

THE RECORD

6219 La Vista Drive
APPEAL
CA212-354(LVO)

City Plan Commission
Hearing
09/01/2022

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6219 La Vista Drive CA212-354(LVO)

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SECTION 1

Certificate of Appropriateness

6219 La Vista Drive
CA212-354(LVO)

Certificate of Appropriateness (CA)
City of Dallas Landmark Commission

CA _____ ()
 Office Use Only

Name of Applicant: Suzanne Miller and John Obergruber
 Mailing Address: 6219 Le Vista Dr
 City, State and Zip Code: Dallas, TX 75214
 Daytime Phone: 469-583-7521 Alternate Phone: _____
 Relationship of Applicant to Owner: Owner

OFFICE USE ONLY
 Main Structure:
 Contributing
 Non-contributing

PROPERTY ADDRESS: 6219 Le Vista Dr, Dallas, TX 75214
Historic District: Swiss Avenue Historic District

PROPOSED WORK:
 List all proposed work simply and accurately, use extra sheet if needed. Attach all documentation specified in the submittal criteria checklist for type of work proposed. **DO NOT write "see attached."**

General maintenance painting on main house trim and carriage house siding. No color change.
 Replace protective shutters on front windows with glass.

Signature of Applicant: [Signature] Date: March 30, 2022
 Signature of Owner: _____ Date: _____
(IF NOT APPLICANT)

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.

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 214-670-4209 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.

Signed drawings and/or specifications are enclosed Yes No

Office of Historic Preservation _____ Date _____

SECTION 2

Landmark Commission Agenda

June 6, 2022

See Page 14, Item #5

Landmark Commission Agenda
Monday, June 6, 2022

5. 6219 LA VISTA DR

Swiss Avenue Historic District
CA212-354(LVO)
Laura Groves van Onna

Request:

A Certificate of Appropriateness retain replacement of original leaded glass windows with single-light glass.

Applicant: Miller, Suzanne

Application Filed: 5/5/22

Staff Recommendation:

That the request for a Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass be denied. The proposed work does not meet Section 51P-63.116(1)(P) of the Swiss Avenue preservation criteria; the standards in City Code Section 51A-4.501(g)(6)(C)(i); and the Secretary of the Interior's Standards.

Task Force Recommendation:

That the request for a Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass be denied.

6. 4905 SWISS AVE

Swiss Avenue Historic District
CA212-349(LVO)
Laura Groves van Onna

Request:

A Certificate of Appropriateness to change roofing material on main structure from slate to asphalt shingles.

Applicant: Boyd, John O.

Application Filed: 5/5/22

Staff Recommendation:

That the request for a Certificate of Appropriateness to change roofing material on main structure from slate to asphalt shingles be denied without prejudice. The proposed work does not meet Section 51P-63.116(1)(N) of the Swiss Avenue preservation criteria; the contributing standards in City Code Section 51A-4.501(g)(6)(C)(i); and the Secretary of the Interior's Standards.

Task Force Recommendation:

That the request for a Certificate of Appropriateness to change roofing material on main structure from slate to asphalt shingles be denied without prejudice.

7. 338 S FLEMING AVE

Tenth Street Neighborhood Historic District
CA212-367(MGM)
Murray G. Miller

Request:

A Certificate of Appropriateness to construct a single-story primary structure.

Applicant: Bristow, Annemarie

Application Filed: 5/5/22

SECTION 3

CA212-354(LVO)
Docket Material



LANDMARK COMMISSION

JUNE 2, 2022

FILE NUMBER: CA212-354(LVO)
LOCATION: 6219 La Vista Dr
STRUCTURE: Contributing
COUNCIL DISTRICT: 14
ZONING: PD-63 (Area A)

PLANNER: Laura Groves van Onna
DATE FILED: May 5, 2022
DISTRICT: Swiss Avenue (H-1)
MAPSCO: 36-Y
CENSUS TRACT: 0014.00

APPLICANT: Suzanne Miller

REPRESENTATIVE: N/A

OWNER: OBERPRILLER JOHN M &

REQUEST:

A Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass.

BACKGROUND / HISTORY:

1. 6219 La Vista Dr is a residence listed as contributing to the Swiss Avenue Historic District.
2. On June 13, 2012, the main residence sustained damage due to a severe hail storm. Original leaded glass windows were subsequently covered by wood boards for approximately nine years.
3. On November 8, 2021, a Certificate of Appropriateness (CA) for installation of new glass in front facade window with removal of protective boards was approved by Staff with conditions that any replacement glass matches the original in material, dimensions, and profile.
4. Records do not indicate approval of other requests for a CA outside of routine maintenance.

RELEVANT PRESERVATION CRITERIA:

Swiss Avenue Historic District (H-1), Ordinance No. 18563

SEC. 51P-63.116. Preservation Criteria for Area A.

(1) Building placement, form, and treatment.

(P) Windows and doors.

(ii) Glass. *Clear, decorative stained, and clear leaded glass typical of the style and period of the building may be permitted in any window opening. Reflective, tinted, opaque, and mirrored glass and plastic are not permitted in any opening. Translucent glass is not permitted except in a bathroom window.*

(vi) Style.

(bb) *No single, fixed plate glass is allowed except as part of an original period design. The size and proportion of window and door openings located on the front and side facades of a main building must be typical of the style and period of the building.*

(cc) *All windows, doors, and lights in the front and side facades of a main building must be typical of the style and period of the building and compatible with the windows, doors, and lights in the front and side facades of the other main buildings in the blockface. Windows must contain at least two lights (window panes). Sidelights must be compatible in style and materials with the door.*

RELEVANT SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES:

Standards for Rehabilitation

2. *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*

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

6. *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.*

RELEVANT DALLAS CITY CODE:

Section 51A-4.501. Historic Overlay District

- (g) Certificate of Appropriateness.
 - (6) Standard certificate of appropriateness review procedure.
 - (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.*

PROJECT DESCRIPTION & ANALYSIS:

Replacement of Original Leaded Glass Windows with Single-Light Glass

The applicant is proposing to retain replacement of original wood-framed windows with diamond-patterned leaded glass along the first story of front and side facades of the main residence with wood-framed windows with single-light glass within existing openings.

The proposed replacement of original leaded glass windows with single-light glass does not comply with the preservation criteria. The criteria do not allow single, fixed plate glass – except as part of an original period design. Further, the criteria state that all windows on “front and side facades of a main building must be typical of the style and period of the building” and “must contain at least two lights (window panes).” The proposed replacement of original leaded glass windows is inconsistent with preservation criteria Section 51P-63.116(1)(P), as well as the Secretary of the Interior’s Standards for Rehabilitation 2, 5, and 6. The proposed window replacement would adversely affect the character of the site and district.

STAFF RECOMMENDATION:

That the request for a Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass be denied. The proposed work does not meet Section 51P-63.116(1)(P) of the Swiss Avenue preservation criteria; the standards in City Code Section 51A-4.501(g)(6)(C)(i); and the Secretary of the Interior’s Standards.

TASK FORCE RECOMMENDATION:

That the request for a Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass be denied.

CURRENT PHOTOS
6219 La Vista Dr



LOCATION MAP

6219 La Vista Dr

Basemap Source: City of Dallas Zoning Website





Context







SECTION 4

Landmark Commission Minutes

June 6, 2022

See Page 12, Item #5

					Spellicy
		Vacancies:	-	2	Districts 3 and 11

5. 6219 LA VISTA DR

Swiss Avenue Historic District
CA212-354(LVO)

Laura Groves van Onna

A Certificate of Appropriateness retain replacement of original leaded glass windows with single-light glass.

