



CITY OF DALLAS

Memorandum

DATE June 2, 2016

TO Gloria Tarpley, Chair and
Members of the City Plan Commission

SUBJECT **Appeal of Landmark Commission Decision**
5835 Reiger Ave, Case No. CA156-247(MP)
CPC Consideration: June 16, 2016

Attached is the background material ("the record") relating to the applicant's appeal of the Landmark Commission's condition that the fence is re-constructed to allow for visibility triangle and a two-foot setback from the sidewalk in conjunction with the approval of the completed work to the 9 foot fence.

If you have any questions related to City Plan Commission review procedures, please contact Bert Vandenberg, Assistant City Attorney, at 214-243-2134.

Neva Dean, Interim Assistant Director
Sustainable Development and Construction

c: David Cossum, Director, Sustainable Development and Construction
Laura Morrison, Assistant City Attorney
Bert Vandenberg, Assistant City Attorney
Marsha Prior, Planner, Historic Preservation

THE RECORD

5835 Reiger Avenue

APPEAL

CA156-247(MP)

City Plan Commission

Hearing

06/16/2016

VIA CERTIFIED MAIL 7011 1150 0000 0380 7138

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5835 Reiger Avenue CA156-247(MP)

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SECTION 1

Certificate of Appropriateness

5835 Reiger Avenue
CA156-247(MP)

Certificate of Appropriateness (CA)
City of Dallas Landmark Commission

CA 156 - 247 [MP]
 Office Use Only

Name of Applicant: Dale Conrad
 Mailing Address: 5835 Reiser Ave
 City, State and Zip Code: Dallas TX 75214
 Daytime Phone: _____ Fax: _____
 Relationship of Applicant to Owner: _____

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

PROPERTY ADDRESS: _____
 Historic District: _____

PROPOSED WORK:

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

Replace aged 6 Foot cedar fence with a new 9 Foot cedar fence up to front of residence, mahogany stain, finished side of fencing facing outward for the front of house, the side street, and the alley. Build a 9 Foot Flat Top automatic sliding gate (remote control) for driveway. In addition, replace 10 dead bushes directly in front of house with the same type of bushes as the existing living bushes.

Signature of Applicant: _____ Date: FEB 04 2016

Signature of Owner: [Signature] (IF NOT APPLICANT) Date: 1-25-2016

APPLICATION DEADLINE:

Current Planning

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

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

OTHER:

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

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

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

Mark Pin
 Sustainable Construction and Development

03/18/2016
 Date

SECTION 2

Agenda

March 7, 2016

See Page 5 and 6, Item #7

Landmark Commission Agenda
Monday, March 7, 2016

for landscaping and meets the standards in City Code Section 51A-4.501(g)(6)(C)(i).

8. Install gulf muhly grass in west side, front, and rear yards. Approve landscape site plan dated 02/04/2016 with the finding the work is consistent with preservation criteria Section 3.5(b) for landscaping and meets the standards in City Code Section 51A-4.501(g)(6)(C)(i).
9. Install stone and mondo grass at southwest corner. Approve landscape site plan dated 02/04/2016 with the finding the work is consistent with preservation criteria Section 3.5(b) for landscaping and meets the standards in City Code Section 51A-4.501(g)(6)(C)(i).

Task Force Recommendation:

1. Relocate two red oak trees on west side further back to rear of yard. Approve.
2. Establish planting beds around base of building on front (south) and west sides. Approve.
3. Install eight slender sweet gum trees and one Claudia Wannamaker magnolia on west side. Approve with conditions - Because sweet gums, fully grown max at 16 feet, remove the ones in front of large stain glass window.
4. Install boxwood hedge along south (front) side. Approve.
5. Construct stone paths and crushed stone paths for access to plants on south (front) and west sides. Approve.
6. Install Sundial/Armory and two zinc planters on west side. Approve.
7. Install crepe myrtle trees along parkway on west and front (south) sides. Approve with conditions - keep crepe myrtle fully grown at about 6 feet in front and 10 to 12 feet on west side to keep defining architectural features.
8. Install gulf muhly grass in west side, front, and rear yards. Approve.
9. Install stone and mondo grass at southwest corner. Approve.

7. 5835 REIGER AVE
Junius Heights Historic District
CA156-247(MP)
Marsha Prior

Request:

1. Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness.

Applicant: Dale Coonrod

Application Filed: February 4, 2016

Staff Recommendation:

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner

Landmark Commission Agenda
Monday, March 7, 2016

side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness. Approve completed work with condition that fence is re-constructed to allow for visibility triangle and a two-foot setback from the sidewalk with the finding the work is compatible at this time with the historic overlay district and meets the standards in City Code Section 51A-4.501(g)(6)(C)(ii). Staff proposed conditions make fence compatible with the historic overlay district.

Task Force Recommendation:

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness. Approve with condition fence is moved to the 50% mark and moves 2 feet off (from) the sidewalk.

8. 707 SKILLMAN ST

Junius Heights Historic District
CA156-259(MP)
Marsha Prior

Request:

Construct 8-ft cedar wood, board on board fence in back yard and up to front of house in side yard, and stain using, Sherwin Williams, Brown. Work completed without a Certificate of Appropriateness.

Applicant: Adam Till

Application Filed: February 4, 2016

Staff Recommendation:

Construct 8-ft cedar wood, board on board fence in back yard and up to front of house in side yard, and stain using, Sherwin Williams, Brown. Work completed without a Certificate of Appropriateness. Approve completed work with the finding the work is compatible with the historic overlay district and meets the standards in City Code Section 51A-4.501(g)(6)(C)(ii).

Task Force Recommendation:

Construct 8-ft cedar wood, board on board fence in back yard and up to front of house in side yard, and stain using, Sherwin Williams, Brown. Work completed without a Certificate of Appropriateness. Approve with condition that side is moved to 50% - with comment that 50% is the middle of bay window; task force would be ok if the fence moves to just in front of bay window.

9. 4942 REIGER AVE

Munger Place Historic District
CA156-282(JKA)
Jennifer Anderson

Request:

Revise previously approved site plan for new single-family home.

Applicant: Marena Homes

Application Filed: February 4, 2016

Staff Recommendation:

Revise previously approved site plan for new single-family home. Approve site plan dated 2-17-16 with the finding that the work is compatible with the historic overlay district

SECTION 3

- Docket Material

**LANDMARK COMMISSION****MARCH 7, 2016**

FILE NUMBER: CA156-247(MP)
LOCATION: 5835 Reiger
STRUCTURE: Main & Noncontributing
COUNCIL DISTRICT: 14
ZONING: PD No. 397

PLANNER: Masha Prior
DATE FILED: Feb 4, 2016
DISTRICT: Junius Heights
MAPSCO: 46-C
CENSUS TRACT: 0013.01

APPLICANT: Dale Coonrod

OWNER: Dale Coonrod

REQUEST:

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, "Mahogany." Work initiated without a Certificate of Appropriateness.

BACKGROUND / HISTORY:

A CA for constructing a 9-foot fence along the perimeter of the property and up to the front of the side and corner side yards was denied without prejudice in the January 5, 2016 Landmark Commission meeting (CA156-156(MP)). During the January 5 Landmark discussion, other concerns were also noted, including 1) if Building Inspections (BI) would require the fence to be outside of the visibility triangle; 2) if BI has any setback rules applicable to this case; and 3) the lack of specifications to install a new 9-foot gate to replace the existing gate that is shorter than 9 feet.

