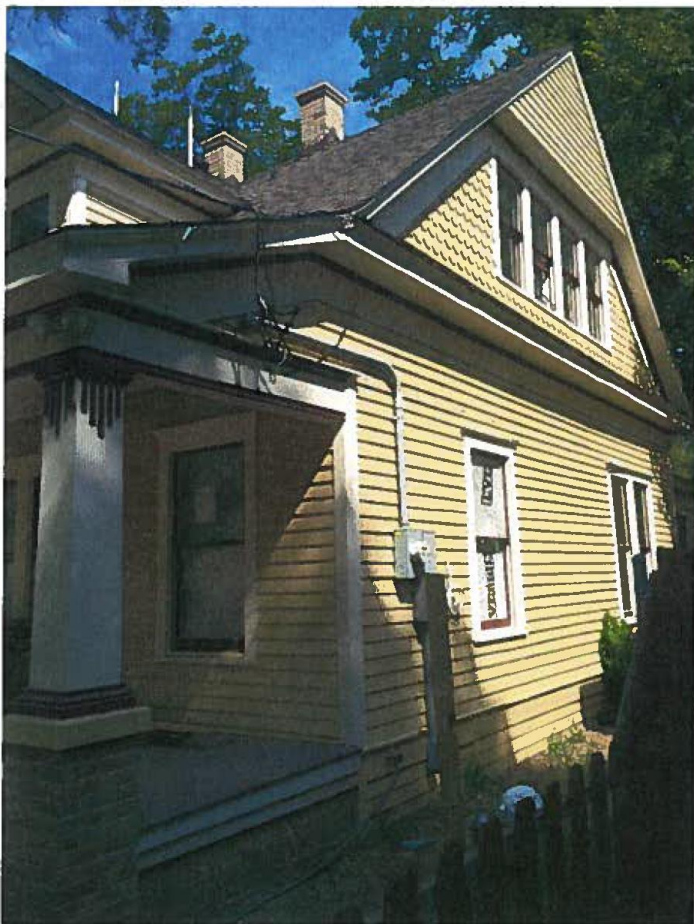


4716 Junius before restoration 5/2015



Repainted/restored/
New Roof/restored porch foundation & porch boards etc

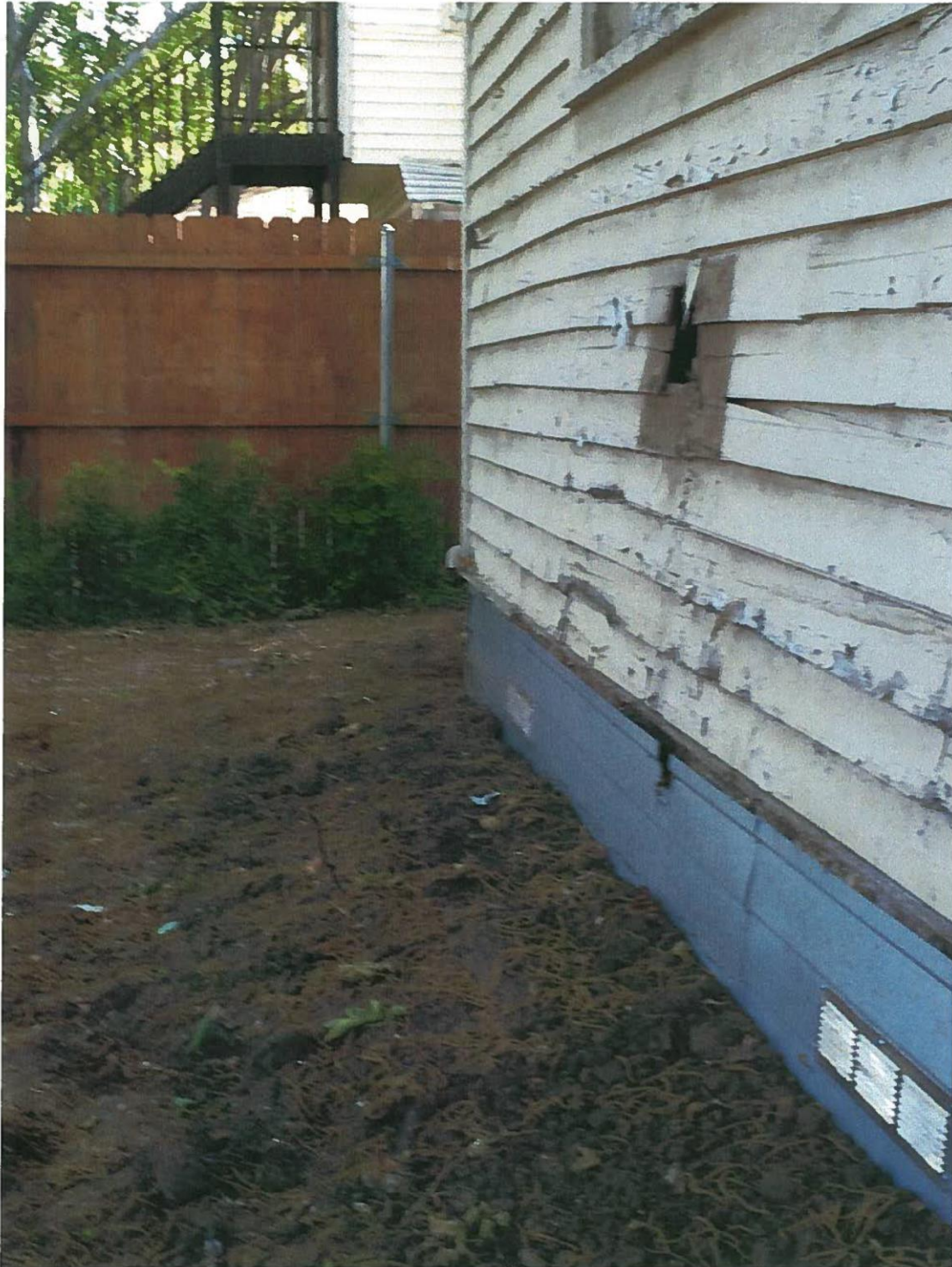
Photos / comments submitted by applicant.



Right side of 4716 Junius - Straight on shot not possible with neighboring fence

Photo/comment submitted by the applicant

4716 JUNIUS



Pic representing old rotted siding and metal skirting which has since been replaced....

Photos / comments submitted by applicant showing metal skirting installed without a CA, denied by LMC, then replaced with Hardiboard skirting without a CA.



Rear of the main structure in April 2014 showing the wood skirting and siding intact. Photo submitted by applicant at time of Routine Maintenance request to replace no more than 10% of the wood siding with wood siding.



Rear of the main structure in August 2014 showing the wood skirting replacement with metal skirting and wood siding intact. The metal skirting was installed without a CA and Denied without Prejudice by the Landmark Commission .Photo by Code Enforcement at time of Stop Work Order.



July 2015 - Hardiboard skirting and siding installed without a Certificate of Appropriateness. Photo by Code Enforcement at time of Stop Work Order.

4716 JUNIUS



Rear of house with siding replaced & painted w/approved colors , also shows skirting

Photos / comments submitted by applicant. 100% of all original wood siding was replaced with Hardiboard without a Certificate of Appropriateness.

4716 JUNIUS



Rear of house with new hardy siding replaced matching Original Siding.....also shows approved color s on siding

Photos / comments submitted by applicant. 100% of all original wood siding was replaced with Hardiboard without a Certificate of Appropriateness.

4716 JUNIUS



Hardi siding left of vertical white board & original siding right of that board...all matching /skirt below has been changed from metal skirting to hardi board as well

Photos / comments submitted by applicant. All original wood siding on the back half of the side facades was replaced with Hardiboard without a Certificate of Appropriateness.

4716 JUNIUS



Original siding, front of house

Photos / comments submitted by applicant. Front of main structure showing original siding.

SPINAZZOLA + CO

FINE HOMEBUILDING AND RESTORATION

office@spinazzoladallas.com
www.spinazzola.com
214-321-6607 Office
214-321-6660 Fax

August 6, 2015

To: Landmark Commission Board
From: Eric Spinazzola – Contractor and Owner of 4716 Junius
Regarding: Siding and skirt replacement part of this application:

Due to a pre-planned trip, unfortunately I am unable to be present today. When we were accepted for our initial C of A (siding and skirt replacement), we did not know it would become necessary to replace the rear quadrant of siding. (Please see picture A). Due to the severe rot and short existing patched pieces and the approved re-location of windows on the rear elevation, the old siding needed to be removed entirely. The walls were badly bowed and framing was inferior and unsafe. Thus, it was necessary to re-frame to provide adequate support.

To maintain uniformity and likeness, we replace all siding where re-framing occurred butting up to the rear vertical corner boards of the house. As you can see in the photo, the old siding was badly chipped, there were no crisp edges and many of the boards cracked and split during demo.

After checking with eight local vendors, it became evident that a rather large amount of wood siding would need to be milled or custom ordered. My framer provided an alternative of hardi-siding (longer lasting than wood products). Upon visual inspection it clearly represents a new perfect match under four coats of paint (see picture #B).



There was no intent during this process to violate or ignore product type. We felt sure upon visual inspection, the results would be acceptable; as size, texture, module, grain and reveal match the existing siding. See picture of front of house (old siding picture #C & D). We have since learned we should have come in and applied for this C of A upon our findings at the re-framing stage. Please accept our apologies and ignorance. This is our first restoration project participating in the process under Landmark guidelines.

We hope and pray that you will make your own visual inspection and approve our work based on its overall likeness and matching ability.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Spinazzola". The signature is stylized with large loops and a long horizontal stroke.

Eric Spinazzola

Anderson, Jennifer

From: Spinazzola [REDACTED]
Sent: Wednesday, May 28, 2014 11:28 AM
To: Anderson, Jennifer
Subject: RE: 4716 Junius

Hi Jennifer,

I'm in receipt of your 3 emails. We are preparing a response to amend the current COA with pictures and full details.

I have one question – I'm not sure I understand regarding transoms. What specifically do you mean by transoms? We have removed a window on the left gable side of the house as well as a window on the rear at the upper gable in order to bring long framing members onto the 2nd floor. Both of these windows will be put back in their original positions.

Are these the transoms that you are referring to?? The only other transom that I know of is in the interior of the house.

Thank you,

Eric Spinazzola
[REDACTED] Cell



SPINAZZOLA + CO
FINE HOMEBUILDING AND RESTORATION

[REDACTED]
Dallas, Texas 75214
Office [REDACTED]
Fax 2 [REDACTED]
Eric O [REDACTED]
www.spinazzoladallas.com
www.facebook.com/spinazzolaco

The success of our business comes from referrals! If you are happy with our services, we would greatly appreciate the opportunity to work with your friends, families and business associates.

From: Anderson, Jennifer [<mailto:jennifer.anderson@dallascityhall.com>]
Sent: Thursday, May 22, 2014 5:11 PM
To: [REDACTED]
Subject: RE: 4/16 Junius

Correction- I see that your previous CA covered siding AND trim (less than 10% total). However it did not include removing the columns from their pedestals or include porch work. I've attached your previous CA for reference.

Thanks,

Jennifer Anderson, Planner - Historic Preservation
Sustainable Development & Construction Department
City of Dallas, City Hall
1500 Marilla Street, Room 58N

Communication between Staff and the applicant showing that the applicant received Staff's clarification on the constraints of the Routine Maintenance Certificate of Appropriateness. PAGE 1 of 2

Main: (214) 670-5825
jennifer.anderson@dallascityhall.com

From: Anderson, Jennifer
Sent: Thursday, May 22, 2014 3:45 PM
To: 'Spinazzola'
Subject: 4716 Junius

Eric,

I have attached a CA application as well as the ordinance. Please read the ordinance carefully, particularly pages 3-4. Each item being altered on the home must have an associated Certificate of Appropriateness for it, and the CA must be visible to inspectors as the work is being done. From what I understand, your previous CA was not posted on the property.

In addition to the window repair, column repairs, porch repairs, and skirting, you will also want to include the transoms as I noticed that some of the transoms were removed. Please include any additional work you will be doing.

As a reminder, your previous CA covered the following items:

- Paint exterior of the main structure in colors "Whole Wheat," "Antique White," and "Darkroom."
- Replace **no more than 10% of SIDING** with matching wood siding (**this does not include columns, porch, or any other wood work**).
- Install new Tamko roof in English Pewter.
- Replace broken window panes with condition that window casings, sills, and sashes will remain intact (**full window replacement NOT approved, does not cover transoms**).
- Trim trees (tree removal not approved).

Please let me know if you have any additional questions.

Thank you,

Jennifer Anderson, Planner - Historic Preservation
Sustainable Development & Construction Department
City of Dallas, City Hall
1500 Marilla Street, Room 5BN
Main: (214) 670-5825
jennifer.anderson@dallascityhall.com

Communication between Staff and the applicant showing that the applicant received Staff's clarification on the constraints of the Routine Maintenance Certificate of Appropriateness. PAGE 2 of 2

TASK FORCE RECOMMENDATION REPORT
PEAK'S SUBURBAN / EDISON - LA VISTA

DATE: 11/12/15
TIME: 5:30 pm
MEETING PLACE: 2922 Swiss Avenue (Wilson Building)

Applicant Name: ERIC SPINAZZOLA
Address: 4716 JUNIUS
Date of CA/CD Request: 11/05/15

RECOMMENDATION:

Approve Approve with conditions Deny Deny without prejudice

Recommendation / comments/ basis:

1) Deny
2) Deny

Task force members present *Patth Simon*

<input checked="" type="checkbox"/> Norman Alston (Chair)	<input checked="" type="checkbox"/> Jim Anderson	<input checked="" type="checkbox"/> VACANT (Peak's Alternate)
<input checked="" type="checkbox"/> Michael Karnowski	<input checked="" type="checkbox"/> Kathy Finch	<input type="checkbox"/> VACANT (Edison/La Vista Alt.)
<input type="checkbox"/> Renee Manes	<input checked="" type="checkbox"/> Jennifer Hidden	

Ex Officio staff members present Jennifer Anderson

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

Maker: *Hidden*
2nd: *FINCH*

Task Force members in favor: *Unanimous approval*

Task Force members opposed:
Basis for opposition:

CHAIR, Task Force *[Signature]* DATE *11/12/2015*

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

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

Discussion Item #7: 4716 Junius



District: Peak's Suburban Addition

**Request: Install 4" Hardiboard on rear facade of the main structure.
Work completed without a Certificate of Appropriateness.**

Staff Recommendation: Deny

Task Force Recommendation: Deny



4716 JUNIUS



Original wood siding



4716 JUNIUS

Hardiboard Siding



DALLAS LANDMARK COMMISSION
CASE #CA156-087(JKA)

April 4, 2016

Standard for approval: The landmark commission must approve the application if it determines that:

- (i) for contributing structures:**
- (aa) the proposed work is consistent with the regulations contained in this sections and the preservation criteria contained in the historic overlay district ordinance;**
 - (bb) The proposed work will not have an adverse effect on the architectural features of the structure;**
 - (cc) The proposed work will not have an adverse effect on the historic overlay district; and**
 - (dd) The proposed work will not have an adverse effect on the future preservation, maintenance and use of the structure or the historic overlay district.**

Dallas Development Code: No. 19455, Section 51A-4.501(g)(6)(C)(i)

Staff Recommendation:

1) Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness – Deny – The work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is not consistent with preservation criteria Section 3.6.

SECTION 4

Minutes

April 4, 2016

See Page 15, Item #7

Flabiano, Gadberry, Maten, Parsons, Seale,
Tate, *Sherman, Tapscott, Williams

Against: - 0
Absent: - 1 Thomas-Drake
Vacancies: - 1 10

7. 4716 JUNIUS ST

Peak's Suburban Addition Neighborhood Historic District
CA156-087(JKA)
Jennifer Anderson

Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness.

Speakers: For: Eric Spinnazola
Against: No one

***Commissioner Jordan recused herself and did not hear or vote on this matter.**

Motion:

Install 4" Hardiboard on rear facade of the main structure. Work completed without a Certificate of Appropriateness. **Deny** – The work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is not consistent with preservation criteria Section 3.6 which includes the back façade and Secretary of Interior Standards #2.

Maker: *Sherman
Second: Williams
Results: 13/0

Ayes: - 13 Amonett, Birrer, Bowers, Johnson, Flabiano,
Gadberry, Maten, Parsons, Seale, Tate,
*Sherman, Tapscott, Williams

Against: - 0
Absent: - 2 Jordan, Thomas-Drake
Vacancies: - 1 10

Approval of Minutes from March 7, 2016

Maker: *Sherman
Second: Jordan
Results: 14/0

Ayes: - 14 Amonett, Birrer, Bowers, Johnson, Jordan,
Flabiano, Gadberry, Maten, Parsons, Seale,
Tate, *Sherman, Tapscott, Williams

Against: - 0
Absent: - 1 Thomas-Drake
Vacancies: - 1 10

SECTION 5

Transcript of the
April 4, 2016
Landmark Commission
Hearing
4716 Junius Street
CA156-087(JKA)

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LANDMARK COMMISSION PUBLIC HEARING

OF

4716 JUNIUS STREET, CASE NO. CA156-087 (JKA)

APRIL 4, 2016

 ORIGINAL

SARAH BINA, Texas CSR #8075
Expiration Date 12/31/17
ALL-AMERICAN REPORTING
P.O. Box 520
Denton, Texas 76202
(940) 320-1992
(972) 219-5161
Tlcandaa@aol.com

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INDEX

	PAGE
Proceedings	3
Reporter's Certificate	32

1 P-R-O-C-E-E-D-I-N-G-S

2 THE CHAIR: Okay, Commissioners. D7.

3 And for the record, Commissioner Jordan has a
4 conflict of interest on this item, and she is
5 leaving the chambers.

6 (Commissioner Jordan leaves chambers.)

7 UNIDENTIFIED FEMALE: Discussion Item
8 No. 7 is 4716 Junius Street in the Peak's Suburban
9 Addition. CA-156-08 -- 087(JKA). Request is to
10 install four-inch Hardie board on the rear facade of
11 the main structure. Work completed with a
12 certificate of appropriateness. Staff -- sorry.
13 Staff recommendation, deny. The work does not meet
14 the standards in City Code Section
15 51A-4.501(g)(6)(c)(I) because it is not consistent
16 with Preservation Criteria Section 3.6.

17 UNIDENTIFIED FEMALE: Task Force
18 recommendation, deny.

19 THE CHAIR: Thank you.

20 Mr. Spinazzola?

21 MR. SPINAZZOLA: Hello, again.

22 THE CHAIR: Hi.

23 MR. SPINAZZOLA: My name is Eric
24 Spinazzola. I'm the owner at 4716 Junius. Nice to
25 see you again.

1 On the rear facade of 4716 Junius, as
2 we discussed before, our claim or our position on
3 this issue is that we are in compliance with the new
4 siding that's currently installed on the rear; if
5 for no other reason than the fact that 3.1 of the
6 ordinance states so in that the rear facade is,
7 quote, unquote, not a protected facade, period.

8 There are other reasons for allowing
9 this case and that prove up our compliance we feel.
10 They are in 3.2, 3.3, and 3.6 of the code; however,
11 they are too lengthy to discuss in -- in this time
12 span that's allotted to me today. We're going to
13 pass on those issues. They were discussed in the
14 CPC hearing. If you heard or read the dialogue,
15 you'd know that there were strong arguments that we
16 were, in fact, within the guidelines of replacing
17 even the side rear twenty-five percent as the
18 ordinance currently reads today.

19 However, you may feel good to know
20 that we've already applied to Jennifer and have been
21 accepted so that we will have a C of A to replace
22 the rear twenty-five percent of the sides' siding to
23 the custom-milled wood siding.

24 The CPC decision regarding this issue
25 on March the 7th, when I was here last, was to

1 recommend allowance of the Hardie on the rear only.
2 The CPC majority voted in favor of the statutory
3 rights afforded us under 3.1 of the ordinance.

4 One commissioner stated unsolicited
5 that whether we applied or didn't apply for a C of A
6 on the siding replacement is perhaps insignificant
7 for, as a citizen and homeowner in the Peak's
8 Suburban area, we are already in compliance by
9 statutory rights in the ordinance on the rear facade
10 as it's written and stated today in 3.1.

11 If you will on a positive note, this
12 case has presented a real opportunity, perhaps for
13 all of us, worth everyone's time and energy to date.
14 For example, if anyone here today is afraid that by
15 allowing this rear facade to pass could be setting a
16 bad precedence, then think of this: Recommend -- by
17 recommending, implementing, and improving an amended
18 overlay, it could answer and eliminate the ambiguity
19 and interpretation issues of this ordinance, i.e.,
20 CPC Commissioner Tipton Housewright put it this way:
21 The interpretation of this ordinance is at best
22 confusing, unreasonable, burdensome, and
23 errordience -- erroneous. Perhaps, a successful
24 overlay today could eliminate hundreds of future
25 cases that are coming to you now or in the near

1 future; words like always and never will eliminate
2 the gray areas, an interpretation that exists today.

3 Thus, for the reasons stated above, I
4 humbly ask that you will pass the recommendation
5 that the CPC has offered for us in this case. I
6 further humbly ask that someone might make a motion
7 today to implement and improve a fresh overlay to
8 this ordinance that will clarify -- clarify all the
9 issues of ambiguity, not just in these sections, but
10 all other sections of the ordinance that have become
11 issues in other cases. In this effort, this case
12 discussion could set a positive precedence towards
13 amending this ordinance as needed.

14 Finally, if the Landmark Commission is
15 charged with upholding the ordinance as it's written
16 today, we hope that you will find our plea worthy of
17 your consideration. Thank you.

18 THE CHAIR: Thank you, Mr. Spinazzola.
19 I appreciate all your remarks. You've put a lot of
20 thought into this case. I have a question for Staff
21 before we get to our questions for you, and it was
22 something that happened during the briefing that I
23 was hoping that you would just entertain us for a
24 quick minute and kind of go through, just as you did
25 in the briefing, how we got to the point that we are

1 at now --

2 UNIDENTIFIED FEMALE: Okay.

3 THE CHAIR: -- from Staff's
4 perspective.

5 UNIDENTIFIED FEMALE: Sure. April
6 2014, the Applicant came to Staff and asked for a
7 routine maintenance application to replace ten
8 percent or less of the wood siding indicating that
9 most of the siding was in good condition. That was
10 granted. And in -- about a month later, the
11 Applicant was issued a notice of violation for some
12 work replacing the metal -- or the skirting with
13 metal skirting foundation repair all without a
14 permit or CA. And a few days later, I sent a
15 confirmation email stating that with the constraints
16 of his routine application is to replace no more
17 than ten percent of the siding with matching wood
18 siding.

19 Then in June he -- Mr. Spinazzola and
20 his assistant, Liz, came in to discuss an
21 application for the property, and we discussed at
22 length why Hardie board was not an allowable
23 material in the Peak's Suburban District, and I
24 explained this because 3.6 doesn't allow for
25 imitation materials and because it goes against the

1 Secretary of Interior Guidelines.

2 About a year later, they were issued a
3 notice of violation for installing Hardie board on
4 the rear and side facades, so that's how we got to
5 the point we are at.

6 THE CHAIR: Thank you. I just wanted
7 that read into the record. Okay. Commissioner
8 Tapscott?

9 COMMISSIONER TAPSCOTT:
10 Mr. Spinazzola, just a few questions for you. I
11 want to re-establish because, you know, this is a
12 record that is used by the CPC first. This is not
13 the first work you've done in the historic district,
14 correct?

15 MR. SPINAZZOLA: It is the first --

16 COMMISSIONER TAPSCOTT: It is not.

17 MR. SPINAZZOLA: Yes, sir, it is the
18 first under a permit.

19 COMMISSIONER TAPSCOTT:
20 Mr. Spinazzola, that is an outright lie. You
21 performed the work on 52 -- 5125 Swiss Avenue
22 including exterior alterations to it.