Speakers: For: No Speakers
Against: No Speakers

Motion

That the request for a Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass be **denied**. The proposed work does not meet Section 51P-63.116(1)(P) of the Swiss Avenue preservation criteria; the standards in City Code Section 51A-4.501(g)(6)(C)(i); and the Secretary of the Interior's Standards.

Maker:	Rothenberger				
Second:	Velvin				
Results:	8/0				
		Ayes:	-	8	Anderson, Cummings, Montgomery, Offutt, Rothenberger, Sherman, Swann, Velvin
		Against:	-	0	
		Absent:	-	6	Guest, Hinojosa, Livingston, Renaud, Slade, Spellicy
		Vacancies:	-	2	Districts 3 and 11

6. 4905 SWISS AVE

Swiss Avenue Historic District
CA212-349(LVO)

Laura Groves van Onna

A Certificate of Appropriateness to change roofing material on main structure from slate to asphalt shingles.

Speakers: For: No Speakers
Against: No Speakers

Motion

That the request for a Certificate of Appropriateness to change roofing material on main structure from slate to asphalt shingles be **denied without prejudice**. The proposed work does not meet Section

SECTION 5

Transcript of the
June 6, 2022
Landmark Commission
Hearing
6219 La Vista Drive
CA212-354(LVO)

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IN RE: LANDMARK COMMISSION MINUTES

4

6219 LA VISTA DRIVE - CA212-354 (LVO)

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LANDMARK COMMISSION MEETING

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8

June 6, 2022

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1:01 p.m.

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24 Transcribed by: Adrienne M. Mignano, RPR

25 Job Number: 853299

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2 COMMISSIONER MONTGOMERY: Welcome.

3 This is the public hearing of the
4 Landmark Commission. It is June 6, 2022
5 at 1:01, and I'm calling the meeting to
6 order.

7 I'm Evelyn Montgomery. I'm the
8 vice chair of the Commission and the
9 acting chair. Our acting vice chair
10 today will be Commissioner Diane
11 Sherman. We do have a quorum present.
12 I would ask that Elaine would take the
13 roll call.

14 Elaine?

15 Elaine, I'm asking you to please
16 take the roll call. I don't think your
17 mic is on yet. Okay.

18 MS. HILL: So you've already
19 called the meeting to order? Did I miss
20 it?

21 COMMISSIONER MONTGOMERY: Yes, the
22 meeting has been called to order and now
23 we need you to do the roll call.

24 MS. HILL: I'm sorry, I just
25 didn't get the time. I apologize.

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District 1, Commissioner Sherman?

COMMISSIONER SHERMAN: Present.

MS. HILL: District 2,

Commissioner Montgomery?

COMMISSIONER MONTGOMERY: Present.

And the meeting came to order at 1:01,
by the way, Elaine.

MS. HILL: Okay. Thank you.

District 4, Commissioner Swann?

COMMISSIONER SWANN: Present.

MS. HILL: District 5,

Commissioner Offutt?

COMMISSIONER OFFUTT: Present.

MS. HILL: District 6,

Commissioner Hinojosa?

COMMISSIONER HINOJOSA: Present.

MS. HILL: District 7,

Commissioner Livingston?

COMMISSIONER LIVINGSTON:

(Inaudible).

MS. HILL: District 12,

Commissioner Rothenberger?

COMMISSIONER ROTHENBEGER:

Present.

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MS. HILL: District 13,
Commissioner Slade?

(No verbal response.)

MS. HILL: District 15,
Commissioner Velvin?

COMMISSIONER VELVIN: Present.

MS. HILL: Commissioner Anderson?

COMMISSIONER ANDERSON: Present.

MS. HILL: Commissioner Taylor?

(No verbal response)

MS. HILL: Commissioner Cummings?

COMMISSIONER CUMMINGS: Present.

MS. HILL: And CPC Liaison,
Commissioner Hampton.

That's it. It's nine in
attendance.

(Audio 4:34:13 - 4:38:21)

MS. MONTGOMERY: Now we move on to
D5.

UNKNOWN SPEAKER: Discussion item
number 5 located at the 6219 La Vista
Drive in the Swiss Avenue Historic
District, CA212-354 (LVO).

The request is a Certificate of

1
2 Appropriateness to retain replacement of
3 original leaded glass windows with
4 single light glass.

5 Staff recommendation that the
6 request for Certificate of
7 Appropriateness to retain replacement of
8 original leaded glass windows with
9 single light glass be denied.

10 The proposed work does not meet
11 section 51P-63.116-1P of the Swiss
12 Avenue Preservation Criteria, the
13 standards in City Code Section
14 51A-4.501G-6C Romanette (i) and the
15 Secretary of the Interior of Standards.

16 STAFF: Task Force recommendation
17 is that the request for a Certificate of
18 Appropriateness to retain replacement of
19 original leaded glass windows with
20 single light glass be denied.

21 COMMISSIONER MONTGOMERY: Is there
22 any discussion on this issue? And if
23 not, is there a motion?

24 Just speak right up. All right.

25 STAFF: All right. Regarding

1
2 discussion item 5, 6219 La Vista Drive,
3 item CA212-354, I move to deny the item
4 without prejudice, taking into account
5 staff recommendation.

6 COMMISSIONER MONTGOMERY: Do we
7 have a second on this?

8 Commissioner Velvin, I think you
9 had your hand up. All right. Is there
10 any discussion?

11 All right.

12 FEMALE SPEAKER: I have a
13 question.

14 COMMISSIONER MONTGOMERY: Go
15 ahead.

16 FEMALE SPEAKER: I think the Staff
17 recommendation was denial?

18 STAFF: You're correct. I will
19 amend my motion to be denied with
20 prejudice.

21 COMMISSIONER MONTGOMERY: Oh, that
22 sounds bad. All right. We are
23 completely following Staff
24 recommendations, including their
25 preserved. And Commissioner Velvin has

1
2 signaled that she also supports that
3 change.

4 All those in favor of this
5 motion --

6 FEMALE SPEAKER: Who made the
7 motion?

8 COMMISSIONER MONTGOMERY: Pardon
9 me?

10 FEMALE SPEAKER: Rothenberger.

11 FEMALE SPEAKER: Commissioner
12 Rothenberger, if you could just say your
13 name before you speak, that would help
14 out a whole bunch. Thank you.

15 COMMISSIONER MONTGOMERY: You're
16 not even on the --

17 COMMISSIONER ROTHENBERGER: I do
18 have a comment about this. We're past
19 the motion, correct?

20 COMMISSIONER MONTGOMERY: No, you
21 can -- we haven't gotten there yet. You
22 can comment.

23 COMMISSIONER ROTHENBERGER: Okay.
24 I think this is definitely a poster
25 child for getting some teeth into our

1
2 program. I know that the Certificate of
3 Appropriateness process has in the
4 enabling ordinance -- has a place to put
5 in, you can give a person a citation a
6 day until they conform. And I'm not
7 saying we should beat them up real bad,
8 but this is the case that this has been
9 going on forever. And maybe this code
10 compliance has been working with fees
11 and fines, but I'd like the city
12 attorney to look into what we have in
13 our toolbox because there's a lot of
14 code violations around that are just
15 languishing, and maybe we need to beef
16 up our citations and fees a little bit.