The applicant submitted the survey plat to Building Inspections and based on their comments, has revised the survey plat to allow for a visibility triangle on the alley/street corner. BI allows fences on the property line as long as visibility triangles are provided.

The applicant has resubmitted a CA for the 9-foot fence that includes a sliding wood gate (also 9 feet tall), located along the perimeter of the yard with the side yard and corner side yard fences coming up to the front of the house. Because the partially completed fence is over 6 feet, a fence permit will be required from BI.

ANALYSIS:

5835 Reiger is a noncontributing structure. Review of CAs are held to the standard of compatibility with the historic overlay district per 51A-4.501(g)(6)(C)(ii). Based on findings as provided with the submittal of CA156-259(MP), there are at least 74 properties with fences that are constructed within the front 50% of the *side* yard in the Junius Heights Historic District. A brief review by Staff for *corner side* yards within the front 50%, found them to exist on at least one corner at 10 separate intersections; however, none were placed within two feet of the sidewalk. Therefore, the partially completed work at this noncontributing property does not appear to have an adverse impact to the historic overlay district at this time; thus, Staff is recommending approval with the condition that part of the fence be re-constructed to allow for a visibility triangle and a two-foot set back from the sidewalk.

STAFF RECOMMENDATION:

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, "Mahogany" – Approve with conditions – Approve completed work with condition that fence is re-constructed to allow for visibility triangle and a two-foot setback from the sidewalk with the finding the work is compatible at this time with the historic overlay district and meets the standards in City Code Section 51A-4.501(g)(6)(C)(ii). Staff proposed conditions make the fence compatible with the historic overlay district.

TASK FORCE RECOMMENDATION:

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, "Mahogany" – Approve with conditions – Approve with condition fence is moved to the 50% mark and moves 2 feet off (from) the sidewalk.

Certificate of Appropriateness (CA)
City of Dallas Landmark Commission

CA 156-247(MP)
 Office Use Only

Name of Applicant: Dale Coan
 Mailing Address: 5835 Keiger Ave
 City, State and Zip Code: Dallas TX 75214
 Daytime Phone: _____ Fax: _____
 Relationship of Applicant to Owner: _____

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

PROPERTY ADDRESS: _____
 Historic District: _____

PROPOSED WORK:

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

Replace aged 6 foot cedar fence with a new 9 foot cedar fence up to front of residence, mahogany stain, finished side of fencing facing outward for the front of house, the side street, and the alley. Build a 9 foot Flat Top automatic sliding gate (remote control) for driveway. ~~Replace 12 dead bushes directly in front of house with 2 bushes and 2 bushes and 2 bushes.~~

Signature of Applicant: _____ Date: FEB 04 2016
 Signature of Owner: Dale Coan Date: 1-25-2016
(IF NOT APPLICANT)

APPLICATION DEADLINE:

Current Planning

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

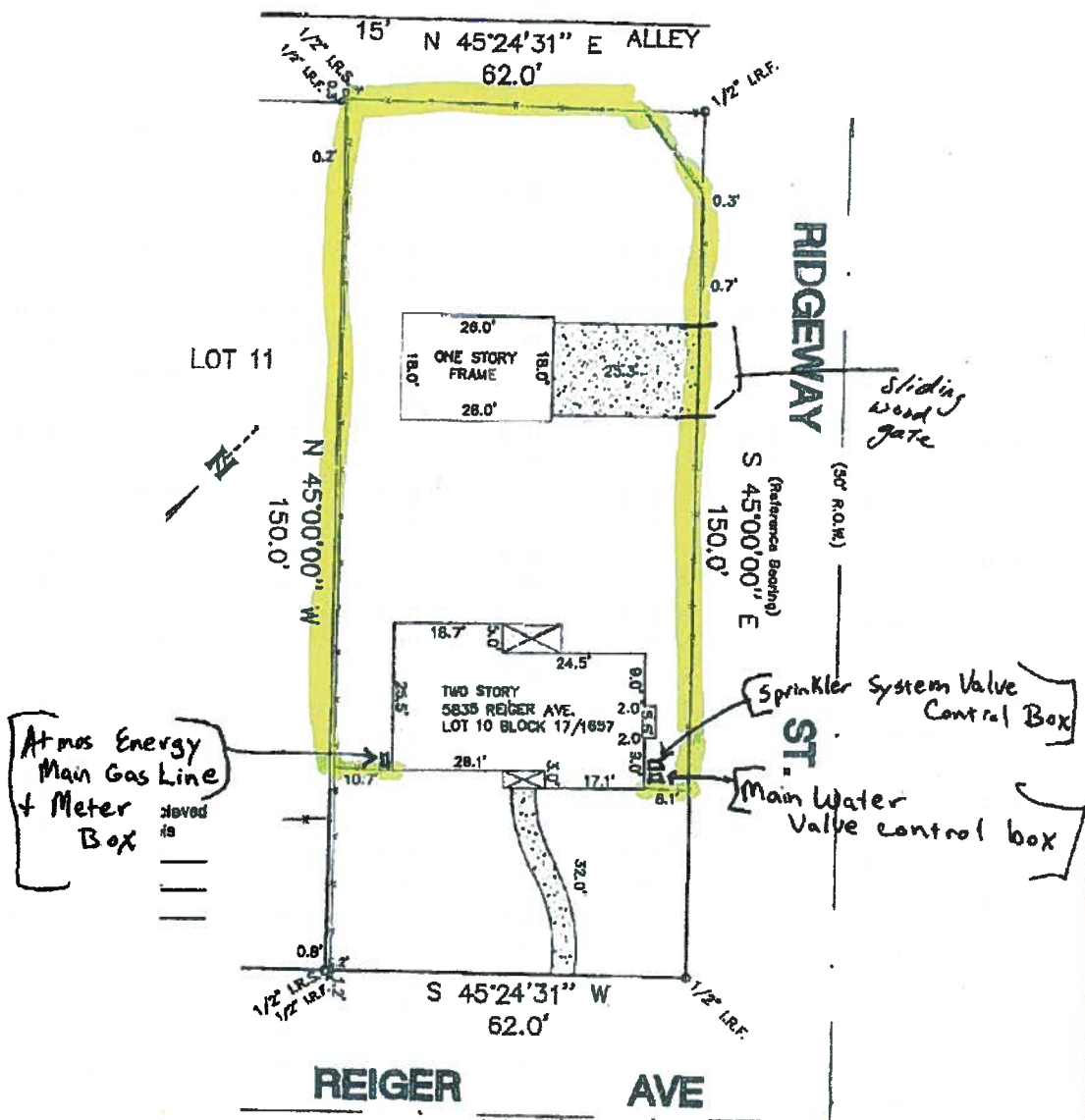
Sustainable Construction and Development _____ Date _____

Certificate of Appropriateness City of Dallas Historic Preservation
 Rev. 11/4/06



CA156-247(MP)