23 MR. SPINAZZOLA: Yes, you are correct.

24 COMMISSIONER TAPSCOTT: Okay. And
25 it's also true that you submitted a request for

1 routine maintenance and limited it to ten percent of
2 the replacement of the original material in April of
3 2014?

4 MR. SPINAZZOLA: I'm sure that's
5 correct.

6 COMMISSIONER TAPSCOTT: You keep
7 citing 3.1, but you actually -- you said, quote,
8 3.1, but you actually misquoted 3.1. Is it not
9 correct that Section 3.1 says that the front and
10 side facades are protected facades?

11 MR. SPINAZZOLA: That is what it says.

12 COMMISSIONER TAPSCOTT: That's not
13 what you read as a quote, though.

14 MR. SPINAZZOLA: It infers that if the
15 rear was a protected facade, it would --

16 COMMISSIONER TAPSCOTT: The question
17 is --

18 MR. SPINAZZOLA: -- (inaudible)
19 state --

20 COMMISSIONER TAPSCOTT: The question
21 is --

22 MR. SPINAZZOLA: -- as protected.

23 COMMISSIONER TAPSCOTT: -- is the
24 actual quote as 3.1, the front and side facades are
25 protected facades?

1 MR. SPINAZZOLA: Yes, it is, that --
2 that the front and sides are protected facades.

3 COMMISSIONER TAPSCOTT: Okay. Next,
4 is it also true that Section 3.6 says, and I quote,
5 wood siding, trim, detailing must be carefully
6 restored wherever practical. Historic materials
7 should be repaired. They should maybe be replaced
8 only when necessary. Badly deteriorated paint
9 should be removed in accordance with the Department
10 of Insurers Standards prior to refinishing. All
11 exposed wood must be painted, stained, or otherwise
12 protected. No resurfacing with vinyl or aluminum
13 siding or stucco is permitted on the main
14 structures, and imitation materials are allowed on
15 accessory structures only if they are keeping with
16 the style and materials of the main structure.

17 So what is confusing about that? It
18 says, Imitation materials are allowed only on
19 accessory structures.

20 MR. SPINAZZOLA: It's very easy to
21 understand. The key word there is wherever is
22 practical. In this particular case, it would have
23 been dangerous to not reframe the rear and the last
24 twenty-five percent walls of this house. It had to
25 be done. It was dangerous.

1 COMMISSIONER TAPSCOTT: But you also
2 failed to apply for a CA to do that work, did you
3 not?

4 MR. SPINAZZOLA: I quite
5 honestly didn't know that I --

6 COMMISSIONER TAPSCOTT: You failed to
7 apply for a CA to do that work?

8 MR. SPINAZZOLA: -- that I had to on
9 that.

10 COMMISSIONER TAPSCOTT: You failed to
11 apply for a CA to do that work?

12 MR. SPINAZZOLA: Yes. Yes.

13 COMMISSIONER TAPSCOTT: And if there's
14 any doubt about whether there's any doubt about what
15 is synthetic material for additions to primary
16 structures, Section 4.4 says, Vinyl, aluminum, and
17 other imitation materials are not acceptable
18 plating materials for the construction of a main --
19 new main structure or addition to an existing
20 historic structure. So if you read the ordinance in
21 its entirety, you basically understand that you
22 cannot use synthetic on this primary historic
23 structure?

24 MR. SPINAZZOLA: If you read the
25 ordinance in its entirety, it says that wherever

1 practical, we may use other materials that are of
2 the same like, kind, quality, texture, and module --

3 COMMISSIONER TAPSCOTT: And we --

4 MR. SPINAZZOLA: -- as much as
5 possible to keep historical significance
6 appropriate.

7 COMMISSIONER TAPSCOTT: And when you
8 read the Secretary of Interior Standards, which are
9 also bound into the City ordinance, it says that
10 deteriorating historic features shall be repaired
11 and replaced, et cetera, with existing like
12 material. I don't understand why you think that
13 Hardie plank is an acceptable like material to a
14 wood product.

15 MR. SPINAZZOLA: Why wouldn't there
16 be? There has been no argument, that I know of,
17 from anyone on this commission or the CPC commission
18 that that material isn't a quality material. Now,
19 it's -- it's a material, correct me if I'm wrong,
20 that you recommend on other structures that are not
21 in historical districts because it is a high-quality
22 material for exterior surfaces just like other
23 architects do all over this country, and this
24 material is purchased hundreds of thousands of
25 dollars today all over this country.

1 COMMISSIONER TAPSCOTT: And you have
2 just hit on the key to outside of historic
3 districts. Now, one other thing that you did today,
4 too, was you referenced several times the comments
5 of the CPC. You do realize that the CPC's role in
6 reviewing an appeal is limited to whether this
7 commission erred, not in retrying the case; is that
8 correct?

9 MR. SPINAZZOLA: I don't know all the
10 legalities of how the back and forth goes.

11 COMMISSIONER TAPSCOTT: Madam Chair, I
12 have no further questions of the Applicant, but I do
13 for Staff.

14 THE CHAIR: Thank you, Commissioner
15 Tapscott. Other questions, Commissioners?

16 COMMISSIONER BIRRER: I have one.

17 THE CHAIR: Commissioner Birrer?

18 COMMISSIONER BIRRER: Yeah. I just
19 want to try to see if I understand what your
20 argument is. So you've read and I believe -- well,
21 we just had it read into the record, you know, that
22 the -- that the front and the sides are protected
23 facades. Is it your position in this case that that
24 means that you can put whatever materials you want
25 to on the back of the house without any restriction

1 whatsoever?

2 MR. SPINAZZOLA: Absolutely not.

3 COMMISSIONER BIRRER: And --

4 MR. SPINAZZOLA: We did not take a
5 license to do any such thing or kind. What we did
6 do is, we replaced siding that was there that could
7 not be repurposed or put back up.

8 COMMISSIONER BIRRER: Right. Yeah. I
9 just wanted -- so -- so you would agree, then,
10 that -- and I'm just trying to figure out what your
11 position is. You would agree that even though the
12 back of the house is not, quote, unquote, a
13 protected facade, it is subject to other limitations
14 in the Landmark Commission rules concerning that
15 neighborhood, correct?

16 MR. SPINAZZOLA: Well, I'll answer
17 your question, Mr. -- is it Birrer?

18 COMMISSIONER BIRRER: Birrer.
19 (Inaudible).

20 MR. SPINAZZOLA: Birrer?

21 COMMISSIONER BIRRER: Yeah.

22 MR. SPINAZZOLA: I'll answer your
23 question this way: At the CPC meeting that we had
24 on the 7th, there was discussion for almost three
25 hours about the gray areas and the language of the

1 ordinance.

2 COMMISSIONER BIRRER: Yeah. And I'm
3 not asking what the CP -- I'm just wanting to know
4 what your position is here today.

5 MR. SPINAZZOLA: My -- my position was
6 that I thought I was doing a wise and purposeful
7 thing to replace that siding. We replaced it with a
8 quality product that no one has to date, that I know
9 of, on this commission or any other, said that one
10 looks any different than the other.

11 COMMISSIONER BIRRER: Right. I just
12 wanted to see -- I mean, Mr. -- Commissioner
13 Tapscott read into the record that, you know,
14 there -- there are provisions on protecting facades,
15 but then there are other provisions that concern the
16 whole building for a contributing structure, and you
17 would agree that the provisions that Commissioner
18 Tapscott read into the record, those would apply to
19 the back of the building, also, correct?

20 MR. SPINAZZOLA: No, that's incorrect
21 because the first item in 3 -- Section 3 states that
22 only the front and sides are protected facades. If
23 the rear was to be protected, it would also state
24 such, and it would be incomprehensible for anybody
25 to think otherwise because it's simply not written

1 that way.

2 COMMISSIONER BIRRER: But -- I guess
3 that goes to my original question, which is -- so
4 are you taking the position that under your reading
5 of the -- of the -- the rules and -- that apply to
6 this house, is it your position that the rear facade
7 has no protections whatsoever?

8 MR. SPINAZZOLA: Yes, it is. And if I
9 may try to quote, I believe that Ms. Parsons, last
10 time we were all together, stated that she's a
11 member of this community. She lives there. She
12 sells insurance from there, and she feels as though
13 the reason it was written -- the way it was written
14 is because there wasn't allowance to not have to do
15 what you have to do on the front and the sides to
16 the rear, and that's what the people wrote or why
17 they wrote the ordinance the way they did because
18 they wanted the concentration and the money and
19 efforts to be spent on the front and sides where
20 people see the front and sides. The rear is less
21 important because you can't see the rear, but that's
22 not the case here.

23 I haven't taken a license to put any
24 kind of siding I want to on the rear. There's -- I
25 could have put Karbach (phonetic) siding on the

1 rear. I could have put any kind of siding on the
2 rear. I didn't do that. What I did was, I put a
3 quality siding that looks, feels, touch -- by touch,
4 and in all aspects exactly the same as the siding
5 that's on the front and the sides. And I need to
6 make one point as a matter of record. What Jennifer
7 stated is incorrect. I did not come in to see her
8 with my assistant, Liz, and talk to her, period,
9 about any -- any Hardie board ever. We didn't have
10 a discussion about Hardie board ever until there was
11 a notification that we were in violation, and that's
12 a matter of record.

13 UNIDENTIFIED FEMALE: That -- that is
14 incorrect. I had a -- I had --

15 MR. SPINAZZOLA: No, you are
16 incorrect, Jennifer.

17 UNIDENTIFIED FEMALE: Excuse me. I
18 had a conversation with --

19 MR. SPINAZZOLA: I cannot believe
20 you're lying to me --

21 UNIDENTIFIED FEMALE: I am not lying.

22 MR. SPINAZZOLA: -- and to this group.

23 UNIDENTIFIED FEMALE: I had a -- I had
24 a conversation with you and Liz for twenty minutes
25 about Hardie board and synthetic siding and

1 explained to you why it's not allowed, and you kept
2 saying, But it's a quality material. I use it in
3 other areas.

4 MR. SPINAZZOLA: That did not happen.

5 UNIDENTIFIED FEMALE: Well, I'm --
6 I'm -- I -- I'm sorry you don't remember that, but I
7 do because --

8 MR. SPINAZZOLA: I'm sorry that you
9 don't remember that did not happen.

10 UNIDENTIFIED FEMALE: Excuse me.

11 MR. SPINAZZOLA: And I feel
12 (inaudible) here by this.

13 UNIDENTIFIED FEMALE: Excuse me, but I
14 make very clear notes, and I have notes regarding
15 that meeting.

16 THE CHAIR: Okay. I'm going to call
17 to order.

18 COMMISSIONER JOHNSON: Request to call
19 to order.

20 THE CHAIR: Yes. Thank you,
21 Commissioner Johnson. Commissioner Maten?

22 COMMISSIONER MATEN: Yeah. Mr. --
23 what is it? Spinazzola. I'm sorry.

24 MR. SPINAZZOLA: Yes, sir.

25 COMMISSIONER MATEN: Do you think

1 being belligerent today is going to be -- is going
2 to be a winning strategy?

3 MR. SPINAZZOLA: My -- my intent is
4 not to be belligerent.

5 COMMISSIONER MATEN: Well, it may not
6 have been your intent, but that's what you're coming
7 across as. So I think you ought to just cool --
8 cool the rhetoric and stop arguing with people.

9 THE CHAIR: Thank you, Commissioner
10 Maten. Commissioner Flabiano?

11 COMMISSIONER FLABIANO: Yeah. I'd
12 just like to note that I've been on the commission
13 now eight years, and -- and I don't believe that we
14 have approved Hardie plank siding on any facade,
15 including the rear, and the only place that we've
16 approved it is at the waterline or freeze line of
17 the structure. That's -- that's where we've
18 approved it. It's in the written record of all of
19 our -- on all of our CA's. And right now, I'm not
20 sure if there's -- and you can check with Hardie --
21 James Hardie to see if there's any historic
22 districts in the -- in the -- I know Savannah
23 doesn't. Tacoma. There's others that do not allow
24 Hardie plank. That's on the record as well because
25 they can't match the profile, and it is not in

1 keeping with the spirit of -- of historic overlay
2 districts that you utilize wood material.

3 And I don't think this commission is
4 willing to set precedent across -- you know, not
5 only for here but anywhere else that we accept it.
6 It's just not -- we haven't approved it. So -- and
7 we're not being belligerent. I mean, we -- we agree
8 it's a quality product. It's just not a quality
9 product that's approved in historic districts.
10 That's all.

11 MR. SPINAZZOLA: And -- and may I
12 comment?

13 COMMISSIONER FLABIANO: Sure.

14 MR. SPINAZZOLA: Thank you. And I
15 don't disagree at all with your remark about that,
16 Mr. Fab -- Fabiano (sic). I agree with your comment
17 about that. The only point -- the only point that's
18 worth making here is that I and every other person
19 in that neighborhood today is exempt from that only
20 because the letter of the law in the ordinance is
21 written the way it's written. That's the only
22 reason that we are exempt. It's not that it is or
23 it isn't. It's just the way it's written. And
24 if -- if -- if part of what happens today is to
25 happen because the Landmark Commission as a whole is

1 charged with upholding what's written as it's
2 written today, that I -- I only ask that if an
3 allowance can be made humbly, that that's the only
4 reason that it's made. Not for any other reason.

5 THE CHAIR: Thank you. I think
6 we've -- you've made your point, I think. I
7 appreciate it. For me, I will not be in support of
8 allowing the Hardie board to remain on the rear
9 facade. To me, it's very clear what our ordinance
10 states and the reason why it's not allowed in any of
11 our Dallas Historic Districts, Hardie board, that
12 is, or any historic districts that I'm aware of --
13 although, I think there are instances on accessory
14 structures and the bottom to six inches of -- on
15 skirting, historic districts have allowed it. But
16 the reason, Mr. Spinazzola, is that these are
17 crafted -- these neighborhoods are crafted -- made
18 of crafted materials, and Hardie board -- to allow a
19 material as a primary material on a facade, such as
20 Hardie board, is -- opens the door for facsimile
21 preservation, and that is something that every
22 single ordinance that we have in Dallas Historic
23 District-wise addresses and is clear about, and it's
24 often referred to as sort of the Disneyification of
25 our -- of our buildings. So that is the reason why

1 I'm not supportive.

2 I don't -- it's not -- it's very clear
3 to me -- the ordinance is very clear. I think that
4 we got it right the first time, and I'll be
5 supporting the motion that we originally made.
6 Commissioner Sherman?

7 COMMISSIONER SHERMAN: If there's no
8 further discussion, I have a motion.

9 THE CHAIR: Commissioner Tapscott?

10 COMMISSIONER TAPSCOTT: I would like
11 to ask -- I'm going to cut my questions to Staff to
12 one because Mr. Spinazzola has referenced 3.1
13 several times, but is -- and I will point out to the
14 other commissioners that don't know, I have been on
15 the designation committee for this commission now
16 for seventeen years, which seems impossible, but the
17 reason that the rear facade on almost every historic
18 building and district is not a protected facade is
19 that we, as a designation committee and as a
20 commission, recognize that houses are not museums.
21 They need to alter, they need to modify, they need
22 to expand, and they need to grow with -- with the
23 environment, and, therefore, is there any case that
24 you can think of where we have protected every
25 facade in a residential district rather than we

1 leave only the rear facade for additions,
2 modifications to reflect current lifestyle; is that
3 not correct?

4 THE CHAIR: Yes.

5 COMMISSIONER TAPSCOTT: Thank you.

6 COMMISSIONER BIRRER: I have a
7 question.

8 THE CHAIR: Commissioner Birrer?

9 COMMISSIONER BIRRER: If I could ask a
10 question of Counsel. When -- when the -- when
11 the -- when the Plan Commission remanded this back
12 to the Landmark Commission, what -- what question
13 was remanded back to us?

14 UNIDENTIFIED FEMALE: I mean,
15 technically, they just remanded the issue of the
16 rear facade and whether or not Hardie board would be
17 allowed on the entirety of the rear facade.

18 COMMISSIONER BIRRER: But did the --

19 UNIDENTIFIED FEMALE: I mean, there
20 was -- there was discussion at the appeal about what
21 does it mean to be a non-protected facade, and I had
22 explained to them that some of the criteria in the
23 ordinance calls out protected facades specifically,
24 non-protected facades specifically, but 3.6 does --
25 does not call out either one. So the interpretation

1 has always been that that provision applies to all
2 facades.

3 COMMISSIONER BIRRER: Right.
4 Because -- because on a protected facade -- for
5 instance, when -- earlier today when we were talking
6 about putting in a light fixture, and we were
7 talking about, like, just removing, like, one brick
8 or a small bit of brick, that was problematic on a
9 protected facade but wouldn't be as problematic on
10 an unprotected facade, correct?

11 UNIDENTIFIED FEMALE: I think that
12 depends on the historic district and what the
13 criteria say.

14 COMMISSIONER BIRRER: So, I guess --

15 UNIDENTIFIED FEMALE: Probably --

16 COMMISSIONER BIRRER: What does it --
17 I'm just trying to figure out what -- what does it
18 mean when you say something is a protected facade?

19 UNIDENTIFIED FEMALE: The --

20 COMMISSIONER BIRRER: What does that
21 mean because I'm trying to --

22 UNIDENTIFIED FEMALE: I think those
23 are just --

24 COMMISSIONER BIRRER: We've always --
25 we've always made -- because clearly in the rear of

1 the house, we've -- we've allowed -- you know, you
2 can put a patio back there. You can -- we've
3 allowed trellises or just different things in the
4 back where it's been treated differently, but --

5 UNIDENTIFIED FEMALE: And that depends
6 on the criteria. You'll see the -- you know,
7 when -- when going through this criteria, like, 3.3
8 calls out specifically non-protected facades and
9 what's required there; others specifically call out
10 protected facades. Those are just labels. And then
11 you have to read the criteria to see, with each
12 provision, does it apply to protected? Does it
13 apply to non-protected --

14 COMMISSIONER BIRRER: Okay.

15 UNIDENTIFIED FEMALE: -- or does it
16 not specify, which, in that case, we think it
17 applies to all facades.

18 COMMISSIONER BIRRER: And so -- and
19 3.6 does not specify?

20 UNIDENTIFIED FEMALE: It does not
21 specify.

22 COMMISSIONER BIRRER: Okay. And so --
23 so the -- the Plan Commission, they did not make a
24 determination -- I mean -- so other than saying,
25 Send it back to the Landmark Commission, the Plan

1 Commission didn't make any sort of interpreted
2 decision on what can or cannot take place in the
3 back?

4 UNIDENTIFIED FEMALE: They are not
5 supposed to substitute their judgment for yours.

6 COMMISSIONER BIRRER: Okay.

7 UNIDENTIFIED FEMALE: They can remand,
8 affirm, reverse. But there -- there was discussion
9 about that, but they don't make a determination on
10 that. That's your job.

11 COMMISSIONER BIRRER: Okay.

12 THE CHAIR: Thank you, Commissioner
13 Birrer. Commissioner Parsons?

14 COMMISSIONER PARSONS: I'm relatively
15 new to this commission, and I know that this
16 particular case has been going on much longer than
17 since I've been on here, and I see a lot of emotions
18 coming out in people I -- I had never seen before.
19 So I do think that because you're -- many people
20 have been on here many, many years that
21 interpretation of these ordinances may seem easy or
22 may seem, you know, very intuitive, but to a person
23 that this isn't what they do on a monthly basis, it
24 is very confusing.

25 You know, I understand not getting a

1 CA before the work is done is not a good way of
2 doing things. I'm not condoning that at all, but I
3 do see Mr. Spinazzola is -- I understand where he's
4 coming from with -- with the ordinances not being as
5 clear to a layperson as -- as it is to many of you,
6 so I do hope that maybe you guys keep that in mind
7 when -- when dealing with the common people and
8 interpreting these ordinances, especially in Peak's
9 Addition. I think that it's probably the most fair,
10 that I'm aware of, and so hopefully -- hopefully,
11 maybe we can change it in the future so that it is
12 easier to interpret and understand. Because what
13 Mr. -- or Commissioner Tapscott's explanation of the
14 rear being only for extensions and growth, that
15 makes a lot of sense, but that isn't in the
16 ordinance. So I don't know. I just hope that
17 everyone keeps that in mind.

18 THE CHAIR: Thank you, Commissioner
19 Parsons. Okay, Commissioners. Commissioner
20 Sherman?

21 COMMISSIONER SHERMAN: Somewhat of a
22 compromise that might be palatable. I don't know.
23 I'll throw it out there and see how you feel about
24 it. With respect to Discussion Item 7, 4716 Junius
25 Street in the Peak Suburban District,

1 CA-156-087(JKA), I move that we deny, per Staff
2 recommendation, but approve the use of Hardie below
3 the drippage as shown in the rear --

4 UNIDENTIFIED FEMALE: Madam Chair,
5 that --

6 UNIDENTIFIED MALE: Commissioner --

7 UNIDENTIFIED FEMALE: -- that's
8 already been approved.

9 COMMISSIONER SHERMAN: That's already
10 been approved?

11 UNIDENTIFIED FEMALE: Uh-huh.

12 COMMISSIONER SHERMAN: Okay.

13 UNIDENTIFIED FEMALE: Yeah. What's
14 been approved is --

15 COMMISSIONER SHERMAN: So that
16 doesn't --

17 UNIDENTIFIED FEMALE: -- Hardie board
18 up to the drip line.

19 COMMISSIONER SHERMAN: Okay.

20 UNIDENTIFIED FEMALE: Yeah.

21 COMMISSIONER SHERMAN: All right.

22 Then let the motion be that -- that we deny, per
23 Staff recommendation, and as read into the record.

24 COMMISSIONER TAPSCOTT: Second.

25 THE CHAIR: Thank you, Commissioner

1 Sherman, for the motion to deny following Staff
2 recommendation, and thank you, Commissioner
3 Tapscott.

4 COMMISSIONER TAPSCOTT: And can I ask
5 the maker to --

6 THE CHAIR: For the second.

7 COMMISSIONER TAPSCOTT: -- also add
8 two citations, that Section 3.6 cites -- Section 3.6
9 and note that it specifically does not recognize the
10 distinction between protected and non-protected
11 facades, and the second citation would be the
12 Secretary of Interior Standard No. 2.

13 THE CHAIR: I accept. Okay.
14 Number 2? Thank you for the friendly amendments.
15 Any discussion, Commissioners? No? We'll call
16 for -- oh, Commissioner Birrer?

17 COMMISSIONER BIRRER: Yeah. I just
18 want -- since -- I mean, this may be going back to
19 the Plan Commission. I just want to at least put on
20 record the way I read 3 point -- it is -- the way I
21 read 3.6 is that based on the wording, it would
22 include the back facade within the restrictions set
23 forth in 3.6.

24 THE CHAIR: Thank you, Commissioner
25 Birrer. I think that's important.

1 COMMISSIONER JOHNSON: Chair, may I --

2 THE CHAIR: Commissioner Johnson?

3 COMMISSIONER JOHNSON: May -- I would
4 like to reiterate what my learned colleague
5 Commissioner Birrer just stated, that 3.6, the only
6 logical way to read it with what -- that it applied
7 to the entire structure. It does not omit the,
8 quote, unquote, protected facades. Thank you.

9 THE CHAIR: Thank you, Commissioner
10 Johnson.

11 COMMISSIONER BIRRER: Yeah. Could I
12 ask for a friendly amendment to add to the motion,
13 that the Landmark Commission considers Section 3.6
14 is including the back facade?

15 THE CHAIR: So -- thank you,
16 Commissioner Birrer, for making it official. All of
17 those in favor of the motion, please say aye.