17 COMMISSIONER MONTGOMERY: All
18 right. Thank you. I am normally
19 hesitant to approve an outright denial
20 because it seems so final, but it does
21 sound like this is a unique situation
22 where we've made a case why it really,
23 really matters to take a strong stance.
24 So everyone do what they think is best.

25 All those in favor of this motion,

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please say "Aye".

(Commissioners say Aye).

COMMISSIONER MONTGOMERY: Anyone
opposed to this motion?

Okay. This motion has carried
again. Staff will let the owner know
they received a denial. They can go to
CPC for a fee. They can come back to us
and talk about a different idea for the
solution of their problem, but not the
same idea.

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C E R T I F I C A T E

STATE OF NEW YORK)


: SS

COUNTY OF NEW YORK)

I, Adrienne M. Mignano, a
Registered Professional Reporter and Notary
Public within and for the State of New York,
do hereby certify the within is a
a true and accurate transcription of the
audio tapes recorded for a proceeding on
June 6, 2022.

I further certify that I am
not related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 20th day of
July 2022.



ADRIENNE M. MIGNANO

SECTION 6

Historic Preservation Criteria
Dallas Development Code
§ 51A-4.501

ARTICLE 63.

PD 63.

SEC. 51P-63.101. LEGISLATIVE HISTORY.

PD 63 was established by Ordinance No. 14247, passed by the Dallas City Council on September 10, 1973. Ordinance No. 14247 amended Ordinance No. 10962, Chapter 51 of the 1960 Revised Code of Civil and Criminal Ordinances of the City of Dallas. Ordinance No. 14247 was amended by Ordinance No. 15715, passed by the Dallas City Council on December 21, 1977, and Ordinance No. 15766, passed by the Dallas City Council on March 15, 1978. On February 3, 1982, the Dallas City Council passed Ordinance No. 17285, repealing Ordinance Nos. 14247, 15715, and 15766, and re-establishing PD 63. Ordinance No. 17285 was amended by Ordinance No. 18563, passed by the Dallas City Council on January 23, 1985. (Ord. Nos. 10962; 14247; 15715; 15766; 17285; 18563; 25423)

SEC. 51P-63.102. PROPERTY LOCATION AND SIZE.

PD 63 is established on property generally located southeast of Live Oak Street, south of La Vista Drive, northwest of the alley between Swiss Avenue and Gaston Avenue, and northeast of Fitzhugh Avenue. The size of PD 63 is approximately 116.88 acres. (Ord. Nos. 17285; 25423)

SEC. 51P-63.103. DEFINITIONS.

(a) In this article:

- 63C.
- (1) ACCEPTABLE COLOR RANGE means the range of colors shown on Exhibit
 - (2) APPLICANT means the property owner or his designee.
 - (3) BLOCK means an area bounded by streets on all sides.
 - (4) BLOCKFACE means all of the lots on one side of a block.
 - (5) CERTIFICATE OF APPROPRIATENESS means a certificate issued by the city to authorize certain acts to be performed in this district. (See the enforcement section of this article.)
 - (6) COLUMN means the entire column including the base and capital, if any.
 - (7) COMMISSION means the city plan and zoning commission.
 - (8) COMMITTEE means the landmark committee created under Section 51-3.103.
 - (9) CORNER LOT means a lot that has frontage on two different streets.
 - (10) CORNER SIDE FACADE means a main building facade facing the side street.
 - (11) CORNER SIDE YARD means a side yard that abuts a street.
 - (12) DIRECTOR means the director of development services or his representative.

(13) FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.

(14) FRONT YARD means the portion of a lot that abuts a street and extends across the width of the lot between the street and a main building and lines parallel to and extending outward from the front facade of a main building. "Required" front yard means the portion of the front yard between the street and the setback line.

(15) LOT means a building site, as defined in the Dallas Development Code.

(16) PARKWAY means the area between the paved portion of a street and a front lot line.

(17) PLANTER BOX means a permanent container for plants that is non-movable.

(18) PRESERVATION CRITERIA means the standards considered by the director, committee, and commission in determining whether a certificate of appropriateness should be granted or denied.

(19) REAR YARD means:

(A) on an interior lot, the portion of the lot between the side lot lines that extends across the width of the lot between a main building and lines parallel to and extending outward from the rear facade of a main building and the rear lot line; and

(B) on a corner lot, the portion of the lot that extends between the interior side lot line and a line parallel to and extending outward from the rear corner of the corner side facade, and between the rear lot line and a main building and a line parallel to and extending outward from the interior side corner of the rear facade.

(20) SCREENING means a structure or planting that provides a visual barrier.

(21) SCREENING FACTOR means the degree to which a structure provides a visual barrier.

(22) SIDE YARD means any portion of a lot not occupied by a main building that is not a front or rear yard. "Side yard" includes "corner side yard."

(23) STORY means the portion of a building between any two successive floors, or between the top floor and the ceiling above it.

(24) THIS DISTRICT means the Swiss Avenue Historic District.

(25) TRIM COLOR means a paint color other than the dominant color. Wood colored translucent stain is not a trim color. Trim color does not include the color of screen and storm doors and windows, gutters, downspouts, porch floors, and ceilings.

(b) Except as otherwise provided in this section, the definitions contained in the Dallas Development Code, as amended, apply to this article. (Ord. Nos. 18563; 25423; 26340)

SEC. 51P-63.104.

INTERPRETATIONS.

- (a) Unless otherwise stated, the interpretations in Chapter 51 apply to this article.
- (b) Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51. (Ord. 25423)

SEC. 51P-63.105.

RECONCILIATION WITH ORDINANCE NO. 17285 AND THE DALLAS DEVELOPMENT CODE.

The provisions of Ordinance No. 17285 and the Dallas Development Code, as amended, apply to the Swiss Avenue Historic District unless expressly modified or repealed by this article. In the event of a conflict, the provisions of this article control. (Ord. Nos. 18563; 25423)

SEC. 51P-63.106.

NONCONFORMING USES AND STRUCTURES.

- (a) In general. Except as otherwise provided in this article, Section 51-4.704 relating to nonconforming uses and structures, applies to all uses and structures in this district.
- (b) Nonconforming uses.
 - (1) Termination when building destroyed. Except as otherwise provided below, if a building in which a nonconforming use is located is destroyed, the right to operate the nonconforming use terminates immediately.
 - (2) Nonconforming servants' or caretakers' quarters. The right to operate a nonconforming servants' or caretakers' quarters use does not terminate when the structure in which the use is located is damaged or destroyed. A servants' or caretakers' quarters must be used by bona fide servants or caretakers and may not be rental accommodations.
- (c) Rebuilding damaged or destroyed nonconforming buildings. If a nonconforming single-family main or accessory building is damaged or destroyed, it may be rebuilt at the same location without the approval of the board of adjustment. (Ord. Nos. 18563; 25423)

SEC. 51P-63.107.

GRAPHICS.

Graphics that illustrate the requirements of this article are labelled Exhibit 63B. In the event of a conflict, the text of this article controls over any graphic display in Exhibit 63B. (Ord. Nos. 18563; 25423; 26340)

SEC. 51P-63.108.

ENFORCEMENT.