C7-4
000012

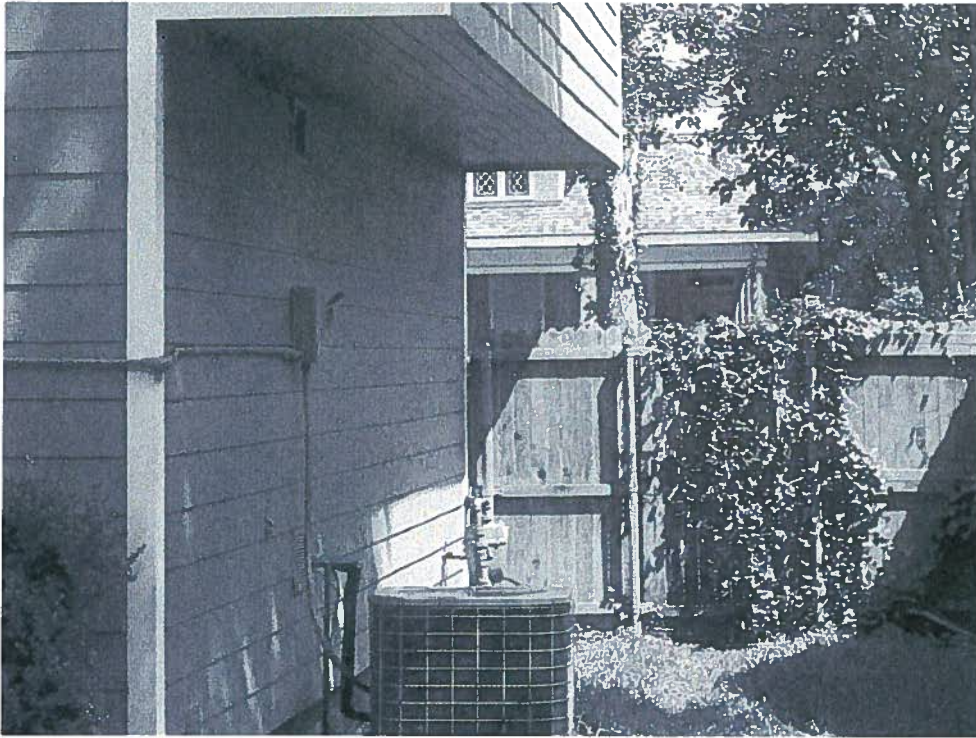


located in 100-year flood plain area (80' R.O.W.)
 by Panel No. 480171 0135D (Zone C)

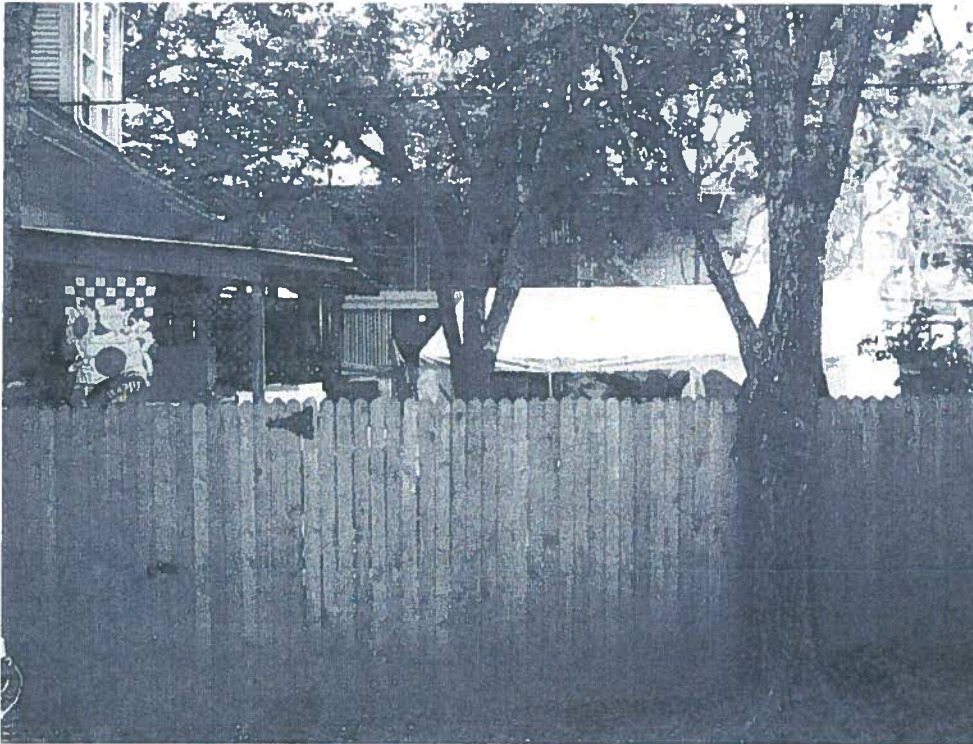
connection with the connection described in GP No. 504750-NWC of _____ of _____
 Title Company. USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK
 AND THE PLAT HEREON IS A TRUE, CORRECT, AND ACCURATE REPRESENTATION OF SAID
 THE PLAT; THE SITE, LOCATION, AND TYPE OF BUILDINGS AND IMPROVEMENTS, ARE AS SHOWN, ALL IMPROVEMENTS BEING WITHIN THE BOUNDARIES
 VISIBLE ENCROACHMENTS OR PROTRUSIONS APPARENT ON THE GROUND.



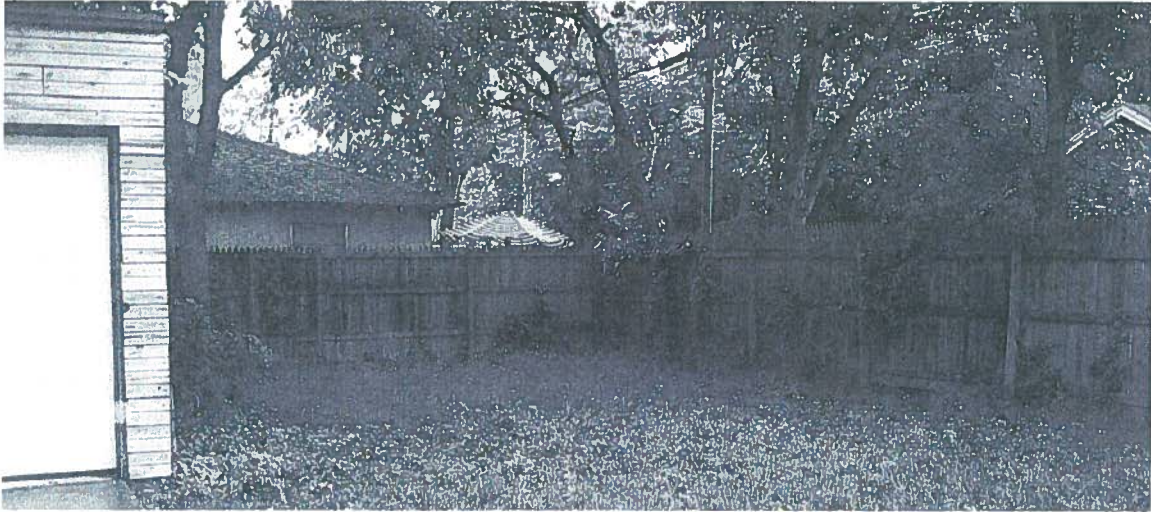
Jim D. Beckley
 Registered Professional Land Surveyor 1630
SURVEYING ASSOCIATES
 1018 S. Beckley, Dallas, TX 75203
 Phone: (214) 948-3374
 Fax: (214) 948-7440