18 COMMISSIONER AMONETT: Aye.

19 COMMISSIONER BIRRER: Aye.

20 COMMISSIONER BOWERS: Aye.

21 COMMISSIONER JOHNSON: Aye.

22 COMMISSIONER FLABIANO: Aye.

23 COMMISSIONER GADBERRY: Aye.

24 COMMISSIONER MATEN: Aye.

25 COMMISSIONER PARSONS: Aye.

1 COMMISSIONER SEALE: Aye.

2 COMMISSIONER SHERMAN: Aye.

3 COMMISSIONER TAPSCOTT: Aye.

4 COMMISSIONER TATE: Aye.

5 COMMISSIONER WILLIAMS: Aye.

6 THE CHAIR: Aye. Any opposed? Okay.

7 Motion carries unanimously. Thank you,

8 Mr. Spinazzola.

9 MR. SPINAZZOLA: Thank you.

10 UNIDENTIFIED MALE: You've got thirty
11 days --

12 THE CHAIR: Can you appeal -- okay.
13 Yeah. And you do have thirty days to appeal our
14 decision to the City Plan Commission.

15 (End of Proceedings.)

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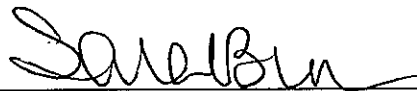
REPORTER'S CERTIFICATE

I, Sarah Bina, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the foregoing pages is a transcription of the proceedings of the Landmark Commission Public Hearing in the above-entitled matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this Landmark Commission Public Hearing was taken, and further that I am not financially or otherwise interested in the outcome of the action.

I further certify that the transcription fee of \$ _____ and was paid in full by _____.

GIVEN UNDER MY HAND on this the 31st day of May, 2016.



SARAH BINA, CSR #8075
Certified Shorthand Reporter
In and for the State of Texas
All-American Reporting
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Denton, Texas 76202
(972) 219-5161
(940) 320-1992
Tlcandaa@aol.com

My commission expires: 12/31/17

SECTION 6

Peak's Suburban Addition Neighborhood Historic District Ordinance

3-8-95

ORDINANCE NO. 22352

An ordinance amending CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, by establishing Historic Overlay District No 72 (Peak Suburban Addition) comprised of the following described property ("the Property"), to wit:

BEING an area generally bounded by Haskell Avenue, Gaston Avenue, Peak Street, Sycamore Street, Fitzhugh Avenue, and Worth Street, and containing approximately 125 acres of land.

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

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

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

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

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

SECTION 1. That CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Historic

Overlay District No. 72 comprised of the following described property ("the Property"),

to wit:

Being a tract of land in the John Grigsby Survey, Abstract No. 495, in the City of Dallas, Dallas County, Texas, being all of City Block 3/791, part of City Block 6/774, all of City Blocks 8/768, 1/769, and 2/769, part of City Blocks 9/739, 9/738, 736 and 2/735, all of City Blocks 737 and 1/737, part of City Blocks 2/735, 12/734, 11/733, and 10/732, all of City Blocks A/770, B/770, C/770, D/770, 770, 771, 1/771, 772, 773, and 794, part of City Blocks A/795 and B/795, and all of City Blocks 793 and 4/792, and further described as follows:

BEGINNING at the intersection of the centerline of Haskell Avenue and the centerline of Worth Street;

THENCE in a northwesterly direction along the centerline of Haskell Avenue, crossing Junius Street, a distance of approximately 650 feet to a point for corner on a line, said line being approximately 172 feet northwest of and parallel to the northwest line of Junius Street;

THENCE in a northeasterly direction along said line, a distance of approximately 607 feet to a point for corner on a line, said line being approximately 90 feet southwest of and parallel to the southwest line of Peak Street;

THENCE in a southeasterly direction along said line, a distance of approximately 50 feet to a point for corner on a line, said line being 122.83 feet northwest of and parallel to the northwest line of Junius Street;

THENCE in a northeasterly direction along said line, a distance of approximately 122 feet to a point for corner on the centerline of Peak Street;

THENCE in a northwesterly direction along the centerline of Peak Street, a distance of approximately 1,086.5 feet to a point for corner on a line, said line being approximately 175 feet northwest of and parallel to the northwest line of Swiss Avenue;

THENCE in a northeasterly direction along said line, a distance of approximately 311 feet to a point for corner on the northeast line of Lot 2-C in City Block 9/739;

THENCE in a northwesterly direction along said lot line and its northwestward prolongation, a distance of approximately 150 feet to a point for corner on the centerline of Sycamore Street;

THENCE in a southwesterly direction along the centerline of Sycamore Street, a distance of approximately 30 feet to a point for corner on a line, said line being the southeastward prolongation of the common line between Lots 21 and 22 in City Block 9/738;

THENCE in a northwesterly direction along said line and continuing along the common line between said Lots 21 and 22 and its northwestward prolongation, a distance of approximately 182.5 feet to a point for corner on the centerline of a 15 foot wide public alley;

THENCE in a northeasterly direction along the centerline of said alley and its northeastward prolongation, crossing Carroll Avenue, and continuing along a line that is approximately 160 feet northwest of and parallel to the northwest line of Sycamore Street, crossing Annex Avenue, Grigsby Avenue, and North Prairie Avenue, in all a distance of approximately 2,236.8 feet to a point for corner on the centerline of Fitzhugh Avenue;

THENCE in a southeasterly direction along the centerline of Fitzhugh Avenue, crossing Sycamore Street, Swiss Avenue, Gaston Avenue, Junius Street, and Worth Street, a distance of approximately 2,126.3 feet to a point for corner on the centerline of a 12.5 foot wide public alley;

THENCE in a southwesterly direction along the centerline of said alley and its southwestward prolongation, crossing Prairie Avenue, and continuing along the centerline of a 20 foot wide public alley in City Block B/795, a distance of approximately 959 feet to a point for corner on a line, said line being the southeastward prolongation of the common line between Lots 5 and 6 in City Block B/795;

THENCE in a northwesterly direction along said line, and continuing along the common line between said Lots 5 and 6 and its northwestward prolongation, a distance of approximately 185 feet to a point for corner on the centerline of Worth Street;

THENCE in a southwesterly direction along the centerline of Worth Street, a distance of approximately 825 feet to a point for corner on the centerline of Carroll Avenue;

THENCE in a southeasterly direction along the centerline of Carroll Avenue, a distance of approximately 91 feet to a point for corner on the centerline of Worth Street;

THENCE in a southwesterly direction along the centerline of Worth Street, a distance of approximately 1,448.55 feet to a point on the centerline of Haskell Avenue, the PLACE OF BEGINNING, and containing approximately 125 acres of land.

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

regulations contained in this ordinance control over the regulations of the underlying zoning district.

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

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

SECTION 5. That the director of planning and development shall correct Zoning District Map Nos. I-8 and J-8 in the offices of the city secretary, the building official, and the department of planning and development to reflect the changes in zoning made by this ordinance.

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

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

SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER I 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:

SAM A. LINDSAY, City Attorney

By *John Rogers*
Assistant City Attorney

Passed _____

Zoning File No. Z945-149/9779-E

EXHIBIT A
PRESERVATION CRITERIA
PEAK SUBURBAN ADDITION

Except as otherwise provided in these Preservation Criteria, all public and private right-of-way improvements, renovation, repairs, demolition, maintenance, site work and new construction in this district shall conform to the following guidelines and a certificate of appropriateness must be obtained for such work prior to its commencement.

Except as otherwise provided in these Preservation Criteria, any such alterations to the property must conform to the regulations contained in CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE" of the Dallas City Code, as amended. In the event of a conflict, these Preservation Criteria control.

Unless otherwise specified, preservation and restoration materials and methods used shall conform to those defined in the Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

1. DEFINITIONS

Unless provided below or the context clearly indicates otherwise, the definitions contained in Sections 51A-2.102 and 51A-7.102 of the Dallas City Code, as amended, apply.

- 1.1 **ADDITION** means an enclosed floor area added to a main structure.
- 1.2 **CERTIFICATE OF APPROPRIATENESS** means a certificate issued by the city in accordance with Section 51A-4.501 of the Dallas City Code, as amended, to authorize the alteration of the physical character of real property in the district or any portion of the exterior of a structure in the district, or the placement, construction, maintenance, expansion, or removal of any structure in or from the district.
- 1.3 **COLUMN** means the entire column including the base and capital, if any.
- 1.4 **COMMISSION** means the Landmark Commission of the City of Dallas.
- 1.5 **CORNERSIDE FACADE** means a building facade facing a side street.
- 1.6 **CORNERSIDE YARD** means a side yard that abuts a street.

- 1.7 **DIRECTOR** means the director of the Department of Planning and Development or that person's representative.
- 1.8 **DISTRICT** means the Peak Suburban Addition Historic Overlay District. This district contains the property described in Section 1 of this ordinance.
- 1.9 **ERECT** means to build, attach, hang, place, suspend, fasten, fix, maintain, paint, draw or otherwise construct.
- 1.10 **GASTON COMMERCIAL TRACT** means two tracts located on Gaston Avenue, as described in Addendum A where commercial or residential structures may be located.
- 1.11 **FENCE** means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 1.12 **INTERIOR SIDE YARD** means a side yard that is not a cornerside yard.
- 1.13 **MAIN BUILDING** means a building on a lot intended for occupancy by the main use.
- 1.14 **PRESERVATION CRITERIA** means the standards considered by the director and commission in determining whether a certificate of appropriateness should be granted or denied.
- 1.15 **PROTECTED FACADE** means a facade that must maintain its original appearance, as near as practical, in all aspects.
- 1.16 **REAL ESTATE SIGN** means a sign that advertises the sale or lease of an interest in real property.

2. SITE AND SITE ELEMENTS

- 2.1 New construction is prohibited in all front yards within the district, except for parking in the Gaston Commercial Tract.
- 2.2 The existing original and historic structures must be retained and protected.
- 2.3 New sidewalks, walkways, steps, and driveways must be of brush finish concrete, brick, stone, or other material deemed appropriate. No exposed aggregate, artificial grass, carpet, asphalt or artificially-colored monolithic concrete paving is permitted.
- 2.4 No new circular drives or new parking is allowed in front yards. Parking is allowed in front of structures in the Gaston Commercial Tract.

- 2.5 Exterior lighting must be appropriate to and enhance the structure.
- 2.6 Landscaping must be appropriate and compatible, must enhance the structure and surroundings, and must not obscure significant views of or from the main building. It is recommended that landscaping modifications reflect the original historic landscaping design when appropriate.
- 2.7 Any new mechanical equipment must be erected in side or rear yards and must be screened from the street.
- 2.8 Existing mature trees in the front yard must be maintained. Unhealthy or damaged trees may be removed if deemed appropriate.
- 2.9 Fences in the rear yard and rear 50% of the side yard may not exceed 9 feet in height. (See Addendum B)
- 2.10 Historically appropriate fences are permitted in the front yard and must be constructed of one or more of the following materials: wood, stone, brick, wrought iron, a combination of those materials, or other materials deemed appropriate. These fences may not exceed 3'6" in height and must be 50% open (See Addendum B).
- 2.11 Interior side yard fences must be located in the rear 50% of the side facade. Interior side yard fences must be located behind the open front porch of an adjacent house. The fence at the side property line may be a solid fence. The portion of the fence facing the main street must be at least 70% open. Chain link fences do not qualify as a "70% open fence". (See Addendum B.)
 - a. The commission may, if it determines more screening is necessary to ensure privacy, allow interior side yard fences to be located up to a point 5 feet back from the corner of the house measured from the back wall of the front porch, provided that these fences may not exceed 8 feet in height. (See Addendum B.)
- 2.12 Solid fences in cornerside yards must not be located directly in front of the cornerside facade except that the commission may allow a solid fence directly in front of any portion of the rear 50% of the cornerside facade if:
 - a. more screening is necessary to insure privacy due to unusually high pedestrian or vehicular traffic; and
 - b. the fence does not screen any portion of a significant architectural feature of a main structure.

Fences in cornerside yards that are at least 70% open, up to maximum height of 8 feet, may be located in the front 50% of the cornerside facade if deemed appropriate. Chain link fences do not qualify as a "70% open fence". These fences must be constructed of materials with dimensions no greater than two inches in width and depth, except for structural supports (See Addendum B).

- 2.13 Fences in side, rear or cornerside yards must be constructed of one or more of the following materials: wood, brick, stone, wrought iron, chain link (as noted below), a combination of these materials, or other materials deemed appropriate. Fence locations are illustrated in Addendum B.

Chain link fences are not allowed in the front yard or front 50% of the side yard, or the front 50% of the cornerside yard.

The fences that are required to be 70% open should be of wrought iron, wood that resembles wrought iron, or historic wire fences. Chain link fences do not qualify as a "70% open fence". Recommended fence designs are shown in Addendum B.

- 2.14 Tops of fences must be horizontal, stepped or parallel to grade as illustrated in Addendum B.
- 2.15 The finished side of a fence must face out if seen from any street as illustrated in Addendum B.

3. STRUCTURE

Facades

- 3.1 The front and side facades are protected facades.
- 3.2 Reconstruction, renovation or repair of the opaque elements of the protected facades must employ materials similar to the original materials in texture, color, pattern, grain and module size as much as practical.
- 3.3 The existing solid-to-void ratios of non-protected facades must be maintained as much as practical. All additions and alterations must be architecturally sensitive and appropriate to the overall design of the existing structure.
- 3.4 Brick must match in color, texture, module size, bond pattern and mortar color. Brick surfaces not previously painted may not be painted unless the applicant establishes that:
- a. the color and texture of replacement brick cannot be matched with that of the existing brick surface;

- b. the brick is not original or compatible with the style and period of the main building and the district; or
 - c. the brick has been damaged or painting is the only method by which the brick can be salvaged.
- 3.5 Stone, cast stone, and concrete elements must be renovated or repaired only with materials similar in size, grain, texture, and color to the original materials.
- 3.6 Wood siding, trim, and detailing must be carefully restored wherever practical. Historic materials should be repaired; they may be replaced only when necessary. Badly deteriorated paint should be removed in accordance with the Department of Interior standards prior to refinishing. All exposed wood must be painted, stained, or otherwise protected. No resurfacing with vinyl or aluminum siding or stucco is permitted on main structures. Imitation materials are allowed on accessory structures only if they are in keeping with the style and materials on the main structure.
- 3.7 Color: All colors must comply with the Acceptable Color Range Standards contained in Addendum C, except that the Landmark Commission may approve other colors not specifically prohibited if it determines the proposed color is appropriate. Fluorescent and metallic colors are not permitted on the exterior of any structure in this district. (See Addendum C).
- Dominant and trim colors: All structures must have a dominant color and no more than three trim colors, including any accent colors. Proper location of dominant, trim and accent colors is shown in Addendum D. The colors of a structure must be complementary to each other and the overall character of this district. Complimenting color schemes are encouraged through the blockface. Columns should be painted white or a light color.
- 3.8 Exposing and restoring original historic finish materials is encouraged.
- 3.9 Exterior cleaning must be accomplished in accordance with Department of Interior standards. No sandblasting or other mechanical abrasive cleaning processes are permitted.

Fenestration and Openings

- 3.10 Original doors and windows and their openings must remain intact and be preserved. Where replacement of an original door or window is necessary due to damage or structural deterioration, replacement doors and windows must express mullion size, light configuration, and material to match the original doors and windows. Replacement of windows and doors which have been altered and no longer match the historic appearance is strongly recommended.

Exterior storm windows and doors are permitted if they are sensitive additions and match the existing windows and doors in frame width and proportion, glazing material, and color. Painted or factory finished aluminum storm doors, storm windows or screens are permitted. Mill finished aluminum is not permitted.

- 3.11 New door and window openings on the front and comerside facade are permitted only in locations where there is evidence that original openings have been filled with other material.
- 3.12 Decorative ironwork or burglar bars are permitted on rear facades. Interior mounted burglar bars are permitted on protected facades.
- 3.13 Glass and glazing must match original materials as much as practical. Dark tinted, reflective glazing or reflective film is not permitted.
- 3.14 Materials placed on or behind window glazing must be appropriate to the district.
- 3.15 The Department of the Interior standards should be referred to for acceptable techniques to improve the energy efficiency of historic fenestrations.

Roofs

- 3.16 The slope, massing, configuration and materials of the roof must be preserved and maintained. Original gables, dormers, porches, and roofs must be preserved. Existing parapets, cornices and coping eaves, roof trim and dormers must be retained and when repaired, should be done so with material matching in size, finish, module and color.
- 3.17 The following roofing materials are allowed: wood shingles, composition shingles, slate, clay, concrete, terra-cotta tiles, and other materials deemed appropriate.
- 3.18 Solar panels, skylights, and mechanical equipment must be set back or screened so as not to be visible from ground level on the opposite side of any adjacent right-of-way.

Porches and balconies

- 3.19 Existing original porches and balconies on protected facades must be retained and preserved. Porches may not be enclosed on protected facades.
- 3.20 All original columns, railings, and other trim and detailing that are part of the porch or balcony configuration must be preserved.

- 3.21 It is encouraged that existing enclosed porches on protected facades be restored to their original appearance.
- 3.22 Front porch floor finishes must be concrete, wood or other materials deemed appropriate. Porch floors may not be covered with carpet. Wood floors must be painted or stained. Concrete, brick or stone floors may not be painted. A clear sealant is acceptable.
- 4. NEW CONSTRUCTION AND ADDITIONS**
- 4.1 The form, materials, general exterior appearance, color and details of any new construction of an accessory building or vertical extension to an existing structure must be compatible with the existing historic structure.
- 4.2 New construction, additions to historic structures; accessory buildings, porches, and balconies must be of appropriate massing, roof form, shape, materials, detailing and color, and must have fenestration patterns and solids-to-voids ratios that are typical of the historic structure.
- 4.3 The height of new construction, accessory buildings, or vertical or horizontal additions to existing non-protected structures or facades may not exceed the height of similar historic structures in this district.
- 4.4 Vinyl, aluminum, and other imitation materials are not acceptable cladding materials for the construction of a new main structure or addition to an existing historic structure.
- 4.5 Chimneys visible from the public right-of-way must be clad in brick or stucco. Imitation brick will be reviewed through the certificate of appropriateness process.
- 4.6 Width requirements: The width of a front facade of a new single family residence must not:
- a. exceed 42 feet; or
 - b. be more than 20 percent greater than the average width of single family dwellings on the blockface.
- 4.7 New construction and connections between new and existing construction must be designed so that they are clearly discernible from the existing historic structures as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new and existing construction must be established and maintained.

Historic details at parapets and coping must be preserved and maintained where abutting new construction.

4.8 Front yard setback:

- a. A main building on an interior lot must have a front yard setback that is equal to the average setback of other structures in the blockface.
- b. A main building on a corner lot must have a front yard setback that is within one foot of that of the closest main building in the same blockface.

4.9 Front, rear, side, and comerside yards are illustrated in attached Addendum E.

5. **GASTON COMMERCIAL TRACT**

5.1 In addition to residential structures, early 20th century commercial styles are allowed as illustrated in Addendum F and as described in this section. If there is a conflict, these regulations control over the architectural guidelines contained in Planned Development District No. 362, as amended (commonly called the Gaston PD).

5.2 Stories: All structures must have one or two stories, not to exceed 30 feet.

5.3 All structures must be constructed of brick or stucco with wood trim.

5.4 Windows: All windows must be wood or resemble wood in appearance.

- a. First-floor store fronts must be divided into two, three, or four bays as illustrated in Addendum F. At least 60% of the area of the first floor store front must consist of either window or door area. Transom windows must be above all first floor windows and doors.
- b. Second-floor store front windows must have a double or single hung sash. At least 35% of the area of the second-floor store front must consist of window area.
- c. Mirrored, opaque, and translucent glasses are not permitted in any door or window opening.

5.5 Panels: Panels less than three feet in height must be placed below all first floor windows. Panels must be made of wood, brick, tile or other material deemed appropriate.

5.6 Doors: Each front door must be composed of wood or other material deemed appropriate and have at least one large full-view window.

- 5.7 **Roofs:** All roofs must be flat or hidden by parapets. Tile visor roofs are encouraged.
- 5.8 **Story setbacks:** No story may be setback from another story. (The wall facing the street must be vertical.)
- 5.9 **Equipment screening:** All rooftop mechanical equipment seen from the street must be screened with a parapet.
- 5.10 **Parking:** Single row parking does not need to be screened, double row parking must be screened by landscaping. Parking will be allowed in front of structures.
- 5.11 **Brick and/or tile accents in the pavement in front of entrances are encouraged.**
- 5.12 **There are no minimum side yard setbacks required except that properties with cornerside yards must have a minimum 5-foot setback. Front yard setbacks must comply with the average setback of existing historic buildings on the street. There are no minimum lot sizes or coverage in this tract.**

6. ACCESSORY BUILDINGS

- 6.1 **Accessory buildings are permitted only in the rear yard.**
- 6.2 **Accessory buildings must be compatible with the scale, shape, roof form, materials, detailing, and color of the main building.**
- 6.3 **Accessory buildings must be at least 8 feet from the main building.**
- 6.4 **Accessory buildings may not exceed 1,200 square feet in floor area, unless documentation shows that an original building exceeding this size was previously on the building site.**
- 6.5 **Accessory buildings may have garage doors located at the established rear yard setback from the alley if electric garage door openers are installed.**
- 6.6 **The minimum rear yard setback for accessory structures is 2'6", with a 1'6" roof overhang encroachment permitted.**
- 6.7 **The minimum side yard setback for accessory structures is 3 feet, with a 1'6" roof overhang encroachment permitted.**
- 6.8 **Accessory structures may be rebuilt in the location of a former structure if the location of the former structure is properly documented.**

7. SIGNS

- 7.1 Temporary political campaign signs (as defined in Chapter 15A of the Dallas City Code, as amended) and real estate signs are permitted without a certificate of appropriateness.
- 7.2 Street signs, protective signs, movement control signs, and historical markers are permitted. A certificate of appropriateness is required to erect one of these signs to ensure that the sign is sensitive and compatible with the appearance of the structure.
- 7.3 All signs must conform with all applicable provisions of the Dallas City Code, as amended, and be compatible with the architectural qualities of the historic structure.

8. REVIEW PROCEDURES FOR CERTIFICATES OF APPROPRIATENESS

- 8.1 The review procedure outlined in Section 51A-4.501 of the Dallas City Code, as amended, applies to this district except that a certificate of appropriateness is not required to erect temporary political campaign signs (as defined in Chapter 15A of the Dallas City Code, as amended) or real estate signs.

ADDENDUM A

Gaston Commercial Tract

Property Description

TRACT I

BEGINNING at the intersection of the centerline of Gaston Avenue and Carroll Avenue;

THENCE in a southeasterly direction along the centerline of Carroll Avenue, a distance of approximately 170 feet to a point for corner on a line, said line being approximately 130 feet southeast of and parallel to the southeast line of Gaston Avenue;

THENCE in a southwesterly direction along said line, a distance of approximately 90 feet to a point for corner on a line, said line being approximately 90 feet southwest of and parallel to the southwest line of Carroll Avenue;

THENCE in a southeasterly direction along said line, a distance of approximately 40 feet to a point for corner on a line, said line being approximately 170 feet southeast of and parallel to the southeast line of Gaston Avenue;

THENCE in a southwesterly direction along said line, a distance of approximately 60 feet to a point for corner on a line, said line being approximately 150 feet southwest of and parallel to the southwest line of Carroll Avenue;

THENCE in a southeasterly direction along said line, a distance of approximately 15 feet to a point for corner on a line, said line being approximately 185 feet southeast of and parallel to the southeast line of Gaston Avenue;

THENCE in a southwesterly direction along said line, a distance of approximately 65 feet to a point for corner on a line, said line being 215 feet southwest of and parallel to the southwest line of Carroll Avenue;

THENCE in a northwesterly direction along said line, a distance of approximately 225 feet to a point for corner on the centerline of Gaston Avenue;

THENCE in a southwesterly direction along the centerline of Gaston Avenue, a distance of approximately 243 feet to a point for corner on a line, said line being approximately 196 feet northeast of and parallel to the northeast line of Peak Street;

THENCE in a northwesterly direction along said line, a distance of approximately 292.5 feet to a point for corner on a line, said line being approximately 252.5 feet northwest of and parallel to the northwest line of Gaston Avenue;

THENCE in a northeasterly direction along said line, crossing Carroll Avenue, and continuing along the northwestern boundary line of Lot 1 in City Block 1/769, a distance of approximately 678.8 feet to a point for corner on the northeastern boundary line of said Lot 1;

THENCE in a southeasterly direction along said lot line and its southeastward prolongation, a distance of approximately 289.5 feet to a point for corner on the centerline of Gaston Avenue;

THENCE in a southwesterly direction along the centerline of Gaston Avenue, a distance of approximately 185.8 feet to its intersection with the centerline of Carroll Avenue, the PLACE OF BEGINNING.