- (a) Certificate of appropriateness required. A person commits an offense if, without first obtaining a certificate of appropriateness from the city expressly authorizing the act, he:
 - (1) places or constructs a main or accessory building on property in this district;
 - (2) makes exterior alterations to a main or accessory building in this district; or

(3) places, constructs, installs, or maintains a structure or non-plant-material landscape item outside a building on property in this district.

(b) Vegetation restrictions. A person commits an offense if he places or maintains a plant in this district in violation of one of the following vegetation restrictions:

(1) A vegetable garden is prohibited in the front yard and may not be located in a side yard unless it is totally screened.

(2) Foundation plantings may not exceed two feet in height above the first story finish floor.

(3) Only grass, trees, ground cover, and flowers are permitted in the parkway. All trees in the parkway must be placed a uniform distance apart and be planted along a line parallel to the street. Flower beds may not comprise more than 50 percent of the parkway area.

(c) Compliance with use regulations and development standards required. A person commits an offense if he violates one of the use regulations or development standards in Sections 51P-63.114, 51P-63.115, 51P-63.117, 51P-63.118, 51P-63.120, 51P-63.121, 51P-63.123, 51P-63.124, 51P-63.126, 51P-63.127, 51P-63.129, and 51P-63.130 of this article.

(d) Defenses to prosecution.

(1) It is a defense to prosecution under Subsections (a)(2) and (a)(3) that the act was:

(A) the installation, maintenance, or replacement of:

(i) outdoor lights that are 10 inches or less in diameter and

(aa) located at ground level;

(bb) attached to a tree or shrub and located on or above its lowest branch;

(cc) located along eaves or soffits; or

(dd) located on an accessory building;

(ii) recreational equipment for children, such as a swingset, playhouse, or jungle gym, in a rear yard;

(iii) security or ornamental bars on the rear facade of a main building or on an accessory building;

(iv) a lawn sprinkler system; or

(v) an air conditioning unit in a side or rear yard; or

(B) performed in a rear yard, and the alteration, structure, or landscape item is six feet or less in height or totally screened;

(C) performed in a side yard, and the alteration, structure, or landscape item is six feet or less in height and totally screened by a fence or hedge that is at least six feet in height; or

(D) the installation or maintenance of a special purpose sign.

(2) It is an additional defense to prosecution under Subsection (a)(3) that the structure or landscape item was temporarily placed, constructed, or installed. For purposes of this subsection, an act is temporary in nature if it occurs no more than two time periods during the calendar year for a maximum of five days per time period.

(3) There is no defense to prosecution for a violation of Subsection (a)(1).

(e) Criminal responsibility. A person is criminally responsible for a violation if he:

(1) commits or assists in the commission of an act in violation; or

(2) owns part or all of the land or a structure on the land where a violation exists.

(Ord. Nos. 18563; 25423)

SEC. 51P-63.109. PENALTY.

(a) A person violating a provision of Ordinance No. 17285, as amended by Ordinance No. 18563, upon conviction, is punishable by a fine not to exceed \$1000. *[The provisions of Ordinance No. 17285, as amended by Ordinance No. 18563, are codified in this article.]*

(b) In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this article, 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 in this district. (Ord. Nos. 18563; 25423)

SEC. 51P-63.110. REVIEW PROCEDURES FOR CERTIFICATES OF APPROPRIATENESS.

(a) In general. The standard review procedure outlined in Section 51-4.501 applies to this district, except as expressly modified by this section.

(b) Review by the director.

(1) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall characterize the proposed work as falling into one of the following three categories:

(A) Routine maintenance or replacement.

(B) Minor exterior alterations.

(C) Work requiring review by the committee and commission.

The director shall review and grant or deny certificates of appropriateness for proposed work that is routine maintenance or replacement or a minor exterior alteration in accordance with the review standards provided in this section. If the proposed work requires review by the committee and commission, the director shall forward the application to the committee for review in accordance with the standard certificate of appropriateness review procedure outlined in Section 51-4.501. All decisions to be made by the director under this section must be made within 10 days of receipt of the application.

(2) Routine maintenance and replacement defined. Routine maintenance is the processes of cleaning (including water blasting and stripping), repainting an item the same color, and otherwise stabilizing deteriorated or damaged architectural features. Routine replacement occurs whenever a duplicate item is substituted for an item that is deteriorated or damaged. Repainting an item a different color is neither routine maintenance nor routine replacement.

(3) Minor exterior alteration defined. The following are minor exterior alterations for purpose of this article.

(A) The application, installation, maintenance, or replacement of:

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

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

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

(v) gutters and downspouts of a color within the acceptable color range that matches or complements the dominant, trim, or roof color;

(vi) paint of a color within the acceptable color range;

(vii) skylights and solar panels;

(viii) storm windows and doors; or

(ix) window and door screens.

(B) The restoration of original architectural elements that does not include the use of paint outside the acceptable color range.

(4) Review standards for routine maintenance and replacement. The director shall review all proposed work that falls into the categories of routine maintenance and routine replacement to determine whether or not the original item to be maintained or replaced was legally installed. Legal installation includes both work that was legally performed before September 10, 1973, the date this district was established, and work performed after that date by authority of a valid certificate of appropriateness. The director shall grant a certificate of appropriateness for the proposed maintenance or replacement of an original item that was legally installed. If the original item was not legally installed, the director shall not grant a certificate but instead shall treat the application as being for a certificate of appropriateness to authorize the installation of the original item.

(5) Review standards for minor exterior alterations. The director shall review all proposed work that falls into the category of minor exterior alterations to determine whether the proposed work complies with the preservation criteria and regulations contained in this article and all other applicable ordinances. If the proposed work complies, the director shall grant a certificate of appropriateness for the work. If the proposed work does not comply with or is not addressed by the preservation criteria and regulations contained in this article or any other applicable ordinance, the director shall deny the certificate.

(c) Appeals. A decision to grant a certificate of appropriateness may not be appealed. A decision to deny a certificate of appropriateness may be appealed only by the applicant. An appeal from a decision to deny a certificate is made by submitting a written request for appeal to the director within ten days of the decision.

(d) Review by the committee. The standards in Subsection (e) below should be used by the committee in making its recommendation to the commission.

(e) Review by the commission and city council.

(1) When reviewing an appeal from the director's decision to deny a certificate of appropriateness, the commission or city council shall first determine whether the proposed work is routine maintenance or replacement. If the proposed work is routine maintenance or replacement, the commission or council shall next determine whether or not the original item to be maintained or replaced was legally installed. If the original item was legally installed, the commission or council shall approve the routine maintenance or replacement. If the original item was not legally installed or if the proposed work is not routine maintenance or replacement, the commission or council shall review the application using the standards provided in the following subsections.

(2) In reviewing an application, the commission or city council shall determine whether the proposed work complies with the preservation criteria and regulations contained in this article and all other applicable ordinances. If the proposed work complies, the commission or council shall grant the certificate.

(3) Except as otherwise provided in this section, if the proposed work does not comply with or is not addressed by the preservation criteria and regulations contained in this article or any other applicable ordinance, the commission or council shall deny the certificate.

(4) If the proposed work is not addressed by the preservation criteria and regulations contained in this article and all other applicable ordinances and the work will not have an adverse effect on the external architectural features, future preservation, maintenance, or use of:

(A) a structure in this district;

(B) a blockface in this district; or

(C) this district as a whole; the commission or council shall grant the certificate.