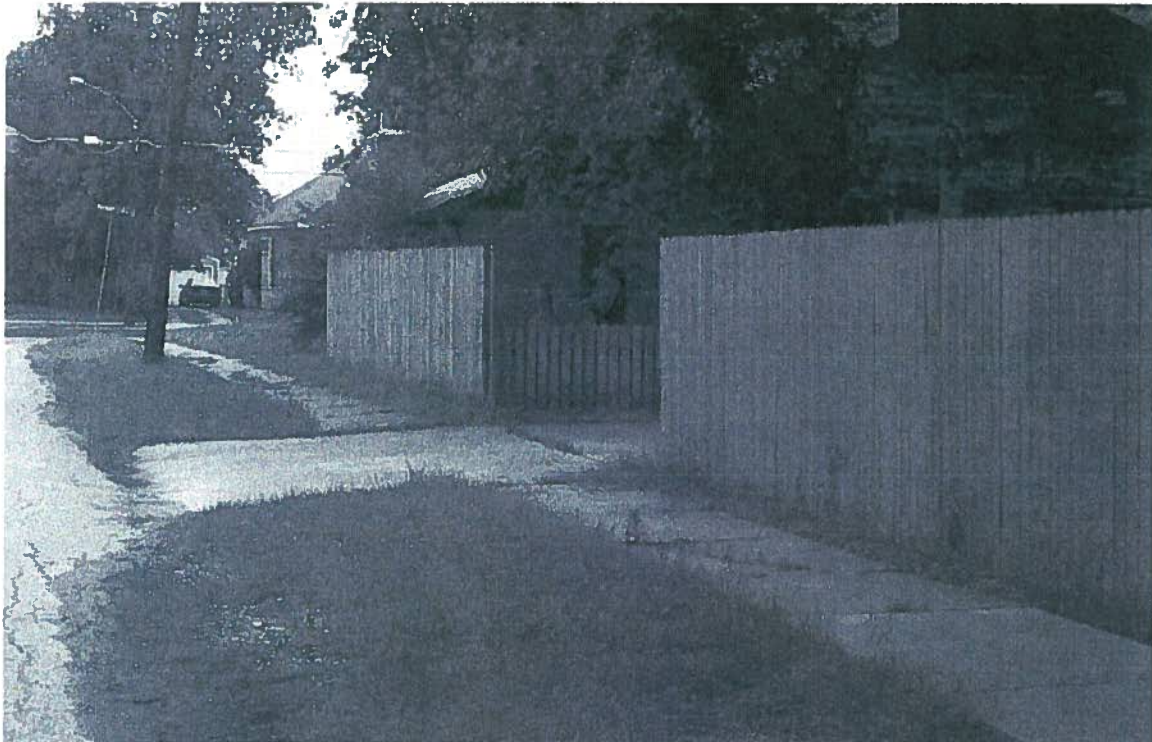
Previous fence.



Previous fence.



Previous fence.



Previous fence.



New fence.



New fence.



New fence.



Gas meter located on side near front of house.



Water & sprinkler control boxes located on side near front of house.



Proposed sliding gate.

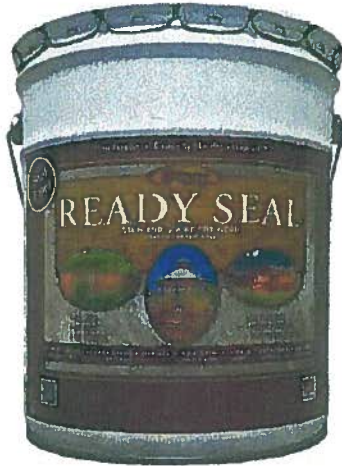


Pro Customer Service: 1-855-830-6070

Your Store: **Lemmon Ave #589**
Use Current Location or [find store](#)

READY SEAL Model # 530 Internet # 204675344 Store SKU # 1000051119
5 gal. Mahogany Exterior Wood Stain and Sealer

★★★★★ (9) [Write a Review](#) [Questions & Answers \(1\)](#)



\$149.00 /each

[Open Expanded View](#)

[Click image to Zoom](#)



PRODUCT OVERVIEW Model # 530 Internet # 204675344 Store SKU # 1000051119

READY SEAL stain enhances the natural beauty of the wood allowing the texture and grain of the wood to remain visible. This stain is an oil-based, semitransparent stain and sealer in one, suitable for all your exterior wood projects. It is a unique formula that penetrates deeply to protect and preserve wood from the elements such as mold, mildew and damaging UV rays.

- Goof proof application
- No laps, runs or streaks
- No back brushing
- Apply in any temperature
- Online Price includes Paint Care fee in the following states: CA, CO, CT, MN, OR, RI, VT

SPECIFICATIONS

DIMENSIONS

Container Size	5 GA-Gallon	Coverage Area (sq. ft.)	825
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12/14/2015

DETAILS

Application Method	Brush, Roller, Spray	Paint/Stain Clean Up	Mineral Spirits
Cleanup	Mineral Spirits	Paint/Stain Key Features	Low Temperature, Mildew Resistant, Sealer, UV/Fade Resistant, Waterproof

<http://www.homedepot.com/p/READY-SEAL-5-gal-Mahogany-Exterior-Wood-Stain-and-Sealer-530/204675344>

1/2

**TASK FORCE RECOMMENDATION REPORT
JUNIUS HEIGHTS**

DATE: 2/11/2016
TIME: 5:30 P.M.
MEETING PLACE: Lakewood Library, 6121 Worth

Applicant Name: Dale Coonrod
Address: 5835 Reiger

Date of CA/CD Request: 2/4/2016

RECOMMENDATION:

Approve Approve with conditions Deny Deny without prejudice

Recommendation / comments/ basis:

① Approve w/ cond. - fence moves to the 50%
mark and moves 2 feet off the sidewalk

~~② Approve the removal & replacement of shrubs
(Plum & Route)~~

Task force members present

<input type="checkbox"/> Rene Schmidt (Chair)	<input checked="" type="checkbox"/> Laura Koppang	<input type="checkbox"/> VACANT
<input type="checkbox"/> Mary Mesh	<input checked="" type="checkbox"/> Sally Johnson	<input checked="" type="checkbox"/> Terri Raith (Alternate)
<input checked="" type="checkbox"/> Barbara Cohen	<input type="checkbox"/> Morgan Harrison	<input type="checkbox"/> VACANT

Ex Officio staff members present Marsha Prior

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

Maker: Sally

2nd: Barb

Task Force members in favor: All

Task Force members opposed: 0

Basis for opposition:

CHAIR, Task Force

DATE

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

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

SECTION 4

Minutes

March 7, 2016

See Page 5, Item #7

7. Install crepe myrtle trees along parkway on west and front (south) sides. Approve with conditions - Approve landscape site plan dated 02/04/2016 with the condition that a dwarf species with height range of 4 to 6 feet upon maturity is planted with the finding the work is consistent with preservation criteria Section 3.5(b) for landscaping and meets the standards in City Code Section 51A-4.501(g)(6)(C)(i).
8. Install gulf muhly grass in west side, front, and rear yards. Approve landscape site plan dated 02/04/2016 with the finding the work is consistent with preservation criteria Section 3.5(b) for landscaping and meets the standards in City Code Section 51A-4.501(g)(6)(C)(i).
9. Install stone and mondo grass at southwest corner. Approve landscape site plan dated 02/04/2016 with the finding the work is consistent with preservation criteria Section 3.5(b) for landscaping and meets the standards in City Code Section 51A-4.501(g)(6)(C)(i).