TRACT II

BEGINNING at the intersection of the centerline of Carroll Avenue and Gaston Avenue;

THENCE in a southeasterly direction along the centerline of Fitzhugh Avenue, a distance of approximately 229.3 feet to a point for corner on a line, said line being approximately 194.3 feet northwest of and parallel to the northwest line of Junius Street;

THENCE in a southwesterly direction along said line, a distance of approximately 441 feet to a point for corner on the common line between City Blocks 771 and 1/771;

THENCE in a northwesterly direction along said common block line, a distance of approximately 239.5 feet to a point for corner on the centerline of Gaston Avenue;

THENCE in a southwesterly direction along the centerline of Gaston Avenue, a distance of approximately 53.6 feet to a point for corner on a line, said line being approximately 115 feet northeast of and parallel to the northeast line of Grigsby Avenue;

THENCE in a northwesterly direction along said line, a distance of approximately 180 feet to a point for corner on the southeast line of a 15 foot wide public alley;

THENCE in a northeasterly direction along said alley line, a distance of 50 feet to a point for corner on the common line between City Blocks 770 and D/770;

THENCE in a northwesterly direction along said common block line, a distance of approximately 240 feet to a point for corner on the common line between City Blocks 770 and D/770;

THENCE in a northeasterly direction along said common block line, a distance of approximately 100 feet to a point for corner on a line, said line being 100 feet northeast of and parallel to the common line between City Blocks 770 and D/770;

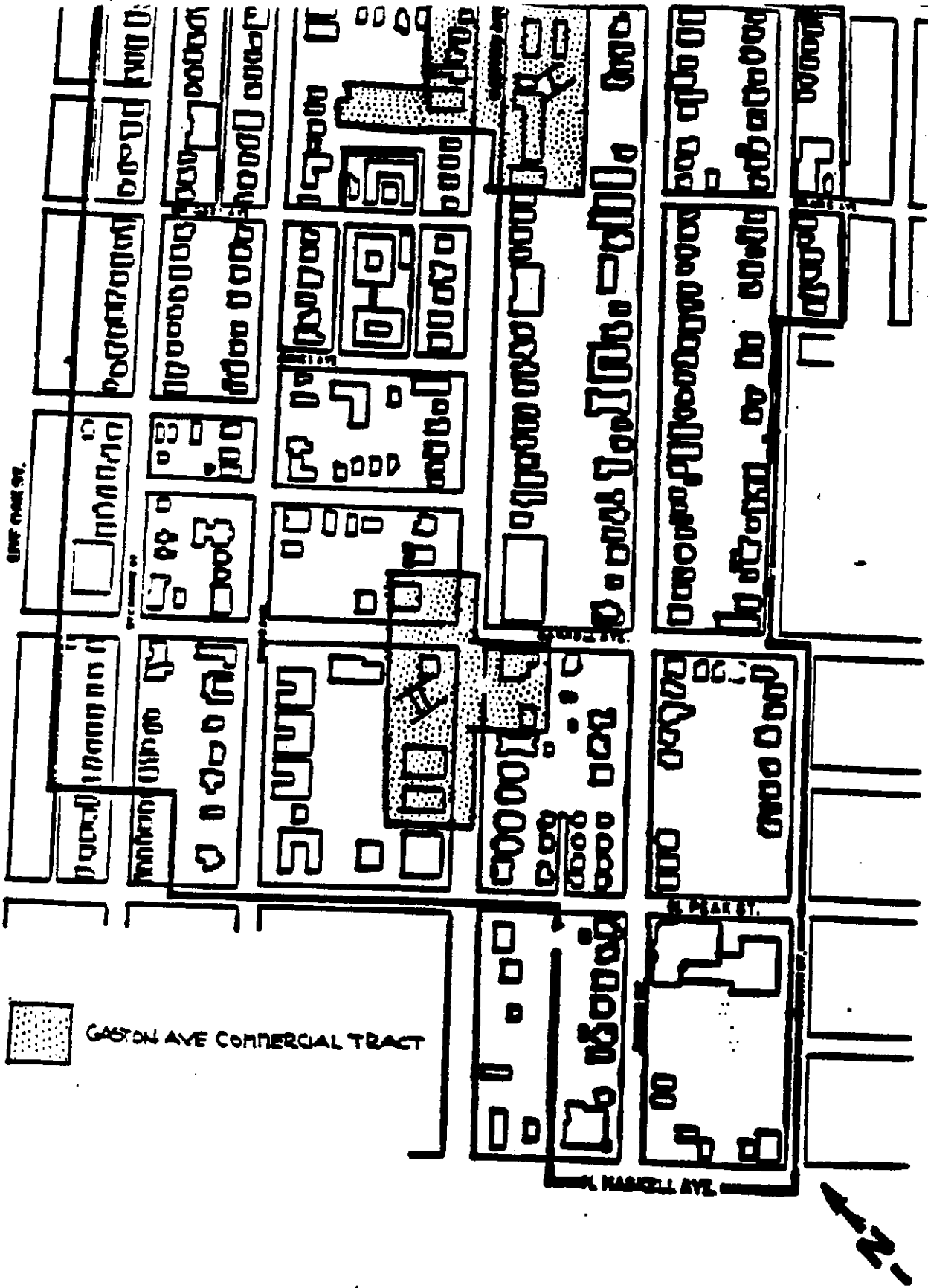
THENCE in a southeasterly direction along said line, a distance of approximately 42.5 feet to a point for corner on a line, said line being 42.5 feet southeast of and parallel to the common line between City Blocks 770 and D/770;

THENCE in a northeasterly direction along said line, a distance of approximately 96.5 feet to a point for corner on the northeast boundary line of Lot 3 in City Block 770;

THENCE in a southeasterly direction along said lot line, a distance of approximately 198 feet to a point for corner on a line, said line being 144.8 feet northwest of and parallel to the northwest line of Gaston Avenue;

THENCE in a northeasterly direction along said line, a distance of approximately 269.6 feet to a point for corner on the centerline of Fitzhugh Avenue;

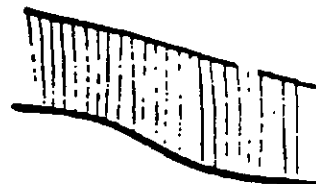
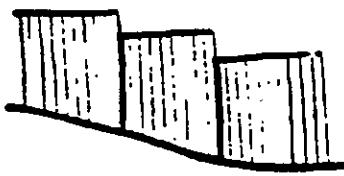
THENCE in a southeasterly direction along the centerline of Fitzhugh Avenue, a distance of approximately 185 feet to a point on the centerline of Gaston Avenue, the PLACE OF BEGINNING.



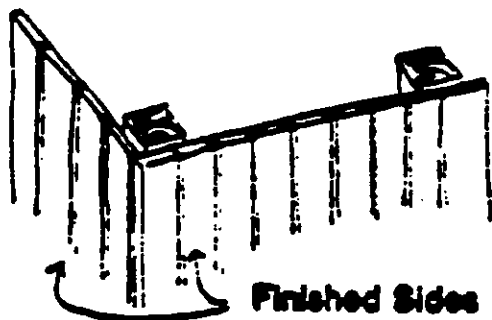
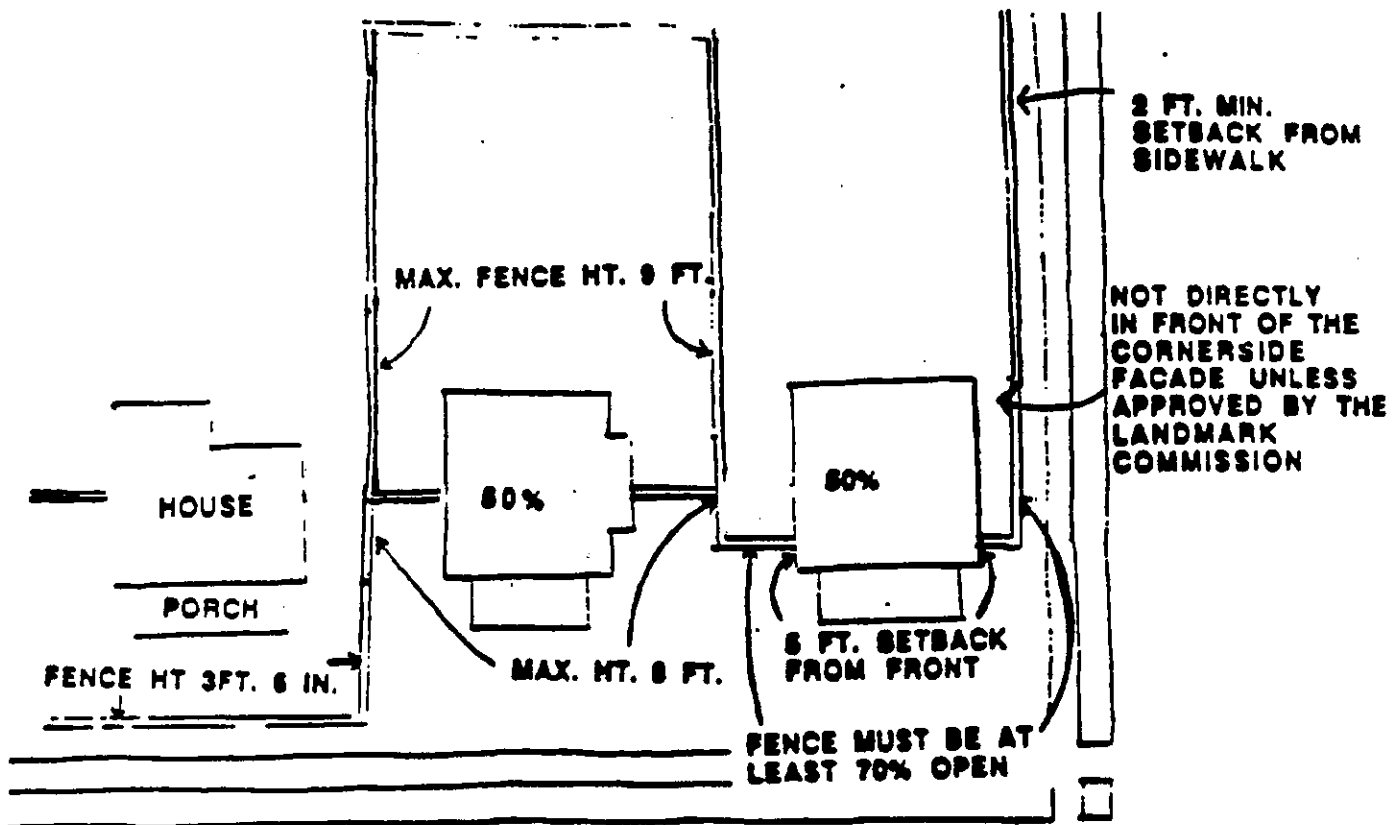
A



Horizontal



Parallel to Grade



B

FENCES

ADDENDUM C

Acceptable Color Range Standards

Color and color scheme are evaluated according to the Munsell Book of Color Systems (Neighboring Hues Edition -1973).

The following Munsell color ranges, or their equivalents in value (V) and Chroma (C), are permitted for primary, trim and accent colors:

Dominant: 9 through 6V/1 through 4C

Trim: 9 through 3V/1 through 6C

Accent: 9 through 3V/1 through 6C

Hue symbols 2.5-10 for: R (Red) G (Green) B (Blue) Y (Yellow) YR (Yellow-Red) GY (Green-Yellow)

Neutral gray and absolute white are also permitted. Neutral gray must be equivalent in value to those ranges specified above. Any colors or color schemes that are not within the specified allowable Munsell ranges must be reviewed by the Landmark Commission and approved or denied based on their appropriateness to and compatibility with the structure, blockface, and this district. The Commission may not approve any colors or color schemes (or their equivalents) that are specifically excluded by this ordinance.

COLOR PLACEMENT

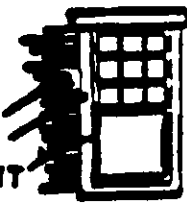
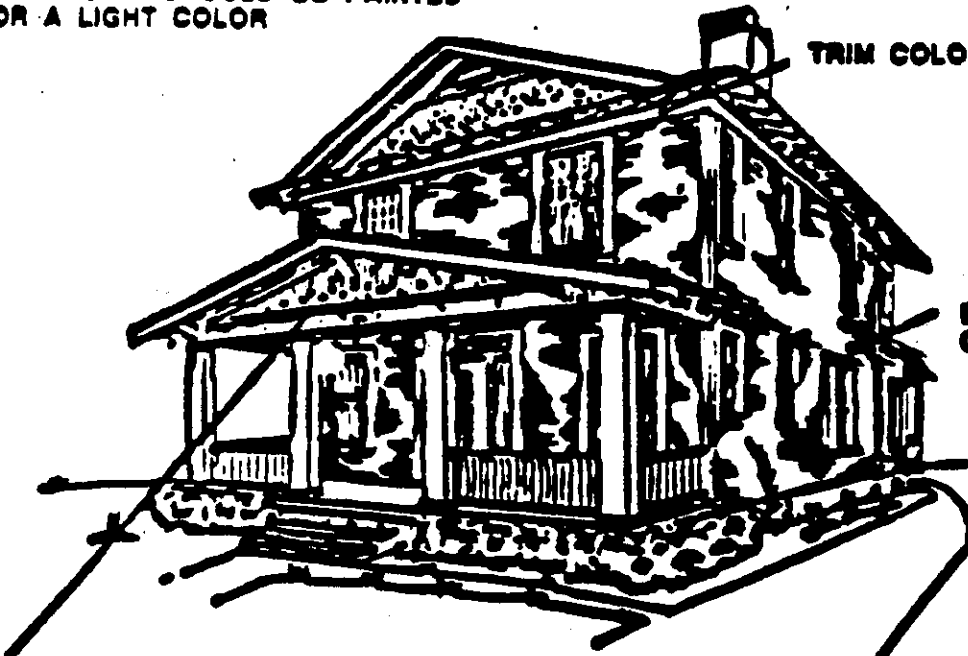
**COLUMN COLOR : SHOULD BE PAINTED
WHITE OR A LIGHT COLOR**

TRIM COLOR: MAJOR TRIM ON HOUSE

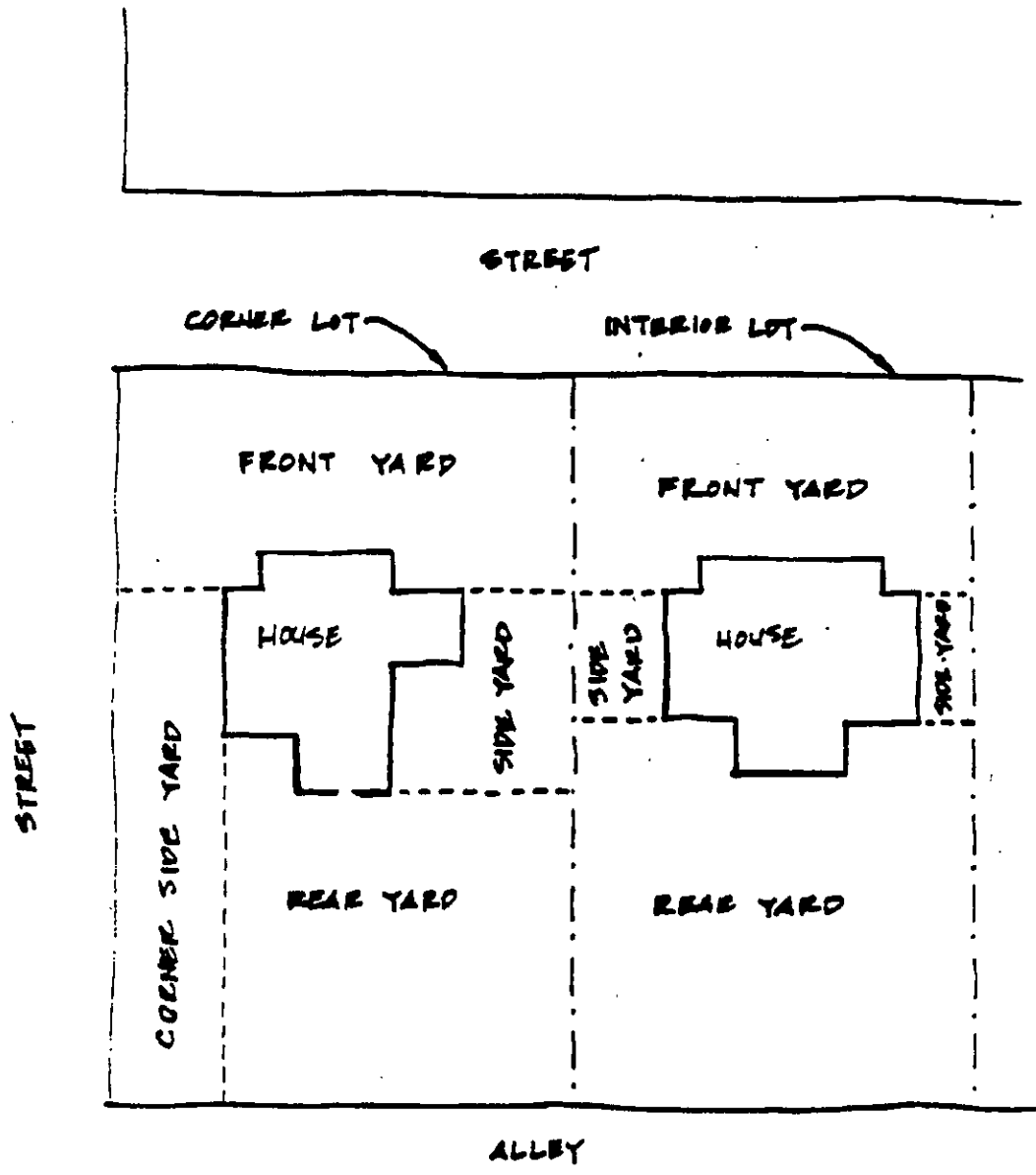
**BODY COLOR: MAIN SIDING
ON HOUSE**

**ACCENT COLOR: SMALL DISCRETE ARCHITECTURAL FEATURES
ON HOUSE SUCH AS INNERMOST WINDOW FRAMES
OR NARROW MOLDING STRIPS**

**BODY
TRIM
ACCENT**

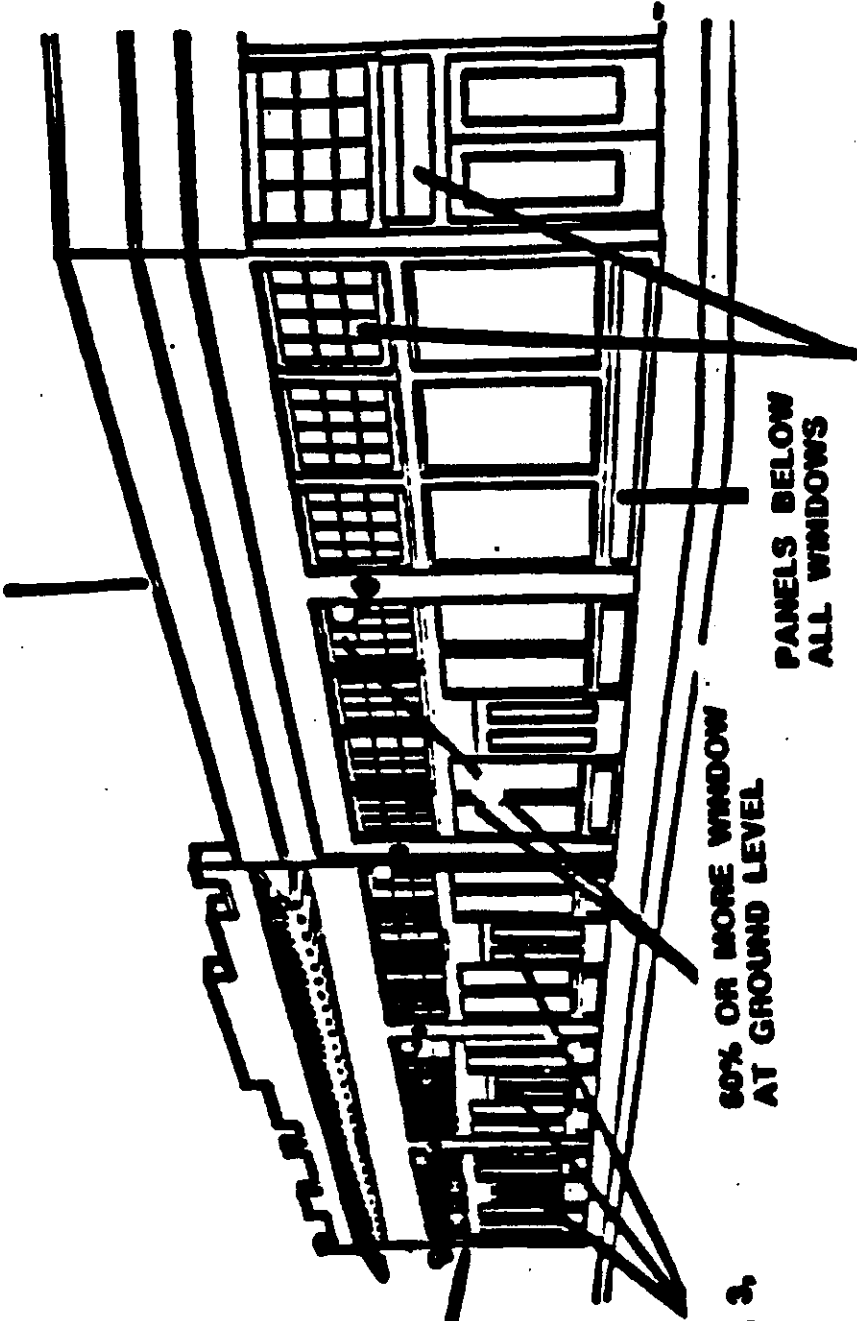


D



E

FLAT ROOF



BRICK OR STUCCO

STOREFRONTS
DIVIDED INTO 2, 3,
OR 4 BAYS

60% OR MORE WINDOW
AT GROUND LEVEL

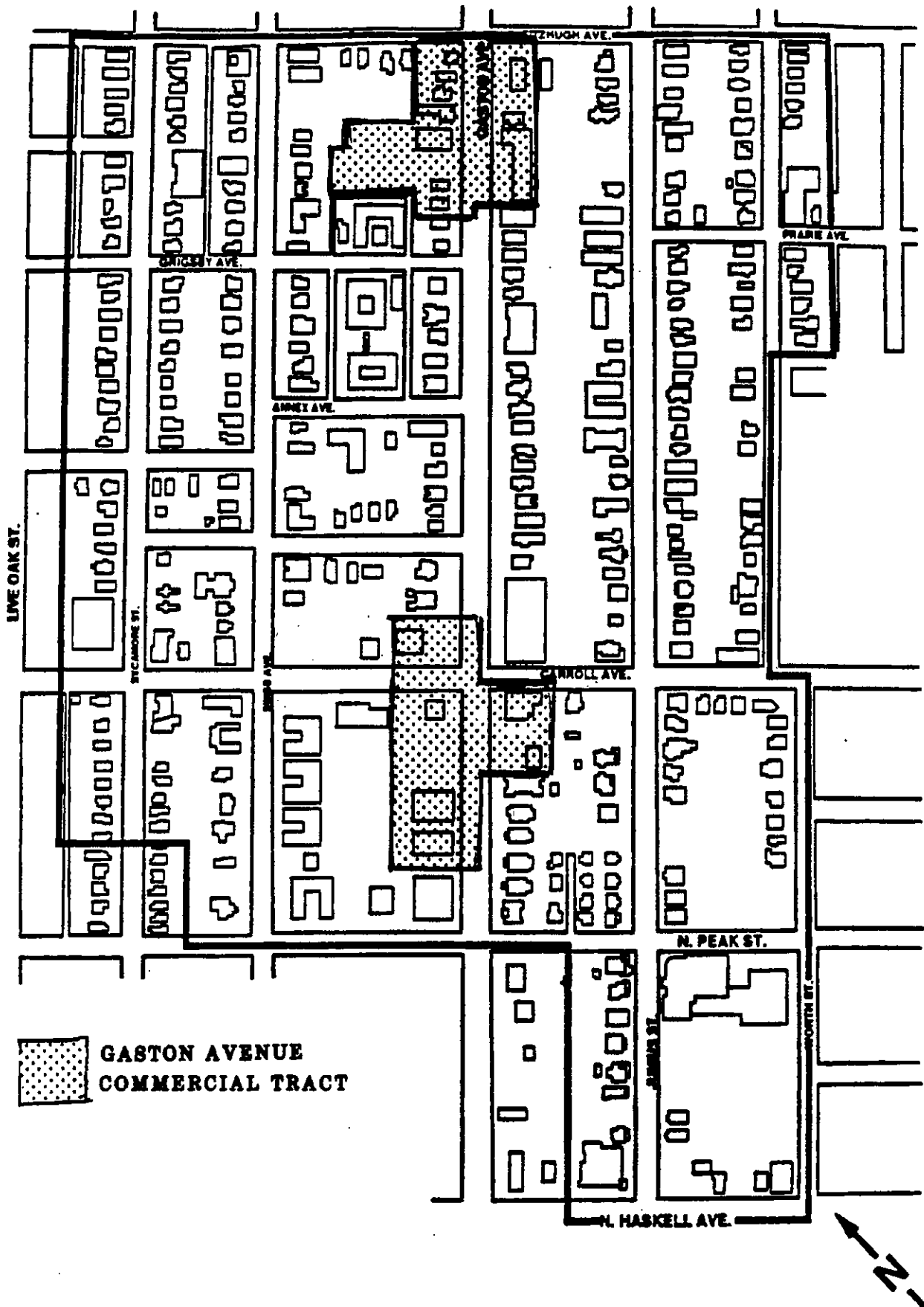
PANELS BELOW
ALL WINDOWS

TRANSOM WINDOWS
ABOVE ALL DOORS
AND WINDOWS

COMMERCIAL STRUCTURES FOR THE GASTON TRACT

F

Peak's Suburban Addition Historic District



**Dallas Landmark Commission
Landmark Nomination Form**

1. Name

historic: Peak's Suburban Addition
and/or common: Millcreek Neighborhood date: 4/19/93