(5) If the proposed work is the restoration of original architectural elements and will not have an adverse effect on the external architectural features, future preservation, maintenance, or use of:

(A) a structure in this district;

(B) a blockface in this district; or

(C) this district as a whole; the commission or council shall grant the certificate. In determining whether the proposed work constitutes the restoration of original architectural elements, the commission or council shall consider all available materials, including but not limited to photographs and drawings showing the original appearance of the building and its surrounding property at the time of construction. (Ord. Nos. 18563; 25423)

SEC. 51P-63.111.

NOTICE REQUIREMENTS.

The following notice requirements apply to this district:

(1) When required. The director shall give the notice required by this section only when a person applies for a certificate of appropriateness to construct a new main building, or to move a main building onto an existing lot.

(2) Content of notice. The notice required by this section must contain a description of the lot where a main building will be constructed or moved, and the date, time, and location of the committee meeting at which the application will be considered.

(3) Manner of notification. The notice required by this section is a written notice to be given not less than 21 days before the committee meeting at which the application will be considered. Notice is given by depositing the notice properly addressed and postage paid in the United States Mail to the property owners entitled to notice under Paragraph (4) of this subsection as evidenced by the last approved city tax roll.

(4) Who must be notified. The director shall notify the following persons in this district whenever notice is required by this section:

(A) The owners of all lots in the blockface of the area of request.

(B) The owners of all lots in the blockface across the street from the area of request.

(C) If the area of request is a corner lot, the owners of all other corner lots at the same intersection.

(D) The president of the Swiss Avenue Historic District Association at an address provided by the association. (Ord. Nos. 18563; 25423)

SEC. 51P-63.112.

PROCEDURAL CHANGES WHEN NOTICE IS REQUIRED.

The procedural time requirements in Section 51-4.501 applicable to the committee and the commission apply to this district except in those cases where notice is required under the previous section of this article. In such cases, the committee shall make its recommendation within 45 days of receipt of the application by the director. If final action has not been taken by the committee and the commission within 55 days of the director's receipt of the application:

(1) the director shall issue a certificate of appropriateness to the applicant for the proposed work; and

(2) if all requirements of the Dallas Development Code and the construction 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. (Ord. Nos. 18563; 25423)

SEC. 51P-63.113.

CREATION OF AREAS.

This district is hereby divided into six separate areas, which shall be known as "Area A," "Area B," "Area C," "Area D," "Area E," and "Area F." Property descriptions of Areas A through F are

attached to Ordinance No. 18563. A map showing the area boundaries is labelled Exhibit 63A. (Ord. Nos. 18563; 25423)

SEC. 51P-63.114. USE REGULATIONS FOR AREA A.

The following use regulations apply to all property in Area A:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Except as otherwise provided below, uses are limited to single-family residential uses.

(4) The duplex use at 5600-02 Swiss Avenue is expressly recognized as a legal use unless and until the structure in which the use is located is destroyed, in which case the right to operate the duplex use terminates immediately.

(5) The medical society auxiliary social club use currently operated by the Dallas County Medical Society Auxiliary at 5500 Swiss Avenue is expressly recognized as a nonconforming use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.115. DEVELOPMENT STANDARDS FOR AREA A.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-10 Single-Family District apply to all property in Area A. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 10,000 square feet and a minimum depth of 230 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 25 percent.

(e) Minimum front yard.

- (1) All buildings and structures must have a minimum front yard setback of 65 feet.
- (2) The main building on an interior lot must have a front yard setback that is:
 - (A) equal to that of the closest main building on either side of the lot in the same blockface; or
 - (B) between those of the closest main buildings on either side of the lot in the same blockface.
- (3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

- (1) 60 feet for a main building if the lot is 230 feet or less in depth;
- (2) 90 feet for a main building if the lot is over 230 but less than or equal to 250 feet in depth;
- (3) 120 feet for a main building if the lot is over 250 feet in depth; and
- (4) five feet for an accessory building or structure.

(g) Minimum side yards.

- (1) All buildings and structures must have:
 - (A) on interior lots, a minimum side yard the greater of 10 feet or 80 percent of the average interior side yard in the blockface; and
 - (B) on corner lots, a minimum corner side yard the greater of 15 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.
- (2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family and duplex uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have at least two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.116.

PRESERVATION CRITERIA FOR AREA A.

The following preservation criteria apply to all property in Area A:

- (1) Building placement, form, and treatment.
 - (A) Accessory buildings. Accessory buildings:
 - (i) are only permitted in the rear yard no closer than 15 feet to a main building; and
 - (ii) must be compatible with the scale, shape, roof form, materials, detailing, and color of a main building.
 - (B) Additions. All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing, and color of the building.
 - (C) Architectural detail. Materials, colors, structural and decorative elements, and the manner in which they are used, applied, or joined together must be typical of the style and period of a main building and compatible with the other buildings on the blockface.
 - (D) Awnings.
 - (i) Wood, metal, and plastic awnings are not permitted unless they:
 - (aa) are on an accessory building or the rear facade of a main building;
 - (bb) complement the color scheme of the building to which they are attached; and
 - (cc) are totally screened.
 - (ii) All awnings on the front and side facades of a main building must be typical of its style and period and complement its color scheme.
 - (E) Building placement. All buildings must be placed so as not to adversely affect the rhythm of spaces between buildings on the blockface.
 - (F) Building widths. Minimum permitted width for a main building is 80 percent of the average width of the existing main buildings in the blockface.
 - (G) Chimneys. All chimneys must be compatible with the style and period of a main building. Chimneys on the front 50 percent of a main building or on a corner side facade must be:
 - (i) constructed of brick, stucco, stone, or other materials that look typical of the style and period of a main building; and
 - (ii) of a style and proportion that is typical of the style and period of a main building.

(H) Color.

(i) Brick and stone surfaces. Brick and stone surfaces not previously painted must not be painted unless the applicant establishes that:

(aa) painting is the only method by which the brick or stone may be restored or preserved; or

(bb) the color and texture of replacement brick or stone cannot be matched with that of the existing brick or stone surface and the paint color matches that of the existing brick or stone surface.

(ii) Certain colors prohibited. Fluorescent and metallic colors are not permitted on the exterior of any structure in this district.

(iii) Dominant and trim colors. All structures must have a dominant color and no more than three trim colors. The colors of a structure must be complementary of each other and the overall character of this district.

(iv) Gutters and downspouts. Gutters and downspouts must be painted or colored to match or complement the color scheme of the structure to which they are attached.

(v) Roof colors. Roof colors must complement the style and overall color scheme of the structure.

(vi) Stain. The use and color of stain must be typical of the style and period of the building on which the stain is applied.

(I) Columns.

(i) Function. Columns are only permitted as vertical supports near the front entrance of a main building, or as vertical supports for porches.

(ii) Materials. Columns must be constructed of brick, wood, cut stone, or other materials that look typical of the style and period of a main building. No pipe or wrought iron columns are permitted.

(iii) Style. Columns must be of a style typical of the style and period of a main building.

(iv) Width dimensions.

(aa) The width of a one-story column shaft at its widest point must be at least one-eighth the height of the column.

(bb) The width of a two-story column shaft at its widest point must be at least one-tenth the height of the column.

(J) Facade materials.