7. 5835 REIGER AVE (Moved to Discussion)

Junius Heights Historic District
CA156-247(MP)
Marsha Prior

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness.

Speakers: For: Dale Coonrod
Against: No one

Motion:

Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness. Approve completed work with condition that fence is re-constructed to allow for visibility triangle and a two-foot setback from the sidewalk with the finding the work is compatible at this time with the historic overlay district and meets the standards in City Code Section 51A-4.501(g)(6)(C)(ii) with the condition that the street facing front fence may be at front corner of structure and as required by ordinance, two foot setback from sidewalk. Staff proposed conditions make fence compatible with the historic overlay district and applicant has demonstrated a need for security.

Maker: Tapscott
Second: Flabiano
Results: 15/0

Ayes:	- 15	Amonett, Birrer, *Childers, Johnson, Flabiano, Gadberry, Maten, *Montgomery, Parsons, Seale, Tate, *Sherman, Tapscott, Thomas-Drake, Williams
Against:	- 0	
Absent:	- 2	Bowers and Jordan
Vacancies:	- 1	10

SECTION 5

Transcript of the
March 7, 2016
Landmark Commission
Hearing
5835 Reiger Avenue
CA156-247(MP)

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LANDMARK COMMISSION PUBLIC HEARING
OF
5835 Reiger Avenue
Case No. CA156-247 (MP)
MARCH 7, 2016

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

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

2 THE CHAIR: If the Applicant wants to
3 make their way forward and just take a seat right in
4 front of the podium, we'll call on you shortly.
5 Item No. C7 move to Discussion 7, 5835 Reiger,
6 Junius Heights Historic District, CA156-247(MP).
7 Request: Install nine-foot cedar fence with sliding
8 gate around perimeter and up to front of the house
9 on interior and corner side yards and stain using
10 brand Ready Seal mahogany. Work initiated without a
11 certificate of appropriateness.

12 Staff recommendation: Approved
13 completed work with condition. The fence is -- is
14 set back -- is re-set back from the sidewalk with
15 the finding the work is compatible at this time with
16 historic overlay district and meets the standards in
17 City Code Section 51A-4.501(g)(6)(C)(ii).
18 Staff-proposed conditions make fence compatible with
19 the historic overlay district.

20 Could I get a volunteer from the
21 commission to read Task Force recommendations today?
22 Thank you, Commissioner Williams.

23 COMMISSIONER WILLIAMS: Task Force
24 Recommendation: Approved with condition. Fence is
25 moved to the fifty percent mark and moved two feet

1 off from the sidewalk.

2 THE CHAIR: Okay. Our speaker,
3 Mr. Coonrod. Hi, we're ready for you if you want to
4 approach the mic. And just a reminder to all of our
5 speakers, before you begin, to state your name and
6 address into the record. Oh, you know what?
7 Somebody can help you with that. And while he's
8 getting that set up, Mr. Coonrod, I just want to
9 make sure you're really clear. So if you are okay
10 with Staff's recommendation, I just want to make
11 clear that you realize by going into discussion,
12 you're indicating that you have an issue with
13 Staff's recommendation; is that correct? Okay.
14 Great. Terrific. We're on the same page.

15 Okay. Just a reminder, state your
16 name and address into the record, and, also, each
17 speaker has five minutes, so -- five minutes. It's
18 fifteen total for each side, but each individual has
19 five minutes.

20 MR. COONROD: (Inaudible.)

21 THE CHAIR: Oh, could you -- is the
22 microphone on? I'm sorry. We're having a hard time
23 hearing you. You want to speak right into it and --
24 it's not on.

25 UNIDENTIFIED FEMALE: They have to

1 reboot that.

2 THE CHAIR: Okay. If we could get
3 the -- the microphone's not on. I think it'll light
4 up. It should light up.

5 MS. LAW: You can turn it --

6 THE CHAIR: Do you want to see if --
7 which one, Trena?

8 MS. LAW: The one -- the portable one
9 with the light.

10 THE CHAIR: The portable microphone?

11 MS. LAW: Uh-huh.

12 THE CHAIR: It's not on either, it
13 looks like.

14 MS. LAW: Just --

15 MR. COONROD: Can you hear me? Okay.

16 THE CHAIR: I can. Thank you.

17 MR. COONROD: Dale Coonrod, 5835
18 Reiger Avenue.

19 THE CHAIR: Okay. Great.

20 MR. COONROD: Great. Thanks for
21 letting me come before you. I apologize in the
22 manner that I'm being here. The contractor I hired
23 did not obtain the appropriate CA permit without my
24 information. I'd like to get this resolved most
25 quickly and efficiently as possible.

1 I did meet with (inaudible) Hernandez
2 at the building inspection on 01/19/2016. It's been
3 determined that there is no City code with respect
4 to fences having setbacks from sidewalks with the
5 front of the house. I've gone and I've -- I've
6 walked around the neighborhood to determine if
7 there's any homes in my situation. I noticed in the
8 analysis by Staff, a review for corner side yards
9 within the fifty -- front fifty percent found them
10 to exist on at least ten separate intersections;
11 however, none were placed within two feet of the
12 sidewalk. I actually found ten, and I took a
13 measuring tape and took pictures. I can show it to
14 you or I can provide it to you; whatever's quick and
15 efficient.

16 In addition to that, the fence is for
17 security purposes. I have some video I'd like to
18 show you if I can figure it out. This is not easy.
19 Let's see. It's not playing. See, these nice young
20 men decided to come one day and steal my ladder, and
21 I caught it all on video. They won; I lost. I
22 never got compensated. And one guy got caught. And
23 this guy's going to the front door to ring my
24 doorbell. I'm in Houston, Texas right now and
25 nobody's home. So he goes and he looks to see if --

1 if I'm there. I'll kind of just get to the punch
2 line where you can see it. Well, that's not it.
3 Right here. This is not it either. Here they come.
4 Nice young men in my backyard. There's the ladder.
5 It's sitting on a pecan tree harvesting pecans.
6 This was in October. They're very confident, broad
7 daylight, no fear. It's a very heavy ladder. This
8 is bigger than any ladder you'd get at a Home Depot.
9 It takes two people to move it. It's big. It's
10 heavy. It's massive, and all they want it for is to
11 take it and scrap it and go buy drugs.

12 These are repeat offenders. They
13 always go to the local pawnshop. The police knew
14 the guy that got -- only one guy got caught. The
15 rest of them didn't. Even one of the detectives
16 knew who he was. My neighbor heard this. My
17 neighbor followed him to the pawnshop, called the
18 cops. The cops said, You need to stop following
19 these people. It's too dangerous. They got away.
20 The only good news is, the cop -- the detective knew
21 who he was and we had a license plate. I'll just
22 kind of fast-forward it so -- so they're trying to
23 figure it out. There they go, and they're off.

24 Junius Heights does have crime. It's
25 a legitimate concern. I've got other documentations

1 here of crime happening on my property. Actually,
2 let's do this one. This one's better. So here's
3 some nice young men touring the neighborhood at
4 night. This one guy, he's going through the car.
5 Look across the street over here. This guy over
6 here is also going through this car. No fear,
7 doesn't matter. In fact, the security light is
8 helping them. It's not deterring them. It just
9 helps them. This guy comes over. What you got? Is
10 there anything to steal, with no fear at all. And
11 they kind of realize, Oh, there's not much there.
12 Let's move on.