2. Location

address:
location/neighborhood: Sycamore, Worth, Fitzhugh, Carroll, (Junius and Worth, 1 block further west to Haskell)
block: _____ lot: _____ land survey: _____ tract size: _____

3. Current Zoning

R-75, PD No. 98, PD No. 362, PD No. 298, MF2

4. Classification

Category	Ownership	Status	Present Use	<u>_____</u> museum
<input checked="" type="checkbox"/> district	<u>_____</u> public	<input checked="" type="checkbox"/> occupied	<u>_____</u> agricultural	<u>_____</u> park
<u>_____</u> building(s)	<u>_____</u> private	<u>_____</u> unoccupied	<input checked="" type="checkbox"/> commercial	<input checked="" type="checkbox"/> residence
<u>_____</u> structure	<input checked="" type="checkbox"/> both	<u>_____</u> work in progress	<input checked="" type="checkbox"/> educational	<input checked="" type="checkbox"/> religious
<u>_____</u> site	Public Acquisition	Accessibility	<u>_____</u> entertainment	<u>_____</u> scientific
<u>_____</u> object	<u>_____</u> in progress	<u>_____</u> yes:restricted	<u>_____</u> government	<u>_____</u> transportation
	<u>_____</u> being considered	<input checked="" type="checkbox"/> yes:unrestricted	<u>_____</u> industrial	<u>_____</u> other, specify _____
		<u>_____</u> no	<u>_____</u> military	

5. Ownership

Current Owner: V ious
Contact: _____ Phone: _____
Address: _____ City: _____ State: _____ Zip: _____

6. Form Preparation

Date: 4/19/93 - 1/11/95
Name & Title: _____
Organization: Designation Task Force
Contact: Kate Singleton Phone: 821-7533

7. Representation on Existing Surveys

Alexander Survey (citywide) _____ local _____ state _____ national National Register
H.P.L. Survey (CBD) _____ A _____ B _____ C _____ D _____ Recorded TX Historic Ldmk
Oak Cliff _____ TX Archaeological Ldmk
Victorian Survey
Dallas Historic Resources Survey, Phase IV high _____ medium _____ low

For Office Use Only

Date Rec'd: _____ Survey Verified: Y N by: _____ Field Check by: _____ Petitions Needed: Y N
Nomination: Archaeological Site Structure(s) Structure & Site District

8. Historic Ownership

original owner: Various
significant later owner(s):

9. Construction Dates

original: 1890-present
alterations/additions:

10. Architect

original construction: Various
alterations/additions:

11. Site Features

natural:
urban design:

12. Physical Description

Condition, check one:			Check one:
<input type="checkbox"/> excellent	<input type="checkbox"/> deteriorated	<input type="checkbox"/> unaltered	<input type="checkbox"/> original site
<input checked="" type="checkbox"/> good	<input type="checkbox"/> ruins	<input type="checkbox"/> altered	<input type="checkbox"/> moved(date _____)
<input type="checkbox"/> fair	<input type="checkbox"/> unexposed		

Describe present and original (if known) physical appearance. Include style(s) of architecture, current condition and relationship to surrounding fabric (structures, objects, etc). elaborate on pertinent materials used and style(s) of architectural detailing, embellishments and site details.

Peak's Suburban Addition developed over a long period of time beginning with the large estates of Jefferson Peak and William Gaston built in 1855 and 1871 respectively. The topography of the area was very hilly with numerous creeks, marshes and bogs. These natural obstacles made a trip from these East Dallas estates to the Dallas Court House an arduous journey.

In order to diminish his isolation, Gaston gave land to friends and business associates promoting that additional homes be built. Large scale residential construction was delayed, however, until the marshes and bogs were filled and the land leveled. This process took place over several years.

The architectural styles of the homes eventually built span several decades, creating diversity in design and size of residences and civic buildings. The architectural styles found in the district are predominantly Queen Anne, Folk Victorian, Craftsman, Prairie, Mission, Neoclassical, Colonial Revival, and Tudor. See appendix . These drawings were taken from A Field Guide to American Houses by Virginia and Lee McAlester

The street names are primarily derived from the names of early pioneers who were instrumental in establishing this area.

Fitzhugh Avenue: named for L.H. Fitzhugh, early settler and land owner 1.

Grigsby Avenue: named for John Grigsby, early land developer 1. Major land owner who received a 4,605 acre land tract from Sam Houston.

Annex Avenue: boundary of the Old Fairfield Annex to East Dallas 1. Annex Avenue from Swiss to Gaston originally was named Elmira.

Carroll Avenue: named for Carroll Peak, son of Jefferson Peak 4.

Peak Street was originally named Martha Street for Martha Peak, wife of Jefferson Peak. Upon his death Mrs. Peak changed the name to Peak in honor of her husband. Jefferson Peak was a major land owner ¹. Jefferson moved to Dallas in 1854 when Dallas population was under 200 people. ³. He constructed the first brick residence which was located at the corner of Peak and Worth Streets. Peak died in 1885 ⁴. He bequeathed one half block of land to the Dallas First Christian Church with the provision that instrumental music not be used for services or the land reverts back to his heirs.

Haskel Avenue was named for Horatio Nelson Haskel Alderman of East Dallas in 1883 ¹.

Sycamore Street originally named Matt Street for Mathias Peak, son of Jefferson Peak ⁴.

Swiss Avenue named for Swiss Colony immigrants, who settled along this street in 1870.

Gaston Avenue was named for Captain William Gaston. Early day Banker and land developer ¹. Gaston founded Dallas First Bank and purchased large tracts of land in East and South Dallas including 400 acres along Swiss Avenue. He donated the land for the State Fair and promoted its growth. He maneuvered the railroads to locate in the City of East Dallas in 1872-73 away from the City of Dallas which promoted development on his land holdings. Gaston Avenue was originally named Wallace Street, for Wallace Peak, son of Jefferson Peak ⁴.

Junius Street named for Junius Peak, landowner and Texas Ranger.¹ Junius was born in 1846.³ son of Jefferson Peak.⁴ Early Dallas Police Chief 1874-78.³ June Peak's home still stand at 4409 Worth Street. His daughter Florence Peak lived in this house on Worth Street until about 1980.

Worth Street is named for Worth Peak, 8th of eleven children of Jefferson and Martha Peak.

Victor Street named for George Victor Peak,¹ son of Jefferson Peak.⁴

Reiger Street named for John F. Reiger, Reiger addition 1890.¹

13. Historical Significance

Statement of historical and cultural significance. Include: cultural influences, special events and important personages, influences on neighborhood, on the city, etc.

Peak's Suburban Addition also known as Mill Creek is the earliest developed portion of East Dallas. It was the first neighborhood east of Dallas' central business district to be developed, "starting with Victorian houses and followed by frame two story Prairie homes, brick mansions and finally frame cottages and bungalows" (Older Neighborhoods, 1986:32). In addition to the single family residences, there are many historic apartment complexes as well as commercial and institutional buildings throughout the district, especially along the old streetcar routes. The major forces that shaped the development of East Dallas were the arrival of the railroads, the establishment of the Texas State Fair, and the network of street railways that determined the routes of growth.

The early settlement East Dallas from 1855 until the City of East Dallas' incorporation in 1882 was agricultural in nature. The first recorded settlement occurred in 1855 when Captain Jefferson Peak purchased a large tract of land far to the northeast of Dallas and built a farmhouse near the corner of Worth and Peak streets. Peak had passed through Texas in 1846 to fight in the Mexican War and in 1855 he returned with his family to settle east of the emerging town of Dallas (Butterfield 1875: Peak). An 1880's map of East Dallas shows that Peak owned roughly half the land bounded by Ross Avenue to the north, Main Street to the south, and Haskell and Carroll Street to the west; constituting more than a quarter of the historic district.

After the Civil War, Peak was joined by Confederate Captain William H. Gaston who purchased 400 acres along White Rock Road (now Swiss Avenue) where he built an enormous Greek Revival home in 1871 (razed) (Mabry, 1984:4). Gaston was a powerful force in Dallas' early development. Within a few years of his arrival in 1867, he purchased vast tracts of land in South and East Dallas, founded Dallas' first bank, donated land for the County Fair (present site of Baylor Hospital), and eventually parlayed the small exposition into the State Fair (Mabry, 1984:10 Gaston n.d.:1.) Most importantly, Gaston, with backing from local businessmen, brought the railroads to Dallas in 1872 and 1873, which ultimately made the city's fortune. His impact in East Dallas was achieved by maneuvering both the Houston and Texas Central (H&TC) and the Texas and Pacific (T&P) railroads to a junction approximately one and a half miles to the east of the Courthouse. In doing so, Gaston helped orchestrate Dallas' growth away from the Trinity River towards the railroad station on his lands in East Dallas. The resulting housing shortage encouraged Jefferson Peak and other landowners to begin subdividing their lands.

Although the railroads promised to spur building activity in East Dallas, the area remained sparsely settled due to an economic downturn in 1875 that stalled development for some time (Powers 1969:19). The area was heavily wooded, especially along Mill Creek as it flowed through Exall Park along Hall Street, just east of the historic district, toward the Cedars in South Dallas (McDonald 1978: 137). There was little building or street construction in the project area east of Washington Street prior to the late 1870s although the Butterfield and Rundlett Official Map of Dallas shows East Dallas as a platted entity by 1875 (Mabry 1984: 16). A small commercial district sprang up around the depot and consisted of a few boarding houses, lumber yards and restaurants that survived only because of the railroad traffic (Powers 1969: 14). One mule-drawn streetcar line, operated by the Dallas Street Railroad Company, ran out Ross Avenue and up San Jacinto Street. Built by Colonel William J. Keller in 1875, the San Jacinto line, as it was known, was the only line to serve the area until 1882. Its primary purpose was to bring passengers from the depot to the downtown Dallas business district (Powers 1969: 19, 36).

Beyond the tiny cluster of commercial structures near the depot, the remainder of East Dallas at this time consisted of large estates, like those of Jefferson Peak and William Gaston, and a number of smaller family farms (Map, East Dallas: 1880s). The early character of the region was articulated by William Gaston when, upon completing his mansion at 3900 Swiss Avenue in 1873, he lamented being all alone out in the country and offered free land to his friends so he would have company. Gaston's nearest neighbor to his 400 acre plantation were Jefferson Peak, a mile to the east in the center of the historic District, and Swiss immig. ants, Jacob Nussbaumer and Henry Boll, who lived nearly the same distance to the west (Saxon, 1983: 9). This semi-rural condition persisted until Dallas began to recover from the depression in the latter part of the 1870s.

When the economy improved, East Dallas began to experience the same wild, uncontrolled growth that was afflicting central and south Dallas (McDonald. 1978: 137). Many businesses began building east along the streetcar line that stretched from downtown Dallas to the railroad depot. The fairgrounds drew people to the area and many began investing in property nearby. By 1882, the community had grown so rapidly that its leading citizens, among them Peak, Gaston and rancher Christopher Columbus Slaughter, met and voted to incorporate as the separate municipality of East Dallas (Saxon, 1983: 10). At the time of its annexation in 1889, the land area of East Dallas was actually larger than that of Dallas. The city of Dallas acquired East Dallas, along with several unincorporated suburban parcels, on the last day of December, 1889, to make Dallas the largest city in Texas for the 1890 census (Keith, 1930: 168; Dallas Morning News, October 1, 1935). It was both the first and last time in its history that Dallas had the honor.

East Dallas' single largest landowner, Jefferson Peak, platted his first subdivision in 1874 along Ross Avenue, (Mabry 1984:3) but by the mid-1880s, Captain Peak still owned most of the land bounded by Ross Avenue, Main Street, Haskell and Carroll Streets (Map East Dallas: 1880s). It wasn't

until after Peak's death in 1885 that his son, Junius, began large-scale subdivision of the family's extensive holdings. The land around the Old Peak homestead at Worth and Peak Street was sold as Peak's Addition in 1897 and its subdivision spurred many housing starts in the area. (McDonald 1978: 120). Major East Dallas streets still bear Peak's name and those of his children: Junius, Worth, Victor, and Carroll. Although the original Peak farmhouse is gone, Junius Peak's home still stands at 4409 Worth Street.

Another highly influential force in East Dallas real estate development during the late 1880s and early 1890s was Jefferson Peak's son-in-law, Thomas Field. Through his firm, Field and Field Real Estate and Financial Agents, Thomas Field either owned, controlled, or influenced the sale of large parcels of East Dallas real estate. He "flamboyantly promoted his extensive East Dallas holdings in 1884 with the construction of a palatial residence in the middle of his property" (McDonald 1978: 137) located on Peak Avenue between Gaston and Junius streets (razed 1922). His grandiose and unfettered real estate promotion was characteristic of the boomtown that enveloped all of Dallas during the years between the arrival of the railroads and the depressions of the 1890s. Many elaborate mansions were constructed on Swiss and Gaston Avenue during the 1890s in addition to smaller but substantial homes on Live Oak, Junius, and Worth Streets (Saxon 1983: 16). Most of the largest homes were demolished and their lots sold for redevelopment between 1920 and 1950 (Sanborn maps 1905, 1922; City of Dallas directories).

The proliferation of street car lines between 1887 and 1893 was probably the single most important factor contributing to the success of East Dallas during that period. Some of those living in East Dallas rented hansom cabs to commute to the city or the union depot (Eidt, conversation 1990). Others undoubtedly used their own horsedrawn buggies, as evidenced by the number of personal stables situated at the rear of the grand residences along Swiss and Gaston Avenue (Sanborn maps, 1905; Gooden 1986: 46). However, those who did own horses and buggies began to prefer the thrift and convenience of the streetcar. A ride downtown at this time cost five cents or less, cheaper than the cost to board a horse and carriage (Nichols conversation March 30, 1990). As Dallas grew further and further away from the central business district, it was imperative that reliable transportation be available for workers. Many neighborhoods existed only due to streetcar access and developers took advantage of that fact.

Streetcar service was initiated about 1888. The Bryan line, as it was known, became the major crosstown streetcar serving the northern section of East Dallas (Powers 1969: 78; Eidt, conversation, 1990) opening up all of East Dallas to wide-scale development. Between 1886 and 1890, Dallas real estate transfers jumped from under \$6 million to \$14 million, much of it concentrated in East Dallas. The completion of the Bryan line was followed by the opening of Middleton Brother's Addition, Hunstable's College Hill Addition, Livingston Place, Peak's Addition, Caruth Heights, Nussbaumer and McCoy's Addition, and the Belmont Addition between 1888 and 1892 (McDonald 1978: 153). All were accessible to the Bryan line.

Typically, there was little planning involved in the opening of these additions beyond running a streetcar line out to a vacant field owned by the operators, subdividing the land, and selling it for a handsome profit. Lots were often sold before streets and utilities could be laid out (McDonald 1978: 153), sometimes on the mere promise that streetcar lines would be introduced.

The suburban land boom was in full swing when nearly all building came to an abrupt halt with the economic crash of 1893. While some Texas communities were unharmed by the nationwide depression, Dallas had become linked to eastern and northern markets and their leading banking institutions. When those institutions foundered, Dallas followed. The failure of the Philadelphia & Reading Railroad in February 1893 started a nationwide panic that left 158 national banks and 415 state and private banks in ruin. Five Dallas banks failed in the crash and local business and agricultural concerns suffered as a result (McDonald 1978: 70). Unchecked real estate speculation prior to the crash left Dallas overbuilt and many newly opened additions in or near the project area remained vacant for years afterward (Dallas Morning News, October 1, 1935). Many individuals who had figured prominently in the East Dallas real estate frenzy lost fortunes in the downturn. Thomas Field not only lost several major projects in progress but lost his palatial homes, as well. The effects of the depression reverberated throughout the city and had repercussions on many of the city's enterprises, including streetcar and real estate consortiums, essentially ending the early, speculative era (Powers 1969: 92). The depression did, however, allow time for some reflection and the next phase of development in East Dallas was a more cautious endeavor.

Although Dallas began to rebound from the depression about 1898, East Dallas did not fully recover for almost a decade after the crash. (Dallas Morning News, October 1, 1935). When the economy began to pick up there was a resurgence of residential building in the area. Churches and schools were constructed to accommodate the increased population. Davy Crockett Elementary School, built in 1903 by the firm of C. W. Bulger and son on Carroll Street, is the oldest extant school in the city of Dallas. Bulger and Son also designed the Classical Gaston Avenue Baptist Church, built between 1902 and 1904 at the southwest corner of Gaston and Haskell avenues (McDonald 1978:). The East Dallas Christian Church at 631 N. Peak was built shortly after 1905, replacing an earlier dwelling on that site. The imposing Neo-Classical mansion at the corner of Peak and Swiss avenue was originally built as a residence, but served the prestigious Terrill School for Boys as a dormitory through the 1920s (Sanborn maps 1905, 1922: City Directories). Dominating the 4100 block of Junius Street at North Haskell Avenue, is the Gothic Revival Grace Methodist Episcopal Church designed by W.A. Caan in 1903. The church sanctuary and its 1925 education annex are listed on the National Register of Historic Places. Parishioner Henrietta Eidt recounted that Grace Church was considered to be "the silk-stocking church of East Dallas" because of the many well-to-do residents of exclusive Munger Place who attended its services (Eidt conversation March 30, 1990). These East Dallas institutional and religious

structures are among the city's outstanding architectural landmarks remaining from the early 1900s.

East Dallas grew tremendously after about 1902, especially east of Washington Avenue and into the project area, as many old estates and farmlands were subdivided for new residences. Between 1902 and 1922 the entire project area became filled in, particularly along streetcar routes, with only an occasional vacant lot between buildings or estates. The 1899 Sanborn maps show Haskell Avenue as the eastern boundary of most development, but by 1905 that boundary extended to Carroll Street below Gaston Avenue and all the way east to Fitzhugh Avenue above it (Gooden 1986). In 1905 the development between Haskell Avenue and Carroll Street north of Elm Street was almost entirely residential with the exception of the schools, churches, one store, a carpenter's shop, and a nursery. Ross Avenue continued its role as "Dallas' Fifth Avenue" with the erection of magnificent Colonial Revival and Prairie-influenced homes, almost all of which have been demolished. One of the few remaining palatial residences on Ross Avenue is that built by Charles H. Alexander. c. 1906. at the northeast corner of Ross Avenue and Annex Street. It was purchased and restored by the Dallas Women's Forum in 1930 (McDonald 1978: 141, 143). An exception to the overall residential character of East Dallas was the placement of the Dallas Consolidated Street Railway complex, covering three-quarters of the block between Elm and Main streets where they crossed Peak Avenue (Sanborn maps. 1899. 1905).

Two factors took shape in 1905 that had a major impact on housing styles and development in East Dallas. One was the shift in the popularity from the latter Victorian-era styles to the emerging Prairie and Mission Revival styles. The other was the development of Munger Place, one of Dallas' first planned heavily-restricted, neighborhoods (Gooden 1986: 51). After carefully researching several restricted residence parks in other sites, Roberts S. Munger bought raw farmland near prestigious St. Mary's College and began development of Munger Place. Between 1905-1925, some of Dallas' most promising architects gained their reputations building modern, progressive homes in Mission Revival, Colonial Revival, and Spanish Colonial Revival variations on Frank Lloyd Wright's Prairie Style. The Munger Place development lay immediately to the east and many Peak Suburban Addition homes constructed during this time were built in the same styles.

Commercial enterprises began to spring up in the 1920s and tended to proliferate on the streetcar lines, especially at the intersections of two lines. A comparison of 1905 and 1922 Sanborn maps shows the profound influence these intersecting carlines had in converting residential areas to commercial. Interurban railways began running in the area about 1908 and had an influence on the neighborhoods through which they ran, although they did not offer local service. The Bryan interurban line was established in 1908 and ran along the same street at the streetcar (Gooden 1986: 55). It is notable that by 1922, Bryan Street, especially where it intersects with Peak Avenue, had the most commercial buildings in the area. Automobiles were also having an impact on the area. The first

automobile was registered in Dallas County in 1901. By 1917 registration had increased to about 15,000 most of it in the city of Dallas (Gooden 1986: 56). The automobile eventually changed the way suburban growth and development occurred in Dallas and served to push the city even further from its center.