(i) In general. The only permitted facade materials are brick, wood siding, stone, and stucco. All facade treatments and materials must be typical of the style and period of a main building.

(ii) Brick. All exposed brick on facades must be fired brick as defined by the American Standard Testing Materials Designation C-126-75A, Type Grade FBS-SW.

(iii) Wood facades. Existing wood facades must be preserved as wood facades. Wood shingles are not permitted as a primary facade material, but may be used in roof gables and on columns and foundation skirts in a manner that is typical of the style and period of a main building.

(K) Front entrances and porches.

(i) Detailing. Railings, moldings, tilework, carvings, and other detailing and architectural decorations on front entrances and porches must be typical of the style and period of a main building.

(ii) Enclosures. A front entrance or porch may not be enclosed with any material, including iron bars, glass, or mesh screening.

(iii) Facade openings. Porches must not obscure or conceal any facade openings in a main building.

(iv) Floor coverings. Carpeting is not permitted as a porch floor or step covering.

(v) Location. An entrance treatment, including door transoms, sidelights, stained glass, trim, and hardware, must be retained in its original location.

(vi) Style. The main building must have a front porch or entry treatment with a shape, roof form, materials, and colors that are typical of the style and period of the building.

(L) Height to width ratio. The relationship between the height and width of the front facade of a main building, including side projections, must be compatible with those of the other main buildings in the blockface.

(M) Porte cocheres. Except as otherwise provided in this subsection, porte cocheres must be preserved as architectural features and not be enclosed on any side by fences, gates, or any other materials. A wrought iron gate is permitted across the rear opening of a porte cochere if it has a screening factor of less than 50 percent and is compatible with the style and scale of a main building.

(N) Roof forms.

(i) Eaves and soffits. The height of eaves and soffits on a main building must be within 10 percent of the height of eaves and soffits on the closest main building in this district of a similar style and having the same number of stories.

(ii) Materials and colors. Roof materials and colors must complement the style and overall color scheme of the building or structure. Tar and gravel (built-up) is only permitted as a roof material on covered porches and porte cocheres with flat roofs.

(iii) Overhang. The roof overhang on a building must be compatible with the style and scale of the building. A replacement roof on an existing building must have an overhang that is equal to or greater than the overhang of the roof it replaces.

(iv) Patterns. Roof patterns of a main building must be typical of the style and period of the architecture of the building and include separate substructure roofs.

(v) Skylights and solar panels. Skylights and solar panels are only permitted on:

(aa) the rear 50 percent of the roof of a main building on an interior lot;

(bb) the rear inside quadrant of the roof of a main building on a corner lot; and

(cc) the roof of an accessory building in the rear yard.

(vi) Slope and pitch. The degree and direction of roof slope and pitch must be typical of the style and period of a main building and compatible with existing building forms in this district. Flat or Mansard roof designs are not permitted on main or accessory buildings or structures, except that a covered porch or porte cochere may have a flat roof that is typical of the style and period of a main building.

(O) Stairs. Second and third story exterior staircases are only permitted on accessory buildings and the rear 50 percent of a main building, except that they are not permitted on a corner side facade.

(P) Windows and doors.

(i) Front facade openings. The total number of window and door openings (combined) in the front facade of a main building must be equal to or greater than the total number of original window and door openings (combined) in that facade. The number of door openings in the front facade of a main building may not be increased.

(ii) Glass. Clear, decorative stained, and clear leaded glass typical of the style and period of the building may be permitted in any window opening. Reflective, tinted, opaque, and mirrored glass and plastic are not permitted in any opening. Translucent glass is not permitted except in a bathroom window.

(iii) Screens, storm doors, and storm windows. Screens, storm doors, and storm windows may be permitted if:

(aa) their frames are painted or colored to match or complement the color scheme of a main building;

(bb) they do not obscure significant features of the windows and doors they cover; and

(cc) the screen mesh is 18 by 16 gauge.

(iv) Security and ornamental bars. Security and ornamental bars are only permitted on an accessory building or on the rear or side facades of a main building.

(v) Shutters. Shutters must be typical of the style and period of the building and appear to be installed in a manner to perform their intended function.

(vi) Style.

(aa) All windows and doors in the front facade of a main building must be proportionally balanced in a manner typical of the style and period of the building.

(bb) No single, fixed plate glass is allowed except as part of an original period design. The size and proportion of window and door openings located on the front and side facades of a main building must be typical of the style and period of the building.

(cc) All windows, doors, and lights in the front and side facades of a main building must be typical of the style and period of the building and compatible with the windows, doors, and lights in the front and side facades of the other main buildings in the blockface. Windows must contain at least two lights (window panes). Sidelights must be compatible in style and materials with the door.

(dd) The frames of windows must be trimmed in a manner typical of the style and period of the building.

(2) Landscaping.

(A) Certain items prohibited in front and corner side yards. The following items are not permitted in the front and corner side yards:

- (i) Above-ground meters.
- (ii) Berms.
- (iii) Pylons and similar structures.
- (iv) Rock or sculpture gardens.

(B) Fences.

(i) Definitions. The following definitions apply to terms used in these fence regulations:

(aa) FINISHED SIDE means the side of a fence that does not reveal the structural components.

(bb) STRUCTURAL COMPONENT means a post, column, or other vertical or horizontal member providing support and strength for a fence.

(ii) Form.

(aa) Fences must be constructed and maintained in a vertical position.

(bb) The top edge of a fence must be along a line that is either horizontal or parallel to grade. Except in the case of a picket, chain link, or wrought iron fence, the top edge of a fence must be flat.

(iii) Height. Maximum permitted height for a fence is nine feet.

(iv) Location.

(aa) Fences are not permitted in the front yard.

(bb) A fence in an interior side yard must be located in the rear 50 percent of the side yard and behind the rearmost side projection of a main building, except that the commission may allow a fence to be located in the rear 75 percent of the side yard if it determines that the fence does not screen any portion of a significant architectural feature of a main building on the same or an adjacent lot.

(cc) A fence in the corner side yard must not be directly in front of the corner side facade, except that the commission may allow a fence that is directly in front of all or any portion of the rear 50 percent of the corner side facade if:

[1] more screening is necessary to insure privacy due to unusually high pedestrian or vehicular traffic; and

[2] the fence does not screen all or any portion of a significant architectural feature of a main building.

(dd) A fence in the corner side yard must be set back a minimum of two feet from a public sidewalk.

(ee) A fence must run either parallel or perpendicular to a building wall or lot line.

(ff) A fence on a vacant lot must be set back a distance that is equal to or greater than the setback of the closest main building in the same blockface. In the case of a single interior vacant lot, the setback of the fence must be equal to or greater than the setback of a main building on the adjacent lot with the greater setback.

(v) Materials. A fence must be constructed of one or more of the following materials: metal or plastic-coated chain link, wrought iron, wood, brick, or stucco. Exposed concrete blocks are not permitted.

(vi) Masonry fences.

(aa) The color, texture, pattern, and dimensions of masonry and the color, width, type, and elevation of mortar joints in a fence column or base must match the masonry and mortar joints of a main building as nearly as practicable.

(bb) All exposed brick in a fence must be fired brick as defined by the American Standard Testing Materials Designation C-126-75A, Type Grade FBS-SW.

(vii) Metal fences.

(aa) Wrought iron and metal fences must be compatible with the style and period of a main building.