13 Okay. Come on. Here are some stats,
14 if I can get this to work. He are some stats of
15 some homes who -- residents not complying with the
16 two-foot setback from the sidewalk on streets with
17 corner lots, which is a similar situation with me.
18 I found thirty-three properties. In addition, if
19 you look on the -- in this column, it says, Fences
20 within the front fifty percent of the house, there's
21 ten of them; fences within no visibility triangle,
22 there are ten of them. I have all the addresses. I
23 have pictures if you need pictures for documentation
24 and proof to verify. I guess my point is, the fence
25 is there for security for me, my family, my

1 property. Just three houses down across the street
2 there was a rape in Junius Heights back in October
3 of 2010. I have it documented here where there was
4 a guy running, broke into this lady's apartment, and
5 raped them. If anybody's ever had to call the
6 police and unless it's a -- you know, a violent
7 crime, the response is horrible. I've called the
8 police a couple times, like for the ladder, and, for
9 instance --

10 THE CHAIR: Mr. Coonrod, I'm just
11 going to -- I'd like to give you another minute
12 because there was a lot of back and forth on the
13 video, so keep talking. You've got another minute
14 left.

15 MR. COONROD: Okay. I guess my point
16 is, the fence is there for security. I've got proof
17 that I've been broken into and robbed. That's why
18 it's nine feet. That's why to the front of the
19 house. Two-foot setback. There's nothing on the
20 City code that -- that says you need to be two feet.
21 I don't understand the value of that and what the
22 purpose is. Triangle is legitimate. I will get the
23 triangle fixed. I think that is a legitimate
24 concern. You're coming down the alley. You don't
25 want to get -- you don't want to get in an accident.

1 You don't want to get hit not knowing who's coming
2 down Ridgeway Avenue, so -- you know, there's
3 numerous rentals in my area. I'm a noncontributing
4 property. I don't adversely affect the historic
5 overlay in my neighborhood. I guess that's it.

6 THE CHAIR: Thank you. Thank you,
7 Mr. Coonrod. Okay. We'll move to questions.
8 Commissioner Montgomery?

9 COMMISSIONER MONTGOMERY: I understand
10 your concern about crime in the East Dallas area,
11 but I'm not understanding the connection between
12 needing to have the fence -- are you saying there's
13 a connection between stopping the thefts and the
14 danger to your family and having the fence closer to
15 the sidewalk?

16 MR. COONROD: Well, I think, also, it
17 says here that the Staff recommendation is to the
18 corner side of the -- on the -- to have the fence on
19 the corner side of the house where it currently
20 comes to the front of the house. Do I read that
21 correctly?

22 THE CHAIR: Well, there's two separate
23 issues. There's the location of the fence, two feet
24 in from the sidewalk, and then there's also how far
25 front it comes.

1 MR. COONROD: Right.

2 THE CHAIR: I think the -- the
3 question was, what does the security threat have to
4 do with whether the fence is located along the
5 sidewalk or two feet in?

6 MR. COONROD: That's a cost issue. I
7 can't resalvage the wood. There's shank nails, and
8 if you try to -- try to -- you know, if you're going
9 to dismantle it, you're not going to -- you're not
10 going to salvage that cedar. That's -- that's --
11 that's a cost issue.

12 Security issue with the way it comes
13 up front, I don't want people hiding in the corners
14 at night. My -- you know, my fiancee will take the
15 dog for a walk at night. I don't want somebody
16 hiding behind a two- or three- or five-foot setback,
17 and then coming out of the bushes when it's dark
18 because there's only a streetlight across the
19 street, not on Ridgeway where I'm at. That's a
20 safety issue for me.

21 I've got documentation of a rape down
22 the street. I've got documentation of people
23 robbing me. It's legitimate. I don't live in
24 Mayberry.

25 THE CHAIR: Thank you. Commissioner

1 Tapscott?

2 COMMISSIONER TAPSCOTT: Mr. Coonrod,
3 thank you. Nobody doubted from your last testimony
4 that you need it for security, and because you are a
5 nonconforming, I think we can clarify the Staff's
6 position. The fence may be at the front corner of
7 the house, but the problem is, there is a code
8 requirement that says the fence has to be two feet
9 off the sidewalk, and I'd like counsel to refer to
10 counsel right now on that.

11 UNIDENTIFIED FEMALE: Yeah.
12 Exhibit E, which is an attachment to the historic
13 district overlay governs location of fences, and
14 there's a notation on Exhibit E that says, Two-foot
15 minimum setback from sidewalk and --

16 COMMISSIONER TAPSCOTT: Uh-huh. It's
17 in the overlay ordinance.

18 UNIDENTIFIED FEMALE: -- Madam Chair?

19 COMMISSIONER TAPSCOTT: Yes. Yes,
20 there's a --

21 UNIDENTIFIED FEMALE: Do you want me
22 to pass it around or --

23 COMMISSIONER TAPSCOTT: So -- so there
24 is a requirement, not in the development code, but
25 rather in the preservation criteria, and the intent

1 originally was to make it more a pedestrian-oriented
2 environment, but regardless of what the intent is,
3 the -- the -- the code, our code, does require that.
4 So if we simply clean up the Staff recommendation to
5 certify the fence may come to the front, I still
6 don't see any over -- overwhelming reason.

7 I think Commissioner Montgomery was
8 dead-on. The security is not about whether it's a
9 foot off -- off the property line or two feet off
10 the sidewalk. It has to be, by our own ordinance,
11 two feet off the sidewalk. So is there anything
12 that you would like to add before making a motion?

13 MR. COONROD: So, yeah, my response
14 would be to all these properties that are in the
15 same situation with me -- with me right here. I can
16 provide this -- I got it on a piece of paper. These
17 are other people that are not in compliance with the
18 two-foot setback from the sidewalk. That -- that's
19 my response.

20 COMMISSIONER TAPSCOTT: They are not
21 the ones here today?

22 MR. COONROD: I'm sorry?

23 COMMISSIONER TAPSCOTT: They are not
24 the ones here today --

25 MR. COONROD: I understand, but that's

1 my response.

2 COMMISSIONER TAPSCOTT: Okay.

3 THE CHAIR: Commissioner Flabiano?

4 COMMISSIONER FLABIANO: Yeah. I guess
5 my question -- it probably was answered because it's
6 part of our ordinance. Is the two-foot setback --
7 because mine was going to be more about the building
8 code and building inspection and whether this fence
9 meets that criteria. I think since it's nine foot,
10 you have to go get a permit for that fence, and so
11 the question is, did you get that permit? Were
12 there any issues with visibility at the corner in
13 the back with the alley, which was one question we
14 had last time, and/or the setback from the property
15 line and/or the sidewalk from building --

16 MR. COONROD: Correct --

17 COMMISSIONER FLABIANO: -- inspection?

18 MR. COONROD: -- and there are no
19 setbacks for a fence from the sidewalk. You can go
20 up to your property line unless it's in the front.
21 I think there's something in the front where you've
22 got to be a certain height, but you can go all the
23 way to your front --

24 COMMISSIONER FLABIANO: Okay.

25 MR. COONROD: -- but the sidewalk is

1 none. In the back, there's none per the gentleman I
2 talked to on January 19th down at building
3 inspection.