During the teens and 1920s, a number of fine Mission Revival and Prairie Style homes as well as smaller bungalows and cottages, were built in the pockets to completely fill in the remainder of East Dallas. By 1922, almost no vacant areas remained in the project area with the exception of the large estates built before about 1905. When their wealthy owners began moving to the more fashionable developments further out, these estates were broken up for re-development one by one. The sporadic evolution and re-definition of the area continued to contribute to the uneven appearance of East Dallas. The 1922 Sanborn maps show many large homes with a handful of large estates remaining on Swiss and Gaston avenues, but commercial development had already replaced residences along the crosstown streetcar routes of Bryan Street. In 1922 there was a fire on Peak Street that burned 32 homes to the ground (WPA Paul Myers "Parks" pg. 6 Box 4J57, 1940). The homes were replaced with commercial enterprises taking advantage of the streetcar frontage.

One of the most outstanding changes that took place in the project area between about 1915 and 1930 was the advent of large apartment buildings, many of which remain in the project area.

The Great Depression and the Texas Centennial in 1936 both encouraged multi-family use of older dwellings to East Dallas. The hard years of the depression forced some families to take in boarders. During the Centennial, large houses in East Dallas were divided into rooms that rented for \$1.00 per night (Eidt conversation March 30, 1990).

14. Bibliography

1. The WPA Dallas Guide and History, published by Dallas Public Library and the University of North Texas Press 1992.
2. Memorial and Biographical History of Dallas County, the Lewis Publishing Co. 1892.
3. A History of Greater Dallas and Vicinity, Volume II L.B Hill Editor, the Lewis Publishing Co. 1909.
4. Jefferson Peak Will, location ?

15. Attachments

- | | |
|--|---|
| <input checked="" type="checkbox"/> District or Site Map | <input type="checkbox"/> Additional descriptive material |
| <input type="checkbox"/> Site Plan | <input type="checkbox"/> Footnotes |
| <input type="checkbox"/> Photos (historic & current) | <input checked="" type="checkbox"/> Other: <u>Jefferson Peak Will</u> |

16. Inventory of Structures-Historic District Only (Page ___ of ___)

Please complete this form for each structure in a proposed historic district

a. Location and Name

b. Development History

Original owner:

Architect/builder:

Construction/alteration dates:

c. Architectural Significance

Dominant style:

Condition:

Alterations:

d. Category

Contributing _____

Compatible _____

Non-contributing _____

excellent example of an architectural style that is typical of or integral to the district; retaining essential integrity of design

supportive of the district in age, style and massing but is not representative of the significant style, period and detailing, or area of significance typical of the district

intrusive; detracts from the character of the district

e. Statement of Significance

Designation Merit

- | | | | |
|--|----------|--|----------|
| A. Character, interest or value as part of the development, heritage or cultural characteristics of the City of Dallas, State of Texas or the United States. | <u>X</u> | G. Identification as the work of an architect or master builder whose individual work has influenced the development of the city. | _____ |
| B. Location as the site of a significant historical event. | _____ | H. Embodiment of elements of architectural design, detail, material or craftsmanship which represent a significant architectural innovation. | _____ |
| C. Identification with a person or persons who significantly contributed to the culture and development of the city. | <u>X</u> | I. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif. | <u>X</u> |
| D. Exemplification of the cultural, economic, social or historical heritage of the city. | <u>X</u> | J. Unique location of singular physical characteristics representing an established and familiar feature of a neighborhood, community or the city. | <u>X</u> |
| E. Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style. | <u>X</u> | K. Archaeological value in that it has produced or can be expected to produce data affecting theories or historic or prehistoric value. | _____ |
| F. Embodiment of distinguishing characteristics of an architectural style or specimen. | <u>X</u> | L. Value as an aspect of community sentiment of public pride. | <u>X</u> |

Recommendation

The Designation Task Force requests the Landmark Commission to deem this nominated landmark meritorious of designation as outlined in Chapter 51 and Chapter 51A, Dallas Development Code.

Further, the Designation Task Force endorses the Preservation Criteria, policy recommendations and landmark boundary as presented by the Department of Planning and Development.

Date:

Kate Singleton BBS
 Kate Singleton, Chair
 Neighborhood Designation Task Force

Tiffany Strickland
 Tiffany Strickland, Urban Planner
 Historic Preservation

Jefferson Peak dec'd.

Martina M. Peak Executing. In County Court, Dallas
County, Texas, 1st Nov. Term. To the Hon. E. G. Power, Judge
of said Court. Your petitioner Martina M. Peak, respectfully
represents to the Court that Jefferson Peak, late a citizen
of Dallas County departed his life on the 21st day of October
1885 A.D. that he was at the time of his death a resident citizen
of said Dallas County, Texas. Your petitioner further shows
that the said Jefferson Peak on the 18th day of Nov. 1879,
executed in writing in due form of law his last will and
testament thereby disposing of all his property, real, personal
and mixed, and therein appointing your petitioner sole
executrix of said last will and testament. That said will
was signed by the said Jefferson Peak and witnessed by St. C. C.
Field, John M. Simmons and J. L. Leonard. That the estate
of the said Jefferson Peak consisted of real, personal and
mixed property, situated in Dallas, Denton, Navarro and
Anderson Counties in the state aforesaid and of the
probable value of \$9000⁰⁰. That your petitioner is a citizen
of Dallas County and is not disqualified by law from
accepting letters testamentary. Wherefore your petitioner craves
and seeks said last will and testament, and the probate
thereon for the property of said will, and prays that notice
be given and that at the next term of this Court, the
said will may be admitted to Probate, and letters testa-
mentary thereon be issued to your petitioner and for
all other proper relief your petitioner will ever pray.

Martina M. Peak

Filed 13th day of Nov. A. D. 1885.

W. M. C. Hill, C. C. D. C. T.

Probation record. No. 2 Page 87. L. H. Hughes Copy.

County of Dallas }
Jefferson Poak of the County of Dallas, and State of Tex,
being now of sound mind and in good health, do, make,
ordain, and declare this to be my last will and testament
and I do hereby dispose of all the Estate owned by me in
manner, form as hereinafter expressed.

My first desire is, that all my just debts be paid as
soon after my death as the same can be conveniently done by
my executrix hereinafter named, and she, my own said executrix,
is fully authorized to sell so much of my real estate, as may be
for that purpose upon such terms and conditions as to her may
seem best, and to convey by deed such estate, as she may sell
for that purpose.

And after distributing my estate between my devisees and le-
gatus, I will and bequeath to the First Christian Church of the
City of Dallas one half of a block of land in my Suburban
Addition to the City of Dallas, this half block to be selected
out of said Addition by the Trustees of said Church, and my
Executrix, this bequest to the said Church is for the purpose
of building a Church house on the land or lots hereby be-
queathed, but if the said Church sees fit or proper to sell
said Lot, and buy other property, herewith they are authorized
so to do; but the lot or its proceeds are to be used solely for
Church purposes. This bequest is however upon this condition
that, if the said church should hereafter at any time use
instrumental music in said Church services or in any Sunday
or Lord's day school in the said first Christian Church,
then this bequest is to become absolutely void and the
said property hereby bequeathed or any other that may have
been purchased with the funds arising from the sale of
the land hereby bequeathed is to revert to, and become part

education for his profession, and in setting him
in business some three or more times largely beyond
any of my other children, and I do not desire that one of
my children shall have or receive from my Estate more,
than another, and feeling that a share of one half of
one tenth of my Estate with what I have heretofore ad-
vanced him will fully equalize him with my other
children. I hereby give devise and bequeath to my said
son Carroll M. Peak one twentieth part of all my Estate
not heretofore disposed of by this will.

To my son Wallace Peak, I devise and bequeath one
equal tenth part of my whole estate, not heretofore
disposed of by special legacy.

To my beloved daughter Fannie A. Harwood, I devise and
bequeath one equal tenth part of my whole Estate.

To my grandson Wallace D. Peak, only child of my son
Jefferson Peak, I devise and bequeath one equal tenth
part of my Estate.

To my beloved daughter Juliet A. Fowler I devise and
bequeath one equal tenth part of my Estate.

To my son Junius Peak, I devise and bequeath one equal
tenth part of my Estate.

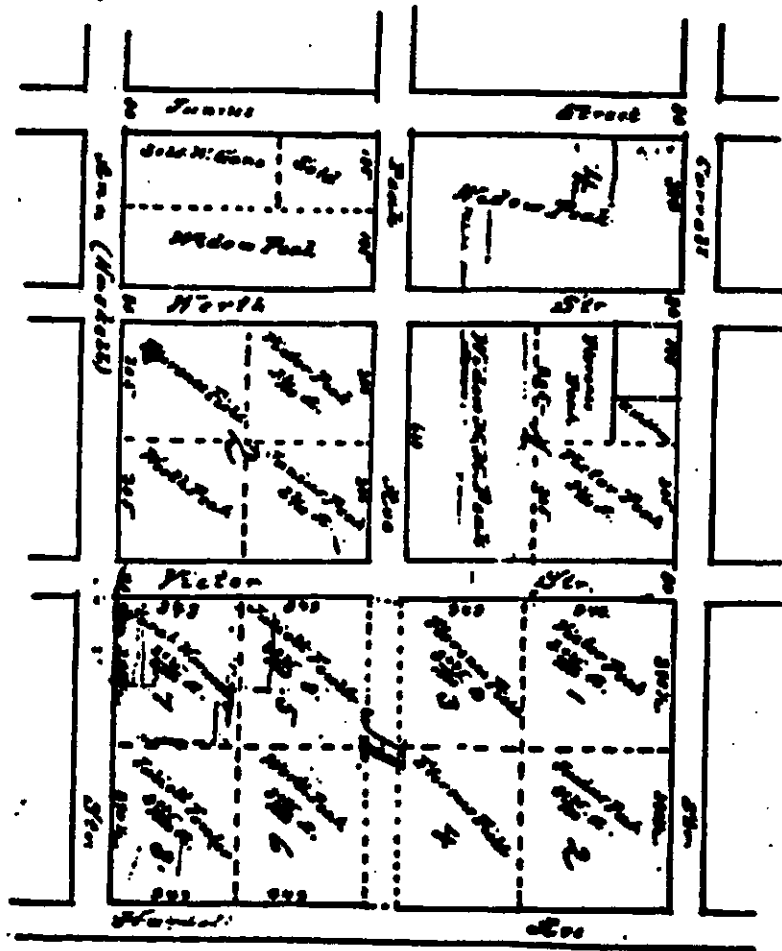
To my beloved daughter Florence Field, wife of Thomas
Field, I devise and bequeath one equal tenth part of my Estate.

To my son Worth Peak, I devise and bequeath one equal
tenth part of my Estate.

To my son George Victor Peak, I devise and bequeath one
equal tenth part of my Estate.

To my son Matthias L. Peak, I devise and bequeath one
equal tenth part of my Estate.

Having thus, as I conceive made an equal distribution
of my whole estate among my children and grand children



This plot is only intended to
 show the property south of Jones
 St. The property ought for
 Abstractor did not claim it
 necessary to show entire map
 of estate, which however is all
 right.

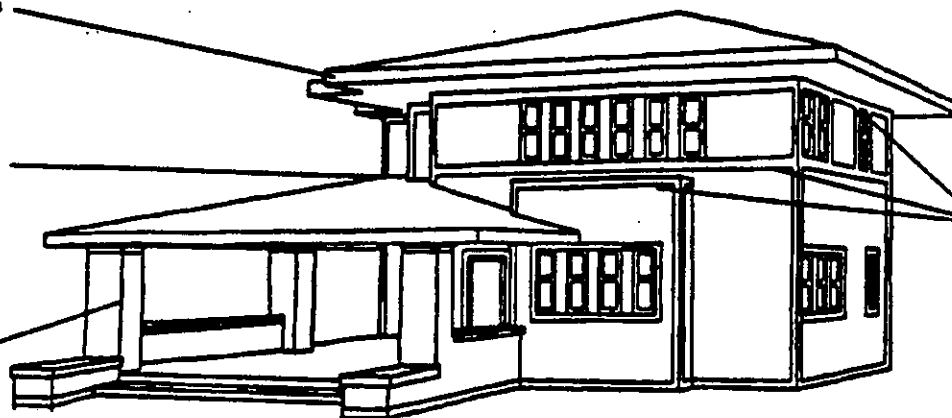
Prairie

1900-1920

low-pitched roof with widely overhanging eaves

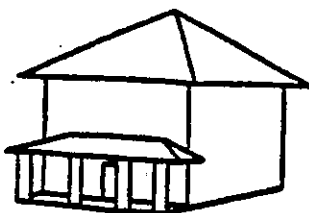
two stories with one-story porches or wings

massive square porch supports



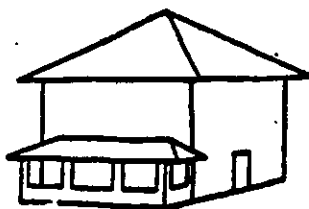
detail emphasizing horizontal lines

HIPPED ROOF, SYMMETRICAL, WITH FRONT ENTRY



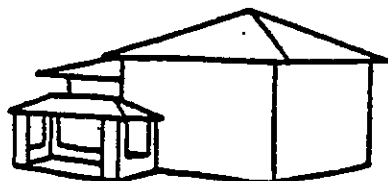
pages 444-5

HIPPED ROOF, SYMMETRICAL, NO FRONT ENTRY



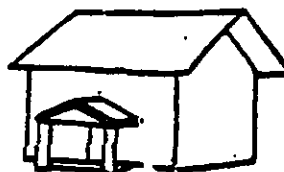
pages 446-7

HIPPED ROOF, ASYMMETRICAL



pages 448-9

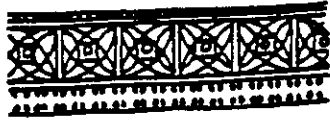
GABLED ROOF



pages 450-1

PRINCIPAL SUBTYPES

SULLIVANESQUE
stylized floral and circular geometric



bands at cornice or door



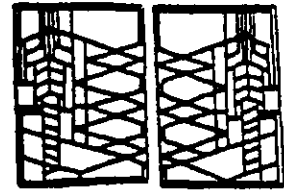
column capitals



terra cotta
medallion



column
elaboration
and capitals

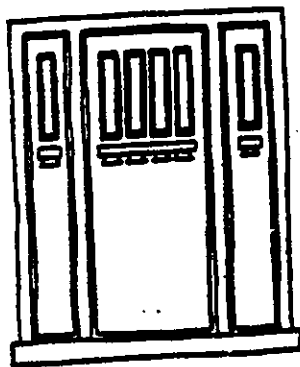
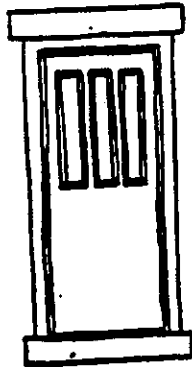
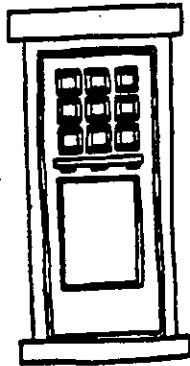
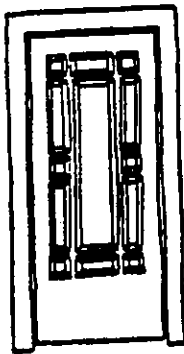


leaded glass windows

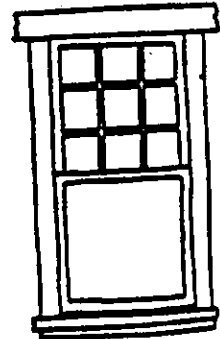
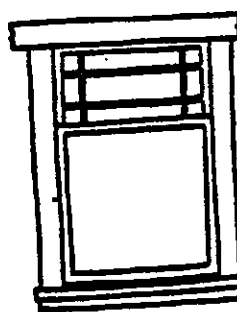
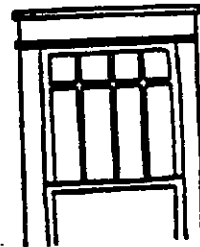
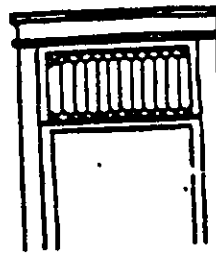
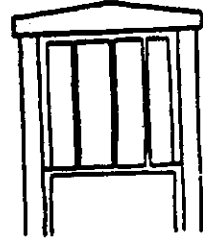
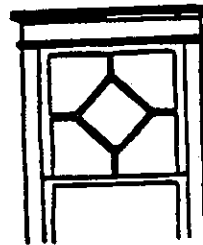
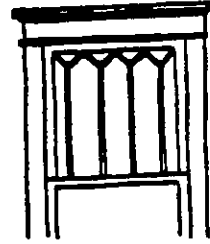
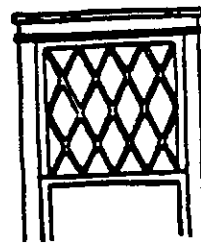
angular geometric

Prairie

DECORATIVE DETAIL



TYPICAL DOORS



FOUND IN BOTH
CRAFTSMAN & PRAIRIE

TYPICAL WINDOW GLAZING & SURROUNDS
Common windows common on Prairie high-style examples

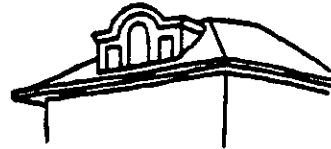
Prairie



gable

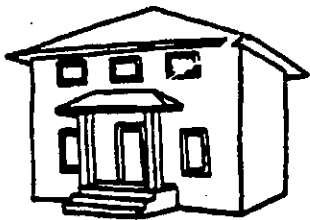
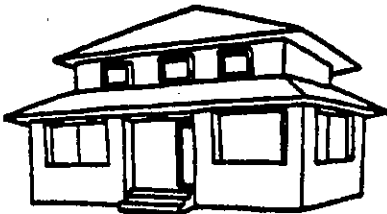
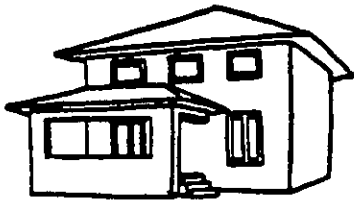


through-cornice



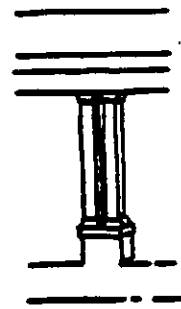
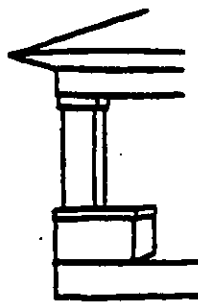
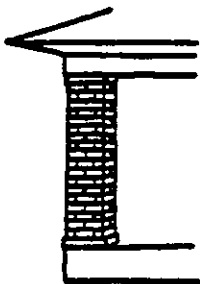
Palladian