(bb) If a wrought iron or metal fence is painted or colored, the color must be black, dark green, or dark brown and complement the color of a main building.

(viii) Wooden fences.

(aa) All wooden structural posts must be at least four inches in diameter (nominal size).

(bb) The side of a wooden fence facing a public street must be the finished side.

(cc) Wooden fences may be painted or stained a color that is complementary to a main building.

(C) Outdoor lighting. Outdoor light fixtures on the front facade of a main building and on poles in the front yard must be compatible with the style and period of a main building and not obscure or conflict with significant architectural details. Overhead and exposed wiring and conduit for outdoor lighting is not permitted.

(D) Pavement, filler, and edging materials. Pavement, filler, and edging materials, such as landscape timbers, gravel, and bark, used in landscape beds in the front and corner side yards must be reviewed by the commission as part of an overall landscape plan if the landscape beds collectively comprise more than 25 percent of the combined areas of the front and corner side yards. No more than 25 percent of the front yard of a residential use may be covered by pavement or filler materials.

(E) Planter boxes. Planter boxes must be:

(i) an integral part of and typical of the style and period of a main building;

(ii) 18 inches or less in height;

(iii) 36 inches or less in depth; and

(iv) constructed of brick, stone, or smooth-finish concrete that matches or is compatible in texture, color, and style with a main building.

(F) Retaining walls. Retaining walls are not permitted in the front and side yards except to preserve a natural or existing slope or to make a slope similar to that of an adjacent lot. The height of a retaining wall must not exceed the height of the slope it retains. A retaining wall must be constructed of unpainted stone, brick, stucco, or smooth-finish concrete that is compatible in texture, color, and style with a main building.

(G) Sidewalks, driveways, and curbing.

(i) Materials.

(aa) No exposed aggregate, asphaltic, or artificially colored concrete or epoxy resin is permitted as a sidewalk, driveway, or curbing material.

(bb) All public sidewalks and curbing must be constructed of brush finish concrete.

(cc) All private sidewalks and driveways must be constructed of brush finish concrete, brick, tile, or slate. Gravel is allowed in the center strip of a ribbon driveway.

Any material used in a sidewalk or driveway must be compatible in texture, color, and style with a main building.

(ii) Width, style, and spacing.

(aa) The maximum permitted width of a driveway in the front yard is 10 feet. The driveway width may be expanded to 20 feet at any point behind the front facade.

(bb) Ribbon driveways are only permitted if the owner establishes that a ribbon driveway was an original architectural element of the site. If a ribbon driveway is permitted, the ribbons must be at least one foot wide.

(cc) Circular driveways are not permitted in the front yard.

(dd) A driveway constructed in the front yard adjacent to an existing driveway on an adjacent lot must be spaced a minimum of one foot from the existing driveway on the adjacent lot. (Ord. Nos. 18563; 25423)

SEC. 51P-63.117.

USE REGULATIONS FOR AREA B.

The following use regulations apply to all property in Area B:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Uses are limited to single-family residential uses. (Ord. Nos. 18563; 25423)

SEC. 51P-63.118.

DEVELOPMENT STANDARDS FOR AREA B.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area B. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

(1) 30 feet for a main building; and

(2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,000 square feet and a minimum depth of 140 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 45 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 30 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

(1) 35 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yard.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of five feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 10 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family uses must provide at least two off-street parking spaces for each dwelling unit. One of the required parking spaces must be behind the front yard.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have less than three stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.119.

PRESERVATION CRITERIA FOR AREA B.

(a) In general. The preservation criteria in this article applicable to Area A apply to all property in Area B except as expressly modified in this section.

(b) Building placement, form, and treatment.

(1) Accessory buildings. Accessory buildings may be located closer than 15 feet to a main building.

(2) Facade materials. All facade treatments and materials need not be typical of the style and period of a main building so long as they look typical of the style and period of a main building. Existing wood facades need not be preserved as wood facades. Vinyl or aluminum siding is also permitted as a facade material if:

(A) it appears to consist of four-inch wide panels;

(B) it is horizontally oriented;

(C) its color complements the other colors of the building and the overall character of this district;

(D) it has a wood-grain or smooth-finish texture; and

(E) it is installed so that the building decorative trim is replaced over the siding in the same manner that it existed before the installation.

(3) Windows and doors. If a door opening in the front facade of a main building is eliminated as part of a conversion from a duplex to a single-family use, it need not be replaced with a window unless the commission determines that the replacement is necessary to preserve the architectural style of the building. Each story of a front facade of a main building must contain at least two windows, or one window and a door.

(c) Landscaping.

Driveway spacing. A driveway constructed in the front yard adjacent to an existing driveway on an adjacent lot need not be spaced a minimum of one foot from the existing driveway on the adjacent lot. (Ord. Nos. 18563; 25423)

SEC. 51P-63.120.

USE REGULATIONS FOR AREA C.

The following use regulations apply to all property in Area C:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Except as otherwise provided below, uses are limited to single-family residential uses.

(4) The duplex use at 5503-05 Bryan Street is expressly recognized as a legal use unless and until the structure in which the use is located is destroyed, in which case the right to operate the duplex use terminates immediately. (Ord. Nos. 18563; 25423)

SEC. 51P-63.121. DEVELOPMENT STANDARDS FOR AREA C.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area C. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

- (1) Each lot must have a minimum area of 7,500 square feet and a minimum depth of 150 feet.
- (2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.
- (3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 30 percent.

(e) Minimum front yard.

- (1) All buildings and structures must have a minimum front yard setback of 30 feet.
- (2) The main building on an interior lot must have a front yard setback that is:
 - (A) equal to that of the closest main building on either side of the lot in the same blockface; or
 - (B) between those of the closest main buildings on either side of the lot in the same blockface.
- (3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

- (1) 50 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yards.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of five feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 10 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family and duplex uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have at least two stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.122.

PRESERVATION CRITERIA FOR AREA C.

The preservation criteria in this article applicable to Area A apply to all property in Area C. (Ord. Nos. 18563; 25423)

SEC. 51P-63.123.

USE REGULATIONS FOR AREA D.

The use regulations in this article applicable to Area B apply to all property in Area D. (Ord. Nos. 18563; 25423)

SEC. 51P-63.124.

DEVELOPMENT STANDARDS FOR AREA D.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area D. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

(1) 36 feet for a main building; and

(2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,500 square feet and a minimum depth of 150 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 30 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 30 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

(1) 60 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yards.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of five feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 10 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have less than three stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.125. PRESERVATION CRITERIA FOR AREA D.

The preservation criteria in this article applicable to Area A apply to all property in Area D. (Ord. Nos. 18563; 25423)

SEC. 51P-63.126. USE REGULATIONS FOR AREA E.

The following use regulations apply to all property in Area A:

- (1) Uses are limited to single-family residential uses.
- (2) The post office use at 6120 Swiss Avenue is expressly recognized as a nonconforming use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.127. DEVELOPMENT STANDARDS FOR AREA E.

(a) In general. The development standards in this article applicable to Area A apply to all property in Area E except as expressly modified in this section.

(b) Minimum front yard. The post office use must have a minimum setback along Swiss Avenue that is equal to or greater than that of the closest main building fronting on Swiss Avenue in the same blockface.

(c) Off-street parking requirements. The post office use must provide at least one off-street parking space for each 200 square feet of floor area.