4 COMMISSIONER FLABIANO: Okay.

5 THE CHAIR: Any other questions?
6 Commissioner Amonett?

7 COMMISSIONER AMONETT: Do I understand
8 you correctly that -- that you did permit the fence
9 and that -- that you got a permit for it, and then
10 somebody came out and inspected it after you were
11 done --

12 MR. COONROD: No --

13 COMMISSIONER AMONETT: -- and retagged
14 it?

15 MR. COONROD: -- there was no permit.
16 The person I -- I hired did not get a CA or a
17 permit.

18 COMMISSIONER AMONETT: Okay.

19 MR. COONROD: It's my understanding
20 you can't get a permit without a CA first. I think
21 it's the chicken before the egg --

22 COMMISSIONER AMONETT: Okay.

23 MR. COONROD: -- if I am correct.

24 THE CHAIR: Do we have a motion?
25 Commissioner Tapscott?

1 COMMISSIONER TAPSCOTT: CA156-247(MP),
2 5835 Reiger Avenue. I move that we follow the Staff
3 recommendation with -- and modify one condition that
4 the front fence -- front -- street front --
5 street-facing front fence may be at the corner --
6 say that a couple times. Yeah -- front-facing,
7 street-facing fence may be at the front corner of
8 the house, but that the conditions are a visibility
9 triangle and two-foot setback from the sidewalk must
10 be -- are a part of the ordinance and must be
11 complied with and that the finding is -- or the
12 finding is the rest of it were -- the horizontal
13 fence is compatible with the historic district and
14 meets the Section 51A-4 -- 4.501.

15 COMMISSIONER FLABIANO: Second.

16 THE CHAIR: Thank you, Commissioner
17 Flabiano, for your second. A question for the maker
18 of the motion?

19 COMMISSIONER TAPSCOTT: Yes.

20 THE CHAIR: Did you address the
21 height?

22 COMMISSIONER TAPSCOTT: I'm fine with
23 nine feet.

24 THE CHAIR: Okay.

25 COMMISSIONER TAPSCOTT: I think the

1 Applicant has demonstrated that security is an
2 issue, and I think that's why we -- plus the fact
3 it's noncompatible and can allow the front corner,
4 but I think the ordinance is very -- I mean --
5 sorry. I don't know how the eye missed it. It's a
6 drawing in the ordinance that says a fence must be
7 set two feet back from the sidewalk.

8 THE CHAIR: Would you be okay with
9 adding a friendly amendment to your motion just
10 deciding the -- that the Applicant is provided
11 security --

12 COMMISSIONER TAPSCOTT: Yeah.

13 THE CHAIR: -- evidence that there
14 is --

15 COMMISSIONER TAPSCOTT: Finding of
16 facts that he is more than adequate --

17 THE CHAIR: -- security issues for the
18 record so that he doesn't have some problem in the
19 future?

20 COMMISSIONER TAPSCOTT: On the issue
21 of height.

22 THE CHAIR: On the issue of height?
23 Correct.

24 COMMISSIONER TAPSCOTT: Yeah, that
25 would be fine with the finding of fact that the

1 Applicant has demonstrated a security need for both
2 the front-facing fence and the height.

3 UNIDENTIFIED MALE: (Inaudible.)

4 THE CHAIR: Is that okay?

5 UNIDENTIFIED MALE: Yes.

6 THE CHAIR: Okay. Any discussion,
7 Commissioners? No. All of those in favor of the
8 motion, please say, Aye.

9 COMMISSIONER AMONETT: Aye.

10 COMMISSIONER BIRRER: Aye.

11 COMMISSIONER CHILDERS: Aye.

12 COMMISSIONER FLABIANO: Aye.

13 COMMISSIONER GADBERRY: Aye.

14 COMMISSIONER JOHNSON: Aye.

15 COMMISSIONER MONTGOMERY: Aye.

16 COMMISSIONER PARSONS: Aye.

17 COMMISSIONER SHERMAN: Aye.

18 COMMISSIONER TAPSCOTT: Aye.

19 COMMISSIONER TATE: Aye.

20 COMMISSIONER THOMAS-DRAKE: Aye.

21 COMMISSIONER WILLIAMS: Aye.

22 THE CHAIR: Any opposed? Okay.

23 Motion carries unanimously. And, Mr. Coonrod, you
24 have thirty days to appeal our decision to the City
25 Plan Commission. Thank you.

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(End of proceedings.)

1 REPORTER'S CERTIFICATE

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

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

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

15 GIVEN UNDER MY HAND on this the 27th day of
16 April, 2016.

17 _____
18 SARAH BINA, CSR #8075
19 Certified Shorthand Reporter
20 In and for the State of Texas
21 All-American Reporting
22 P.O. Box 520
23 Denton, Texas 76202
24 (972) 219-5161
25 (940) 320-1992
Tlcandaa@aol.com

23 My commission expires: 12/31/17

24

25

SECTION 6

Junius Heights Historic District Ordinance

4-26-06

ORDINANCE NO. 26331

An ordinance changing the zoning classification on the following property:

BEING an area generally bounded by Gaston Avenue, Henderson Avenue, Reiger Avenue, East Side Avenue, Abrams Road, Columbia Avenue, Glasgow Drive, Abrams Road, and Nesbitt Drive, and containing approximately 190.2 acres,

by establishing Historic Overlay District No. 128 (~~Junius Heights~~); providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

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

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

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

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 128 on the property described in Exhibit A ("the Property"), which is attached to and made a part of this ordinance.

26331

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

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

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

SECTION 5. That the director of development services shall correct Zoning District Map No. I-8 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

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

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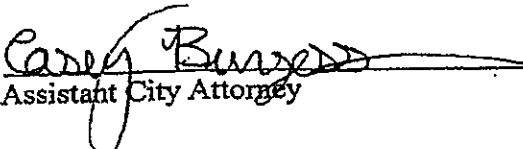
SECTION 7. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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

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

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

Passed APR 26 2006

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EXHIBIT A
JUNIUS HEIGHTS BOUNDARY DESCRIPTION

The Junius Heights legal description consists of the following City Blocks and Lots and being further divided into six subdistricts:

City Block 1490 Tract/Lots 1-23, and City Block 2/1864 Lots 1-7 and 8-14, and City Block 3/1865 Lots 1-14, and City Block 4/1866 Lots 1-14, and City Block 5/1868 Lots 1-14, and City Block 6/1869 Lots 1-14, and City Block 7/1883 Lots 1-16, and City Block 8/1883 Lots 1-15, and City Block 9/1884 Lots 1-14, and City Block 21/1884 Lots 8-16, and City Block 4/1884 Lots 1-9, City Block 5/1884 Lots 9-16, City Block 1493 Lots 14 and 15 and, City Block B/609 Lots 6 and 6A and, City Block C/455 Lots 1-9 and part of 11 that fronts on Reiger Avenue and Augusta Street, and that part of City Block D/432 located north and west of Columbia Avenue/Abrams Road, and City Block 18/1658 Lots 1 through 5 and Lot 18, and City Block B/1664 Lots 1-4, and City Block B/1670 Lots 1-4 and 15-18 and City Block C/1670 Lots 1A, 2A, 3A, 1B, 2B, and 3B, and City Block A/697 Lots 1-15 and all of the following City Blocks: V/1496, 1/1496, V/1495, 1/1495, 1494, 1/1589, 2/1590, 3/1647, 5/1649, A/1659, B/1660, A/1663, 1489, 10/1592, 9/1591, 8/1652, 7/1651, 6/1650, D/1662, C/1661, A/1488, 11/1593, 12/1594, 13/1653, 14/1654, 15/1655, A/1670, B/1488, 20/1596, 19/1595, 17/1657, 16/1656, and 21/1617.