COMMON DORMER VARIANTS



COMMON PORCH VARIANTS

MOST COMMON VERNACULAR FORM



COMMON PORCH SUPPORT VARIANTS

Craftsman

1905-1930



FRONT-GABLED ROOF



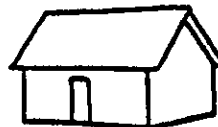
pages 456-7

CROSS-GABLED ROOF



pages 458-9

SIDE-GABLED ROOF

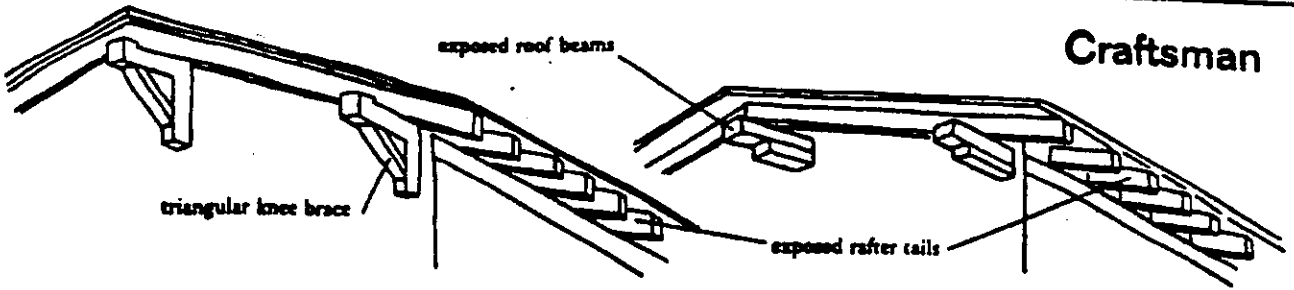


pages 460-1

HIPPED ROOF

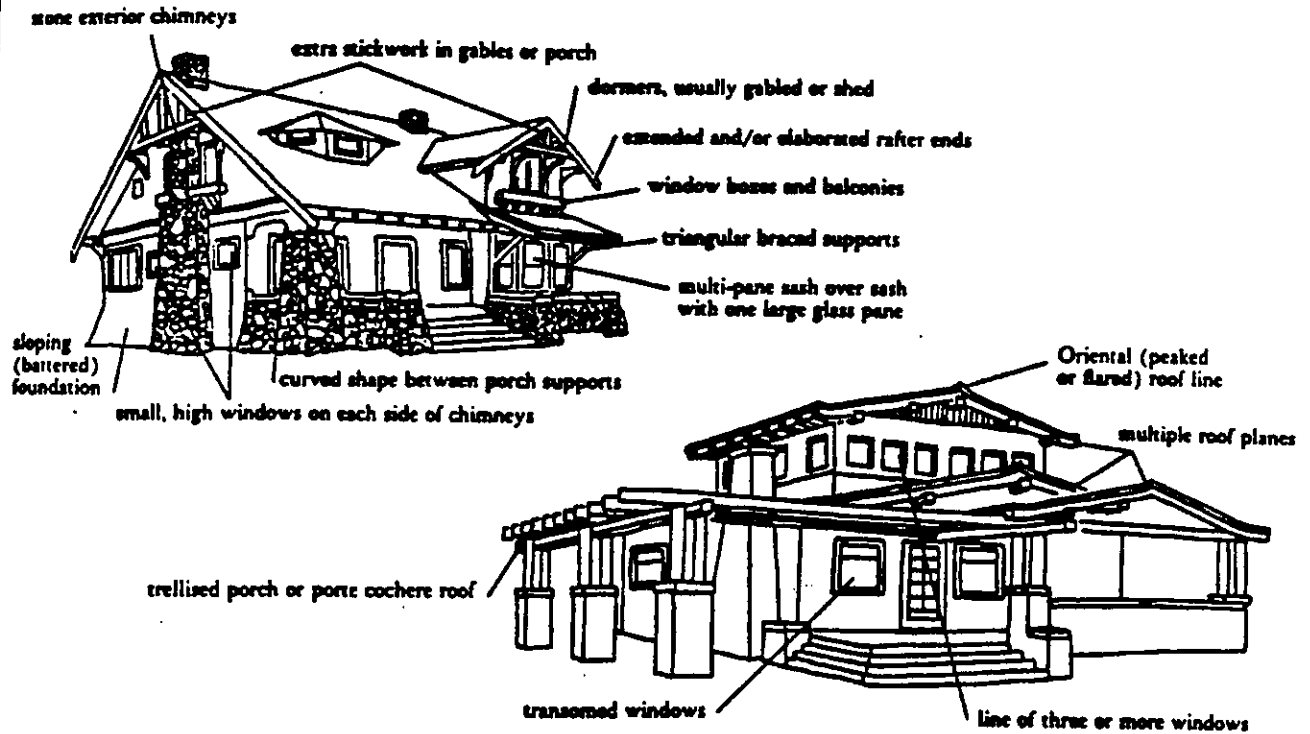


page 463

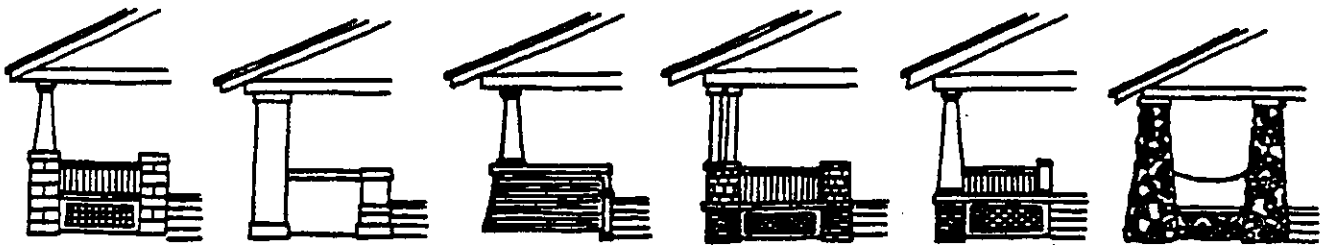


Craftsman

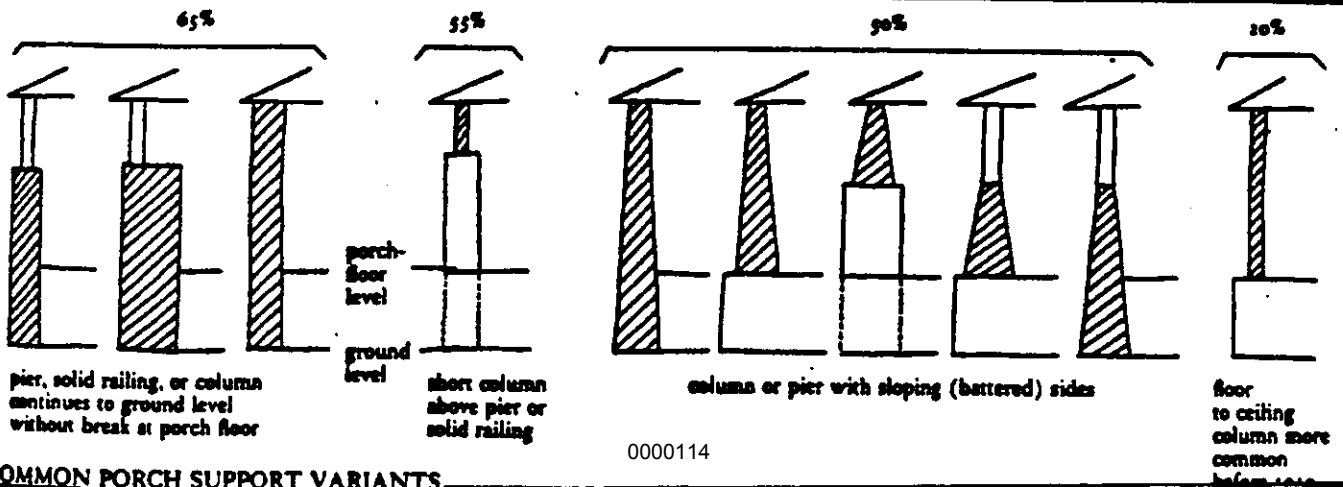
TYPICAL ROOF-WALL JUNCTIONS



TYPICAL ELABORATIONS



SOME TYPICAL PORCH SUPPORTS AND PORCH RAILINGS A pier without column is common



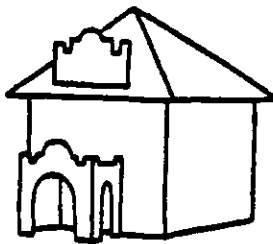
COMMON PORCH SUPPORT VARIANTS

Mission

1890-1920

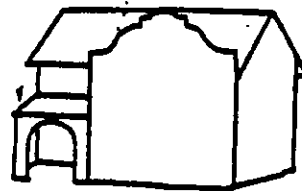


SYMMETRICAL



pages 412-13

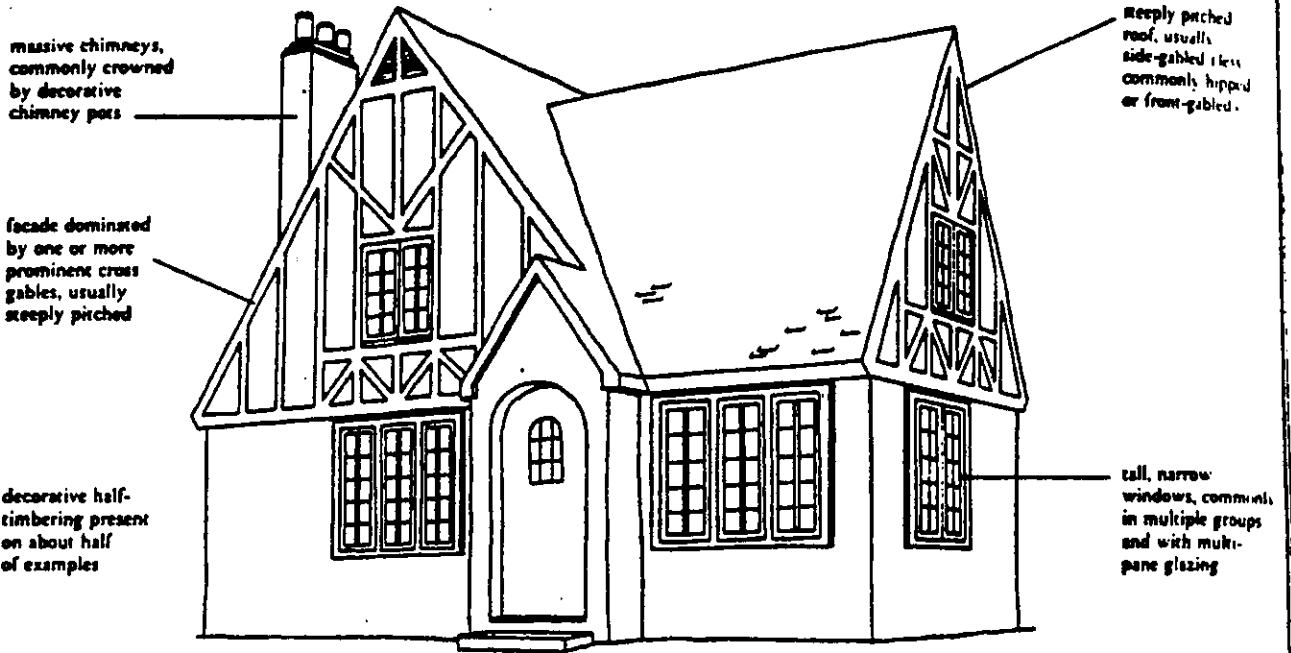
ASYMMETRICAL



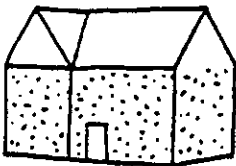
pages 414-15

Tudor

1890-1940



STUCCO WALL CLADDING



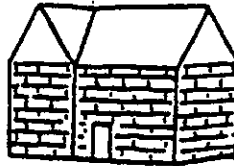
pages 360-1

BRICK WALL CLADDING



pages 362-3

STONE WALL CLADDING



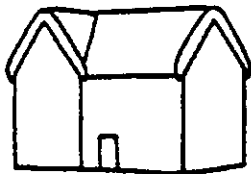
pages 364-7

WOODEN WALL CLADDING



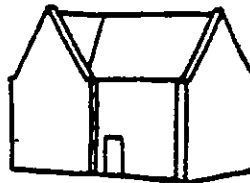
page 368

FALSE THATCHED ROOF



page 369

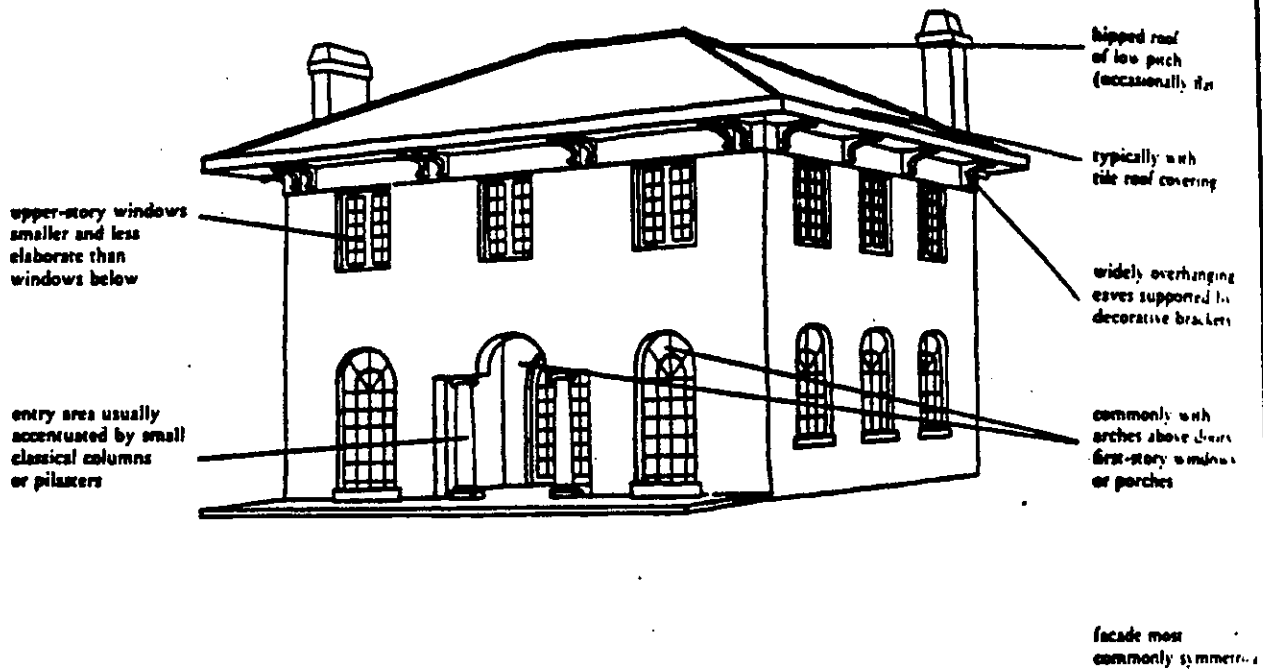
PARAPETED GABLES



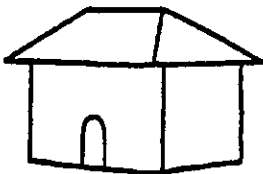
pages 370-1

Italian Renaissance

1890-1935



SIMPLE HIPPED ROOF



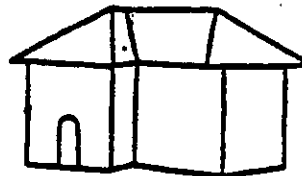
pages 400-1

HIPPED ROOF WITH PROJECTING WING(S)



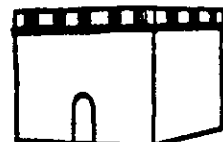
pages 402-3

ASYMMETRICAL



pages 404-5

FLAT ROOF



pages 406-7

Shingle

1880-1900

irregular, steeply pitched roof line, usually with cross gables

extensive porches (may be smaller or absent in urban examples)



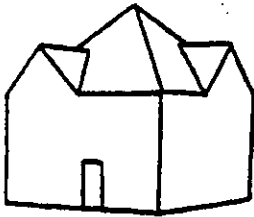
wall cladding and roofing of continuous wood shingles

shingled walls without interruption at corners

multi-level eaves

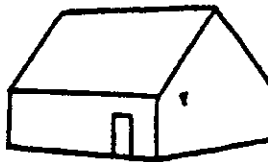
asymmetrical facade

HIPPED ROOF WITH CROSS GABLES



page 292

SIDE-GABLED ROOF



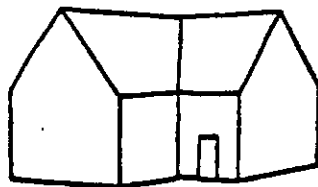
page 293

FRONT-GABLED ROOF



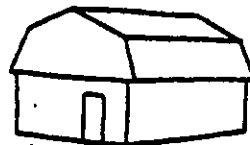
pages 294-5

CROSS-GABLED ROOF



pages 296-7

GAMBREL ROOF



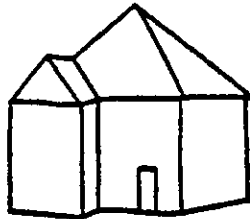
pages 298-9

Colonial Revival

1880-1955

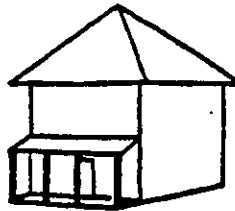


ASYMMETRICAL



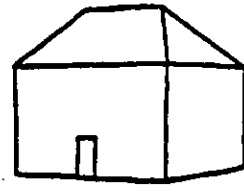
pages 326-7

HIPPED ROOF WITH FULL-WIDTH PORCH



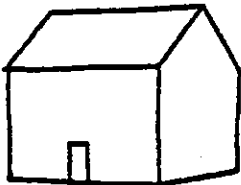
pages 328-9

HIPPED ROOF WITHOUT FULL-WIDTH PORCH



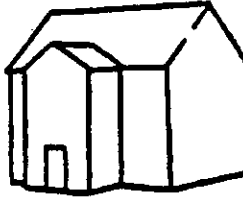
pages 330-1

SIDE-GABLED ROOF



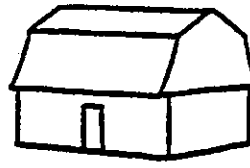
pages 332-3

CENTERED GABLE



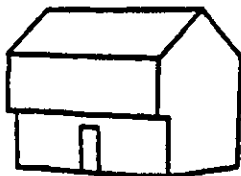
pages 334-5

GAMBREL ROOF



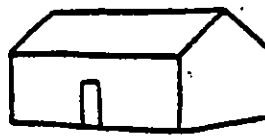
pages 336-7

SECOND-STORY OVERHANG



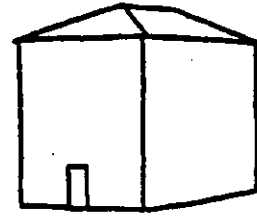
pages 338-9

ONE-STORY



pages 340-1

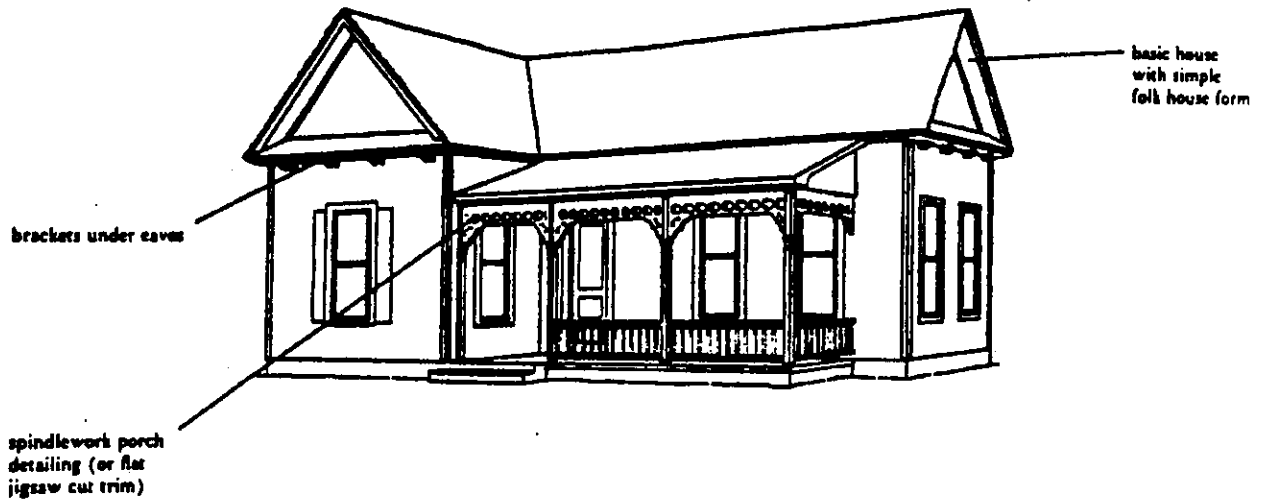
THREE-STORY



pages 342-3

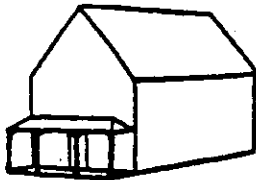
Folk Victorian

ca. 1870-1910



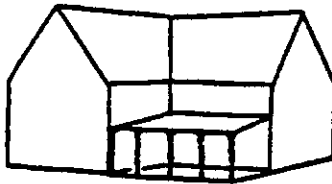
symmetrical facade (except gable front and wing)

FRONT-GABLED ROOF



page 311

GABLE FRONT AND WING



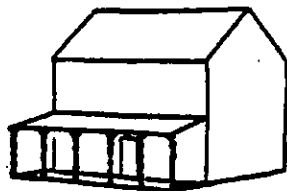
page 312

SIDE-GABLED ROOF, ONE-STORY



page 313

SIDE-GABLED ROOF, TWO-STORY



pages 314-15

PYRAMIDAL



pages 316-17

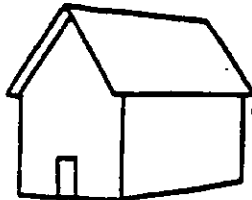
Stick

1860-ca. 1890



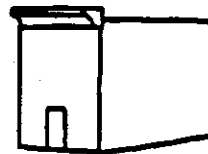
all identifying features rarely present in combination

GABLED ROOF



page 158-9

TOWN HOUSE



page 160

TOWERED
page 161

Neoclassical

1895-1950

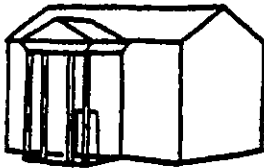


columns typically have Ionic or Corinthian capitals

facade dominated by full-height porch with roof supported by classical columns

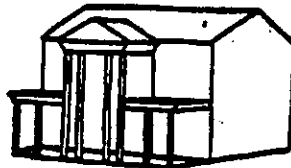
facade with symmetrically balanced windows and center door

FULL-HEIGHT ENTRY PORCH



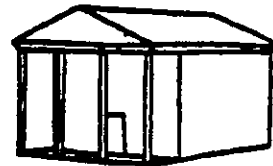
page 346-7

FULL-HEIGHT ENTRY PORCH WITH LOWER FULL-WIDTH PORCH



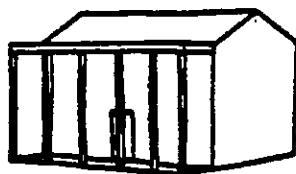
page 348

FONT-GABLED ROOF



page 349

FULL-FACADE PORCH



page 350-1

ONE-STORY



page 352-3

PRINCIPAL SUBTYPES

Queen Anne

1880-1910



partial or full-width asymmetrical porch, usually one-story high and extended along one or both side walls

roof of irregular shape, usually with dominant front-facing gable

textured shingles (and/or other devices) used to avoid smooth-walled appearance

asymmetrical facade

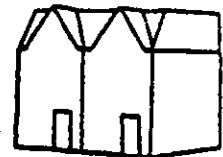
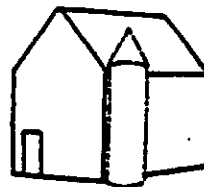
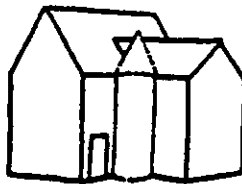
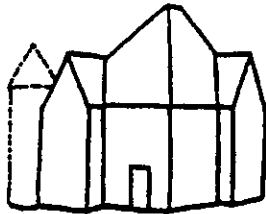
SHAPE SUBTYPES

HIPPED ROOF WITH LOWER CROSS GABLES

CROSS-GABLED ROOF

FRONT-GABLED ROOF

TOWN HOUSE



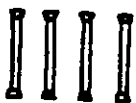
SPINDLEWORK

pages 269-73

page 274

page 275

pages 286-7



FREE CLASSIC

pages 276-9

page 280

page 281

pages 286-7



HALF-TIMBERED

pages 282-3

pages 282-3

pages 282-3

pages 286-7



PATTERNED MASONRY

pages 284-5

pages 284-5

pages 284-5

pages 286-7

DETAILED SUBTYPES

PRINCIPAL SUBTYPES

SECTION 7

Historic Preservation Criteria Dallas Development Code § 51A-4.501

Division 51A-4.500. Overlay and Conservation District Regulations.

SEC. 51A-4.501. HISTORIC OVERLAY DISTRICT.

(a) Purpose. The purpose of this section is to promote the public health, safety and general welfare, and:

- (1) to protect, enhance and perpetuate places and areas which represent distinctive and important elements of the city's historical, cultural, social, economic, archeological, paleontological, ethnic, political and architectural history;
- (2) to strengthen the economy of the city;
- (3) to increase public knowledge and appreciation of the city's historic past and unique sense of place;
- (4) to foster civic and neighborhood pride and a sense of identity;
- (5) to promote the enjoyment and use of historic resources by the people of the city;
- (6) to preserve diverse architectural styles, patterns of development, and design preferences reflecting phases of the city's history;
- (7) to create a more livable urban environment;
- (8) to enhance property values;
- (9) to provide financial incentives for preservation;
- (10) to protect and enhance the city's attraction to tourists and visitors;
- (11) to resolve conflicts between the preservation of historic resources and alternative land uses;
- (12) to integrate historic preservation into public and private land use planning;

(13) to conserve valuable resources through use of the existing building environment;

(14) to stabilize neighborhoods;

(15) to increase public awareness of the benefits of historic preservation;

(16) to maintain a harmony between new and historic structures so that they will be compatible in scale, form, color, proportion, texture and material; and

(17) to encourage public participation in identifying and preserving historic resources.

(b) Establishment of historic overlay districts.

A historic overlay district may be established to preserve places and areas of historical, cultural, or architectural importance and significance if the place or area has three or more of the following characteristics:

(1) History, heritage and culture: Represents the historical development, ethnic heritage or cultural characteristics of the city, state, or country.

(2) Historic event: Location as or association with the site of a significant historic event.

(3) Significant persons: Identification with a person or persons who significantly contributed to the culture and development of the city, state, or country.

(4) Architecture: Embodiment of distinguishing characteristics of an architectural style, landscape design, method of construction, exceptional craftsmanship, architectural innovation, or contains details which represent folk or ethnic art.

(5) Architect or master builder: Represents the work of an architect, designer or master builder whose individual work has influenced the development of the city, state, or country.

(6) Historic context: Relationship to other distinctive buildings, sites, or areas which are

eligible for preservation based on historic, cultural, or architectural characteristics.

(7) Unique visual feature: Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city that is a source of pride or cultural significance.

(8) Archaeological: Archaeological or paleontological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

(9) National and state recognition: Eligible for or designated as a National Historic Landmark, Recorded Texas Historic Landmark, State Archeological Landmark, American Civil Engineering Landmark, or eligible for inclusion in the National Register of Historic Places.

(10) Historic education: Represents an era of architectural, social, or economic history that allows an understanding of how the place or area was used by past generations.

(c) Historic designation procedure and predesignation moratorium.

(1) Purpose. Temporary preservation of the status quo upon initiation of the historic designation procedure is necessary to allow time to evaluate each proposed historic overlay district, to consider appropriate preservation criteria, and to prevent circumvention of the purposes of this section. Relief from the predesignation moratorium may be obtained by applying for a predesignation certificate of appropriateness or certificate for demolition or removal.

(2) Initiation of historic designation procedure. The procedure for adopting an ordinance to establish or amend a historic overlay district may be initiated by the city council, the city plan commission, the landmark commission, or by the owner(s) of the property. The director shall provide property owners with notice of a public hearing to initiate the historic designation procedure at least 10 days before the date set for the hearing using the procedure outlined in Section 51A-4.701(a)(1). No permits to alter or demolish the property may be

issued after provision of this notice until action is taken at that hearing by the city council, city plan commission, or landmark commission. The historic designation procedure is considered to be initiated immediately when the city council, the city plan commission, or the landmark commission votes to initiate it or, in the case of initiation by the property owner(s), when the zoning change application is filed with the director.