(d) Screening. A solid wood or masonry screening fence no less than six feet in height is required in the rear and side yards of the post office use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.128. PRESERVATION CRITERIA FOR AREA E.

The preservation criteria in this article applicable to Area A apply to all property in Area E. (Ord. Nos. 18563; 25423)

SEC. 51P-63.129. USE REGULATIONS FOR AREA F.

The use regulations in this article applicable to Area B apply to all property in Area F. (Ord. Nos. 18563; 25423)

SEC. 51P-63.130. DEVELOPMENT STANDARDS FOR AREA F.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area F. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,500 square feet and a minimum depth of 130 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 25 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 65 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

(1) 120 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yards.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of 10 feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 15 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have at least two stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.131. PRESERVATION CRITERIA FOR AREA F.

The preservation criteria in this article applicable to Area A apply to all property in Area F. (Ord. Nos. 18563; 25423)

SEC. 51P-63.132. BUILDING OFFICIAL.

The building official shall not issue a building permit or certificate of occupancy for a use in this district until there has been full compliance with this article, the Dallas Development Code, the construction codes, and all other applicable ordinances, rules, and regulations of the city. (Ord. Nos. 18563; 25423; 26102)

SEC. 51P-63.133. STREETS AND PAVING.

All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard city specifications to the satisfaction of the director of public works and transportation. (Ord. Nos. 17285; 25423; 26102)

SEC. 51P-63.134. COMPLIANCE WITH CONDITIONS.

The building official shall not issue a certificate of occupancy for a use in this PD until there has been full compliance with this article, as amended, and with the construction codes and all other applicable ordinances, rules, and regulations of the city. (Ord. Nos. 17285; 25423)

SEC. 51P-63.135. ZONING MAP.

PD 63 is located on Zoning Map No. I-8. (Ord. 25423)

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.

(1) 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 7

Correspondence

- Notice of June 6, 2022 Landmark Hearing
- Notice of application denied without prejudice
- Request to Appeal from applicant
- Appeal Procedures

From: Laura van Onna
Sent: Wednesday, June 1, 2022 1:51 PM
Subject: Landmark Commission Meeting - June 6, 2022

Good afternoon applicants,

This email is just a reminder about the upcoming Landmark Commission meeting on **Monday, June 6, 2022**. The meeting will be held virtually, though City Council Chambers on the 6th Floor at City Hall (Room 6ES) will be available for those who wish to attend in person or who are not able to attend virtually. Those attending in person will be required to follow all current pandemic-related public health protocols.

Below you will find the web link and teleconference number for the June 6th Landmark Commission meetings. **In addition, you will find an email address for our admin, Phyllis Elaine Hill, that you will need for signing up to speak at the meeting. The deadline to sign up to speak is Monday, June 6 by 8:30 AM, so be sure that you and/or anyone who plans to speak on your case has emailed Elaine and signed up on time. There is not a way to sign you up to speak after this deadline closes. When emailing Elaine, be sure you include the speakers full name as well as the address for the case you are requesting to speak on. Also be aware that speakers who attend the meeting virtually will be required to use video during the meeting discussion. Per state law, you may not participate using audio only.**

The June 6th meeting agenda should be posted by Thursday afternoon on June 2. Once posted you should be able to view the agenda and docket (which includes the staff reports on each case) on our website here: https://dallascityhall.com/government/meetings/Pages/landmark_commission.aspx.

There are two meetings that will happen Monday. There is the public hearing at 1:00 PM which you all should plan to attend because that is where the Commission will make their decision on your application, or will provide comments if your application is a Courtesy Review. But there is also a morning Briefing meeting which is optional for you to attend. The start time for the May 2nd Briefing meeting is 9:30 AM. Be aware that the public can listen in but may not participate in the Briefing discussion. Discussion with applicants is reserved for the 1:00 PM public hearing.

Below is the June 6th Landmark meeting connection info for attendees, as well as the Speaker Sign Up email.

Videoconference

To join via computer:

<https://dallascityhall.webex.com/dallascityhall/onstage/g.php?MTID=e077be51edc68de7eb6945342436c77aa>

Password: JuneLMC22

To join via phone only:

Call-in (audio only): 408-418-9388

Access code: 2482 295 2503

Speaker Sign-Up:

Email: Elaine Hill at phyllis.hill@dallascityhall.com

Deadline: **Monday, June 6 at 8:30 AM**

You must sign up by email by the above deadline to speak at the Landmark Commission hearing. Be sure your email to Elaine includes the full name of the speaker, as well as the address for the case you wish to speak on.

Let me know if you have any questions.

Thank you,



Laura Groves van Onna
Senior Planner
City of Dallas | www.dallascityhall.com
Office of Historic Preservation
1500 Marilla St, Room 5BN
Dallas, TX 75201
F: 214-670-4210
laura.vanonna@dallas.gov



OPEN RECORDS NOTICE: This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.

June 16, 2022

Suzanne Miller
6219 La Vista Drive,
Dallas, TX 75214

**RE: CA212-354(LVO)
REVIEW OF YOUR CERTIFICATE OF APPROPRIATENESS APPLICATION
6219 LA VISTA DR**

Dear Suzanne Miller:

Enclosed is a copy of the Certificate of Appropriateness (CA) application that you submitted for review by the Landmark Commission on June 6, 2022.

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 July 6, 2022. For information regarding the appeals process, please email Elaine Hill at Phyllis.hill@dallascityhall.com

Please make checks payable to the City of Dallas.

Encl. Application for Appeal
Ordinance No. 19455

If you have any questions, please contact me by email at laura.vanonna@dallascityhall.com.



Laura Groves van Onna
Senior Planner

Certificate of Appropriateness

June 6, 2022

Standard	June 6, 2022	PLANNER:	Laura van Onna
FILE NUMBER:	CA212-354(LVO)	DATE FILED:	May 13, 2022
LOCATION:	6219 LA VISTA DR	DISTRICT:	Swiss Avenue Historic District
COUNCIL DISTRICT:	14	MAPSCO:	36-Y
ZONING:	PD-63	CENSUS TRACT:	0014.00

APPLICANT: Suzanne Miller
REPRESENTATIVE:
OWNER: OBERPRILLER JOHN M &

The Landmark Commission decision is: Denied

Information regarding requests:

- 1) A Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass.
Deny

Conditions: That the request for a Certificate of Appropriateness to retain replacement of original leaded glass windows with single-light glass be denied. The proposed work does not meet Section 51P-63.116(1)(P) of the Swiss Avenue preservation criteria; the standards in City Code Section 51A-4.501(g)(6)(C)(i); and the Secretary of the Interior's Standards.



Landmark Commission Chair

June 6, 2022

Date

Please take any signed drawings to Building Inspection for permits.

APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is July 6, 2022

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

Office Use Only
Date Received

Landmark Case/File No.: CA212-354(LVO)

Property Address: 6219 LA VISTA DR

Date of Landmark Commission Action: June 6, 2022

Applicant's Name: SUZANNE MILLER
JOHN OBERPRILLER

Applicant's Mailing Address: 6219 LA VISTA DRIVE

City: DALLAS State: TX Zip: 75214

Applicant's Phone Number: 469-583-7521 Fax: _____

Applicant's Email: soz.miller@sbcglobal.net

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] 06-30-22
Applicant's Signature Date

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

[Signature] 06-30-22

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

RECEIVED
JUL 01 2022

By _____

**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.