(3) Appeal. If the historic designation procedure is initiated by the landmark commission or city plan commission, the property owner may appeal the initiation to the city council by filing a written notice with the director within 10 days after the action of the landmark commission or city plan commission. Within 180 days after the filing of the appeal, the director shall prepare, and the landmark commission shall adopt, a designation report and submit it to the city council. After submission of the designation report, the city council shall hold a public hearing on the appeal. The sole issue on appeal is whether the landmark commission or city plan commission erred in evaluating the significance of the property based on the characteristics listed in Section 51A-4.501(b). Appeal to the city council constitutes the final administrative remedy.

(4) Enforcement. Upon initiation of the historic designation procedure, the historic preservation officer shall immediately notify the building official. The building official shall not accept any application for a permit to alter, demolish, or remove the structure or site subject to the predesignation moratorium, unless a predesignation certificate of appropriateness or certificate for demolition or removal has been issued.

(5) Designation report. Upon initiation of the historic designation procedure, the historic preservation officer shall coordinate research to compile a written report regarding the historical, cultural, and architectural significance of the place or area proposed for historic designation. This report must include a statement on each of the following to the extent that they apply:

(A) A listing of the architectural, archaeological, paleontological, cultural, economic, social, ethnic, political, or historical characteristics upon which the nomination is based;

(B) A description of the historical, cultural, and architectural significance of the structures and site;

(C) A description of the boundaries of the proposed historic overlay district, including subareas and areas where new construction will be prohibited; and

(D) Proposed preservation criteria for the proposed historic overlay district.

(6) Termination of the predesignation moratorium. The predesignation moratorium ends on the earliest of the following dates:

(A) The day after the city council, city plan commission, or landmark commission that voted to initiate the historic designation procedure, votes to terminate the historic designation procedure.

(B) The day after the city council, in an appeal from an initiation by the city plan commission or landmark commission, votes to terminate the historic designation procedure.

(C) In the case of initiation by the property owner(s), the day after the zoning change application is withdrawn.

(D) If the proposed historic overlay district zoning change is approved, the effective date of the ordinance establishing the historic overlay district.

(E) If the proposed historic overlay district zoning change is denied, the day after either the city council makes its final decision denying the change or the expiration of the time period for appeal to the city council from a city plan commission recommendation of denial.

(F) Two years after the date the historic designation procedure was initiated, regardless of who initiated the procedure.

(d) Predesignation certificate of appropriateness.

(1) When required. A person shall not alter a site, or alter, place, construct, maintain, or

expand any structure on the site during the predesignation moratorium without first obtaining a predesignation certificate of appropriateness in accordance with this subsection.

(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 predesignation certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(3) Application. An application for a predesignation 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 exhibits required by the director. The applicant may consult with the department before and after the submission of an application.

(4) Predesignation certificate of appropriateness review procedure. Upon receipt of an application for a predesignation certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing. 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. 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 application and forward its decision to the director. The landmark commission may impose conditions on the predesignation certificate of appropriateness. 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 predesignation certificate of appropriateness, with or without prejudice, the writing must state the reasons why the predesignation certificate of appropriateness is denied.

(5) Standard for approval. The landmark commission must approve the application if it determines that:

(A) for contributing structures, the application will not adversely affect the character of the site or a structure on the site; and the proposed work is consistent with the regulations contained in this section and the proposed preservation criteria; or

(B) for noncontributing structures, the proposed work is compatible with the historic overlay district.

(6) Issuance. If a predesignation 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:

(A) the director shall issue the predesignation certificate of appropriateness to the applicant; and

(B) 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.

(7) Appeal. If a predesignation certificate of appropriateness is denied, the chair of the landmark commission shall verbally inform the applicant of the right to appeal to the city plan commission. If the applicant is not present at the hearing, the director shall inform the applicant of the right to appeal in writing within 10 days after the hearing. The applicant may appeal the denial to the city plan commission by filing a written notice with the director within 30 days after the date of the decision of the landmark commission. The director shall forward to the city plan commission a complete record of the matter being appealed,

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

(8) Reapplication. If a final decision is reached denying a predesignation certificate of appropriateness, no further applications may be considered for the subject matter of the denied predesignation certificate of appropriateness unless the predesignation certificate of appropriateness has been denied without prejudice or the landmark commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the landmark commission is required to grant the request for a new hearing.

(9) Suspension of work. After the work authorized by the predesignation 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.

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

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

(B) the predesignation certificate of appropriateness was issued in violation of the regulations contained in this section, the proposed preservation criteria, or the development code or building codes; or

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

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

(12) Effect of approval of the historic overlay district. A predesignation certificate of appropriateness will be treated as a certificate of appropriateness after the effective date of the ordinance implementing the historic overlay district.

(e) Additional uses and regulations.

(1) A historic overlay district is a zoning overlay which supplements the primary underlying zoning district classification. A historic overlay district is subject to the regulations of the underlying zoning district, except the ordinance establishing the historic overlay district may permit additional uses and provide additional regulations for the historic overlay district.

(2) If there is a conflict, the regulations contained in the historic overlay district ordinance control over the regulations of the underlying zoning district. If there is a conflict, the regulations contained in the historic overlay district ordinance control over the regulations of this section.

(3) The historic overlay district ordinance may include preservation criteria for the interior of historic structures if the interior is customarily open and accessible to the public and the interior has extraordinary architectural, archaeological,

cultural, economic, social, ethnic, political or historical value. Unless there are specific provisions for the interior, the preservation criteria in the historic overlay district ordinance and the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties apply only to the exterior of structures within a historic overlay district.

(4) The landmark commission shall consider the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties ("the Standards"), as amended, when reviewing applications for predesignation and standard certificates of appropriateness. Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. The Standards are common sense principles in non-technical language developed to help promote consistent rehabilitation practices. It should be understood that the Standards are a series of concepts about maintaining, repairing, and replacing historic materials, as well as designing new additions or making alterations; as such, they cannot, in and of themselves, be used to make essential decisions about which features of a historic property should be saved and which might be changed. The director shall make the current Standards available for public inspection at all times. For informational purposes, the Standards published at Section 68.3 of Title 36 of the Code of Federal Regulations (current through January 1, 2001) are set forth below:

(A) A property will be used as it was historically or be given a new use that requires minimal changes to its distinctive materials, features, spaces and spatial relationships.

(B) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

(C) 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.

(D) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(E) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(F) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(G) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(H) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(I) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(J) 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.

(f) Notice of designation.

(1) Upon passage of a historic overlay district ordinance, the director shall send a notice to the owner or owners of property within the historic overlay district stating the effect of the designation, the regulations governing the historic overlay district, and the historic preservation incentives that may be available.

(2) Upon passage of a historic overlay district ordinance, the director shall file a copy of the ordinance in the county deed records to give notice of the historic regulations. Pursuant to Texas Local Government Code Section 315.006, the director shall also file in the county deed records a verified written instrument listing each historic structure or property by the street address, if available, the legal description of the real property, and the name of the owner, if available.

(3) The director may erect suitable plaques appropriately identifying each historic overlay district.

(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 appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(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 exhibits required by the director. The applicant may consult with the department before and after the submission of an application.

(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 director may forward any application to the landmark commission for review.

(B) Routine maintenance work includes:

(i) the installation of a chimney located on an accessory building, or on the rear 50 percent of a main building and not part of the corner side facade;

(ii) the installation of an awning located on an accessory building, or on the rear facade of a main building;

(iii) the replacement of a roof of the same or an original material that does not include a change in color;

(iv) the installation of a wood or chain link fence that is not painted or stained;

(v) the installation of gutters and downspouts of a color that matches or complements the dominant trim or roof color;

(vi) the installation of skylights and solar panels;

(vii) the installation of storm windows and doors;

(viii) the installation of window and door screens;

(ix) the application of paint that is the same as the existing or that is an appropriate dominant, trim, or accent color;

(x) the restoration of original architectural elements;

(xi) minor repair using the same material and design as the original;

(xii) repair of sidewalks and driveways using the same type and color of materials;

(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.

(C) The applicant may appeal the director's 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.

(6) Standard certificate 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.

(B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing. 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. 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. 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.

(C) Standard for approval. The landmark commission must grant the application if it determines that:

(i) for contributing structures:

(aa) the proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;

(bb) the proposed work will not have an adverse effect on the architectural features of the structure;

(cc) the proposed work will not have an adverse effect on the historic overlay district; and

(dd) the proposed work will not have an adverse effect on the future preservation,

maintenance and use of the structure or the historic overlay district.

(ii) for noncontributing structures, the proposed work is compatible with the historic overlay district.

(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 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.

(E) Appeal. If a certificate of appropriateness is denied, the chair of the landmark commission shall verbally inform the applicant of the right to appeal to the city plan commission. If the applicant is not present at the hearing, the director shall inform the applicant of the right to appeal in writing within 10 days after the hearing. The applicant may appeal the denial to the city plan commission by filing a written notice with the director within 30 days after the date of the decision of the landmark commission. The director shall forward to the city plan commission a complete record of the matter being appealed, including a transcript of the tape of the hearing before the landmark commission. In considering an appeal, the city plan commission shall review the landmark commission record and hear and consider arguments from the appellant and the representative for the landmark commission. The city plan commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the landmark commission to determine whether that testimony or evidence was available at the landmark commission hearing. If the city plan commission determines that new testimony or evidence exists that was not available at the landmark commission hearing, the city plan commission shall remand the

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

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

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

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

(G) Suspension of work. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.

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

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

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

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

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

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

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

(h) Certificate for demolition or removal.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Complete architectural drawings of the new structure.

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

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

appropriateness process or the certificate of appropriateness process;

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

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

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

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

(ii) The name of the owner.

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

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

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

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

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

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

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

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

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

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

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

(xiii) All capital expenditures during the current ownership.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Documentation of the age of the structure.

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

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

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

(3) Certificate of demolition or removal review procedure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Initial suspension period.

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

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

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

(ii) Extended suspension period.

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

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

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

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

[4] provide a guarantee agreement that:

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

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

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

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

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

(iii) Continuing suspension period.

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

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

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

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

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

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

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

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

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

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

(k) Demolition by neglect.

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

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

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

(B) A deteriorated or inadequate foundation.

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

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

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

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

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

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

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

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

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

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

(3) Demolition by neglect procedure.

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

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

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

(D) Certification and notice. After review of the report, the landmark commission may vote to certify the property as a demolition by neglect case. If the landmark commission certifies the structure as a demolition by neglect case, the landmark commission shall notify the property owner or the property owner's agent with control over the structure of the repairs that must be made. The notice must require that repairs be started within 30 days and set a deadline for completion of the repairs. The notice must be sent by certified mail.

(E) Second meeting with the property owner. The historic preservation officer shall meet with the property owner or the property owner's agent with control over the structure within 30 days after the notice was sent to inspect any repairs completed and assist the property owner in obtaining any resources available for financing the repairs.

(F) Referral for enforcement. If the property owner or the property owner's agent with control over the structure fails to start repairs by the deadline set in the notice, fails to make continuous progress toward completion, or fails to complete repairs by the deadline set in the notice, the landmark commission may refer the demolition by neglect case to the code compliance department, the urban rehabilitation standards board, or the city attorney for appropriate enforcement action to prevent demolition by neglect.

(l) Historic preservation incentives. Consult Article XI, "Development Incentives," for regulations concerning the tax exemptions, conservation easements, and transfer of development rights available to structures in historic overlay districts.

(m) Historic preservation fund.

(1) The department of development services, in cooperation with community organizations, shall develop appropriate funding structures and shall administer the historic preservation fund.

(2) The historic preservation fund is composed of the following funds:

(A) Outside funding (other than city general funds or capital funds), such as grants and donations, made to the city for the purpose of historic preservation and funding partnerships with community organizations.

(B) Damages recovered pursuant to Texas Local Government Code Section 315.006 from persons who illegally demolish or adversely affect historic structures.

(3) The outside funding may be used for financing the following activities:

(A) Necessary repairs in demolition by neglect cases.

(B) Full or partial restoration of low-income residential and nonresidential structures.

(C) Full or partial restoration of publicly owned historic structures.

(D) Acquisition of historic structures, places, or areas through gift or purchase.

(E) Public education of the benefits of historic preservation or the regulations governing historic overlay districts.

(F) Identification and cataloging of structures, places, areas, and districts of historical, cultural, or architectural value along with factual verification of their significance.

(4) Damages recovered pursuant to Texas Local Government Code Section 315.006 must be used only for the following purposes:

(A) Construction, using as many of the original materials as possible, of a structure that is a reasonable facsimile of a demolished historic structure.

(B) Restoration, using as many of the original materials as possible, of the historic structure.

(C) Restoration of another historic structure.

(n) Enforcement and criminal penalties.

(1) A person is criminally responsible for a violation of this section if:

(A) the person owns part or all of the property and knowingly allows the violation to exist;

(B) the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials;

(C) the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property; or

(D) the person knowingly commits the violation or assists in the commission of the violation.

(2) Any person who adversely affects or demolishes a structure on property subject to the predesignation moratorium or in a historic overlay district in violation of this section is liable pursuant to Texas Local Government Code Section 315.006 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 predesignation certificates of appropriateness, 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.

(3) Prosecution in municipal court for an offense under this section 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.

(o) Substantial evidence standard of review for appeals. The city plan commission shall give deference to the landmark commission decision and may not substitute its judgment for the landmark commission's judgment.

(1) The city plan commission shall remand the matter back to the landmark commission if it determines that there is new testimony or evidence that was not available at the landmark commission hearing.

(2) The city plan commission shall affirm the landmark commission decision unless it finds that it:

(A) violates a statutory or ordinance provision;

(B) exceeds the landmark commission's authority; or

(C) was not reasonably supported by substantial evidence considering the evidence in the record.

(p) Judicial review of decisions. The final decision of the city planning commission regarding an appeal of a landmark commission decision may be appealed to a state district court. The appeal to the state district court must be filed within 30 days after the decision of the city planning commission. If no appeal is made to the state district court within the 30-day period, then the decision of the city plan commission is final and unappealable. An appeal to the state district court is limited to a hearing under the substantial evidence rule. (Ord. Nos. 19455; 19499; 20585; 21244; 21403; 21513; 21874; 22018; 23506; 23898; 24163; 24542; 24544; 25047; 26286; 27430; 27922)

SEC. 51A-4.502.

INSTITUTIONAL OVERLAY DISTRICT.

(a) General provisions.

(1) The institutional overlay district promotes cultural, educational, and medical institutions, and enhances their benefit to the community while protecting adjacent property.

(2) The following main uses may be permitted in an institutional overlay district:

- Ambulance service.
- Ambulatory surgical center.
- Cemetery or mausoleum.
- Church.
- College dormitory, fraternity or sorority house.
- College, university, or seminary.
- Community service center.
- Convalescent and nursing homes, hospice care, and related institutions.
- Convent or monastery.
- Day care center.
- Foster home.
- Halfway house.
- Hospital.
- Library, art gallery, or museum.
- Medical clinic.
- Medical or scientific laboratory.
- Overnight general purpose shelter.
- Post office.
- Public or private school.

(3) All uses permitted in the underlying zoning district are allowed in an institutional overlay district.

(4) The zoning regulations of the underlying zoning district are applicable to an institutional overlay district unless otherwise provided in this section.

(b) Special yard, lot, and space regulations.

(1) In an institutional overlay district, additional setbacks, if any, for institutional buildings greater than 36 feet in height may be established by the site plan process.

(2) Buildings in an institutional overlay district must comply with applicable height regulations.

(3) If any portion of a structure is over 26 feet in height, that portion may not be located above a residential proximity slope originating in an R, R(A), D, D(A), TH, or TH(A) district. Exception: Structures listed in Section 51A-4.408(a)(2) may project through the slope to a height not to exceed the maximum structure height, or 12 feet above the slope, whichever is less.

(c) Special parking regulations.

(1) Required off-street parking for institutional uses may be located anywhere within the boundaries of the institutional overlay district or outside the district if the parking meets the requirements of Division 51A-4.320.

(2) Reserved.

(3) Reserved.

(d) Procedures for establishing an institutional overlay district.

(1) The applicant for an institutional overlay district shall comply with the zoning amendment procedure for a change in the zoning district classification.

(2) A site plan must be submitted after the institutional district is established and before a building permit or certificate of occupancy is issued.

(e) Site plan process.

(1) The building official shall not issue a building permit for additions to existing structures or for new structures except in accordance with an approved site plan and all applicable regulations.

(2) Preapplication conference. An applicant for site plan approval shall request, by letter, a preapplication conference with the director. The letter must contain a brief, general description of the nature, location, extent of the proposed institutional use and the list of any professional consultants advising the applicant concerning the proposed site plan.

SECTION 8

Correspondence

- Notice of denied application
- Request to Appeal from applicant
- Applicant's Notice of CPC Date of Appeal
- Appeal Procedures
- Other correspondence

April 12, 2016

ERIC SPINNAZOLA
7331 LAKEWOOD BLVD,
DALLAS, TX 75214

**RE: CA156-087(JKA)
REVIEW OF YOUR CERTIFICATE OF APPROPRIATENESS APPLICATION
4716 JUNIUS ST**

Dear ERIC SPINNAZOLA:

Enclosed is a copy of the Certificate of Appropriateness (CA) application that you submitted for review by the Landmark Commission on April 4, 2016.

Please see the enclosed Certificate of Appropriateness for Details.

PLEASE NOTE: You have the right to appeal this decision within 30 days from the Landmark Commission review date. The enclosed ordinance lists the fee schedule for appeals. Also enclosed is an application for appeal which is due in our office by 5:00 P.M on May 4, 2016. For information regarding the appeals process, please call Trena Law at 214-670-4206.

If you have any questions, please contact me by phone at 214/670-4209 or email jennifer.anderson@dallascityhall.com.



Jennifer Anderson
Senior Planner

Encl. Ordinance #27430 and Application for Appeal



Certificate of Appropriateness

December 7, 2015

Standard	December 7, 2015	PLANNER:	Jennifer Anderson
FILE NUMBER:	CA156-087(JKA)	DATE FILED:	November 4, 2015
LOCATION:	4716 JUNIUS ST	DISTRICT:	Peak's Suburban Addition Neighborhood
COUNCIL DISTRICT:	2	MAPSCO:	46-B, 46-F
ZONING:	PD-98	CENSUS TRACT:	0015.02

APPLICANT: ERIC SPINNAZOLA
 REPRESENTATIVE:
 OWNER: SPINAZZOLA ERIC

The Landmark Commission decision is: Denied

Information regarding requests:

NOT INCLUDED IN REMAND

1) Install 4" Hardiboard on rear ~~and side~~ facades of the main structure. Work completed without a Certificate of Appropriateness.
 Deny

Conditions: The work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is not consistent with preservation criteria Section 3.6 which includes the back facade and Secretary of Interior Standards #2.

2) Install Hardiboard skirting on rear and side facades of the main structure. Work completed without a Certificate of Appropriateness.

Approve with Conditions

Conditions: Approve with conditions that the Hardi or other synthetic material stops at drip edge.

3) Install balustrade on front facade porch of main structure.

Deny without Prejudice

Conditions: The proposed work is not consistent with City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with City Code Section 51A-4.501(e)(4)(C) stating that the addition of conjectural features or architectural elements from other buildings will not be undertaken.

NOT INCLUDED



December 7, 2015

Date

A handwritten signature in black ink, appearing to read "Katherine D. Noble".

Landmark Commission Chair

Please take any signed drawings to Building Inspection for permits.

APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is: **May 4, 2016**

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



Landmark Case/File No.: CA156-087(JKA)

Property Address: 4716 JUNIUS ST

Date of Landmark Commission Action: April 4, 2016

Applicant's Name: ERIC SPINAZZOLA

Applicant's Mailing Address: 7331 Lakewood Blvd

City: Dallas State: Tx Zip: 75214

Applicant's Phone Number: 469 438 3600 Cell Fax: 214-321-6660

Applicant's Email: office@spinazzoladallas.com

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

Owner's Name: _____

Owner's Mailing Address: _____

City: _____ State: _____ Zip: _____

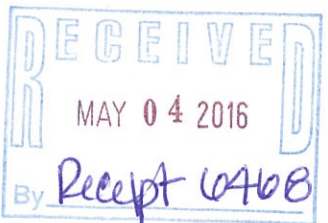
Owner's Phone Number: _____ Fax: _____

Owner's Email: _____

[Signature] 5/4/16
Applicant's Signature Date

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

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



May 10, 2016



Via Certified Mail: 7011 1150 0000 0380 7169

Eric Spinazzola
7331 Lakewood Blvd.
Dallas, TX 75214

RE: Appeal of Certificate of Appropriateness: Hearing – April 4, 2016
4716 Junius Street, Case No. CA145-087(JKA)

Dear Mr. Spinazzola:

We have received your correspondence appealing the Landmark Commission's denial of a Certificate of Appropriateness application to install 4 inch Hardiboard on the rear façade of the main structure for 4716 Junius Street. Please be advised that the City Plan Commission hearing for **this appeal is scheduled for Thursday, June 30, 2016** during the public hearing scheduled to begin no earlier than 1:30 p.m. in the City Council Chambers at Dallas City Hall, 1500 Marilla Street.

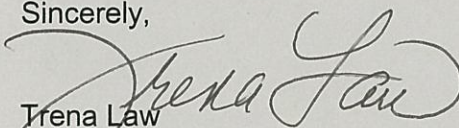
The appeal of the decision of the Landmark Commission regarding the application for a Certificate of Appropriateness is a quasi-judicial action. No communication with City Plan Commission members may occur outside the hearing of June 30, 2016.

The Dallas Development Code, Section 51A-4.501(g)(6)(E) provides the procedures applicable to a Certificate of Appropriateness appeal. For your convenience, I have enclosed a copy of the ordinance containing the applicable section and a copy of the Appeal Procedures.

I will send you the Landmark Commission record (and other related paperwork) by **Friday, June 10, 2016**. The Landmark Commission record includes all documents related to your specific case. Should you wish to provide the City Plan Commission a brief on the matter, please submit a copy to me at, Dallas City Hall, 1500 Marilla Street, Room 5BN, Dallas, TX 75201 or to trena.law@dallascityhall.com by **Wednesday, June 15, 2016**. I will then distribute the copies of your brief to the City Plan Commission. I will also send you a copy of the brief by Laura Morrison, Assistant City Attorney for the Landmark Commission.

Please contact me at 214-670-4206 if there are any questions regarding the deadline dates. You are encouraged to contact Assistant City Attorney Casey Burgess at 214-670-1332 if you have any questions regarding the format of the City Plan Commission hearing or other related matters.

Sincerely,


Trena Law
Board Secretary for Landmark Commission
Sustainable Development and Construction

cc: David Cossum, Director, Current Planning
Neva Dean, Interim Assistant Director, Current Planning
Laura Morrison, Assistant City Attorney
Casey Burgess, Assistant City Attorney
Jennifer Anderson, Senior Planner, Historic Preservation

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

(Revised April 2014)

1. Postponements.

- a. The City Plan Commission may grant a postponement if it wishes.
- b. Dallas Development Code §51A-4.701(e), regarding postponement of zoning applications by the applicant, does not apply.

2. Content of the record.

- a. Copies of the complete record will be distributed by staff to the City Plan Commission two weeks before the scheduled hearing.
- b. The parties may request that the record be supplemented.

3. Additional correspondence and briefs.

- a. Additional correspondence or briefs, if any are desired to be submitted by the parties, should be provided to the planning staff for distribution to the City Plan Commission.
- b. The parties should provide each other with copies of any information they submit to the City Plan Commission.
- c. Interested parties should not make any contacts with commission members other than those submitted through the city staff.

4. Representation of the Landmark Commission.

- a. The Landmark Commission will be represented by Laura Morrison.

5. Order of the hearing.

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

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

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

6. Introduction of new evidence at the hearing.

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

7. Remedies of the City Plan Commission.

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