Tract A:

City Block V/1495 Lots 5-16 and City Block 1/1495 Lots 1-7 and 12-17, and City Block 2/1864 Lots 1-7 and 8-14, and City Block 3/1865 Lots 1-14, and City Block 4/1866 Lots 1-14, and City Block 5/1868 Lots 8-14.

Tract B:

City Block 5/1868 Lots 1-7, and City Block 6/1869 Lots 1-14, and City Block 7/1883 Lots 1-16, and City Block 8/1883 Lots 1-15, and City Block 9/1884 Lots 1-14, and City Block 21/1884 Lots 8-14, and City Block 4/1884 Lots 1-7, and City Block 5/1884 Lots 9-16.

Tract C:

City Block V/1496 Lots 1-4 and City Block 1/1496 Lots 8-11 and City Block 21/1884 Lots 15 and 16 and City Block 4/1884 Lots 8 and 9.

Tract D:

City Block A/697 Lots 14 and 15, and City Block 1490 Tracts/Lots 1-8 and Tracts/Lots 10, 12, 14, 16, 19, 20, 23, and City Block 1493 Lots 14 and 15, and City Block B/609 Lots 6 and 6A, and City Block C/455 Lots 1-9 and part of 11 that fronts on Reiger Avenue and Augusta Street, and City Block D/432 north and west of Columbia Avenue/Abrams Road, and City Block 18/1658 Lots 1 through 5 and Lot 18, and City Block B/1664 Lots 1-4, and City Block B/1670 Lots 1-4 and 15-18 and City Block C/1670 Lots 1A, 2A, 3A, 1B, 2B, and 3B, and all of City Blocks: 1494, 1/1589, 2/1590, 3/1647, 4/1648, 5/1649, A/1659, B/1660, A/1663, 1489, 10/1592, 9/1591, 8/1652, 7/1651, 6/1650, D/1662, C/1661, A/1488, 11/1593, 12/1594, 13/1653, 14/1654, 15/1655, A/1670, B/1488, 20/1596, 19/1595, 17/1657, 16/1656, and 21/1617.

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Tract E:
City Block A/697 Lots 1-13.

Tract F:
City Block 1490 Tracts/Lots 9, 11, 13, 15, 17, 18, 21, and 22.

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**EXHIBIT B
PRESERVATION CRITERIA
JUNIUS HEIGHTS**

1. GENERAL

- 1.1 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to property within this district must comply with the regulations in Chapter 51A of the Dallas City Code, as amended. In the event of a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness
 - a. Except as provided in Item 1.3(c), a person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
 - b. Except as provided in Item 1.3(c), the certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. A certificate of appropriateness is not required for routine maintenance at a school in Tract D. A certificate of appropriateness is required for routine maintenance for all other uses.
 - d. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - e. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The Director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.
- 1.4 A person may not demolish or remove any structure in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code, as amended.

- 1.5 Preservation and restoration materials and methods used must comply with the *Secretary of the Interior's Standards for Rehabilitation* and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.
- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code, as amended, for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1900 to 1940.

2. DEFINITIONS

- 2.1 Unless defined below, the definitions contained in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 ADDITION means any floor area attached to a main building.
- 2.3 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.4 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.5 COLUMN means the entire column, including the base and capital.
- 2.6 CONTRIBUTING STRUCTURE means a structure that retains its essential architectural integrity of design and whose architectural style is typical of or integral to this district.
- 2.7 CORNERSIDE YARD means a side yard abutting a street.
- 2.8 CRAFTSMAN means the Craftsman architectural style as shown in Exhibit D.
- 2.9 DIRECTOR means the Director of the Department of Development Services or the Director's representative.

- 2.10 **DISTRICT** means Historic Overlay District No. 128, the Junius Heights Historic Overlay District. This district contains the property described in Section 1 of this ordinance. A map of this district is attached to and made a part of this ordinance as Exhibit C. This district is divided into six tracts, to be known as "Tract A," "Tract B," "Tract C," "Tract D," "Tract E," and "Tract F." Property descriptions of Tracts A through F are contained in Exhibit A. A map showing the tract boundaries is attached to and made a part of this ordinance as Exhibit C. In the event of a conflict, between the verbal descriptions in Exhibit A and the depictions in Exhibit C, the verbal description in Exhibit A controls.
- 2.11 **ERECT** means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.12 **FENCE** means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.13 **FRONT FACADE** means a facade of a main building facing a front yard.
- 2.14 **INTERIOR LOT** means a lot other than a corner lot.
- 2.15 **INTERIOR SIDE YARD** means a side yard not abutting a street or alley.
- 2.16 **NEW CONSTRUCTION** means a main building built after April 26, 2006, the date of creation of this district.
- 2.17 **PRAIRIE** means the Prairie architectural style as shown in Exhibit D.
- 2.18 **PROTECTED** means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.19 **REAL ESTATE SIGN** means a sign that advertises the sale or lease of an interest in real property.
- 2.20 **SIDE FACADE** means a facade of a main building facing a side yard.
- 2.21 **SOLID-TO-VOID RATIO** means the ratio between the voids (i.e., the window and door openings) to the solid (i.e., proportion of a facade that comprises a blank or solid wall).
- 2.22 **TUDOR** means the Tudor architectural style as shown in Exhibit D.
3. **SITE AND SITE ELEMENTS**
- 3.1 All contributing structures are protected.

- 3.2 New driveways, sidewalks, steps, and walkways must be constructed of brick, brush finish concrete, stone, or other appropriate material. Artificial grass, artificially-colored concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted. Replacement of existing walkways and steps must be consistent with the original style.
- 3.3 No new circular driveways or parking areas are allowed in front yards.
- 3.4 Any new mechanical equipment on the ground must be erected in the side or rear yards, and must be screened.
- 3.5 Landscaping
- a. Outdoor lighting must be appropriate and enhance the structure.
 - b. Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.
 - c. Existing mature trees in the front yard are protected, except that unhealthy or damaged trees may be removed.
- 3.6 Fences
- a. Location
 - 1. Except as provided in Item 3.6(a)(4), new fences are not permitted in the front yard.
 - 2. Except as provided in Item 3.6(a)(4), fences in interior side yards must be located in the rear 50 percent of the side yard and behind the open front porch of an adjacent house as shown in Exhibit E. If more screening is required for additional security or privacy, the Landmark Commission may allow a fence that is located five feet behind the porch of the house requesting the fence.
 - 3. Except as provided in Item 3.6(a)(4), fences in cornerside yards are not allowed in front of the side facade of the main building unless the Landmark Commission determines that more security or screening is necessary. Fences in cornerside yards must have a two-foot setback from the cornerside yard sidewalk.
 - 4. Chain link fences are allowed in the front and side yards of a school in Tract D for safety purposes.
 - 5. Fence locations are shown in Exhibit E. Front, rear, interior side, and cornerside yards are illustrated in Exhibit F.

b. Height

1. Fences in the rear yard and rear 50 percent of the interior side yard or cornerside yard may not exceed nine feet in height as shown in Exhibit E.
2. Fences in the front 50 percent of the interior side yard or cornerside yard may not exceed eight feet in height.
3. Chain link fences in the front yard of a school in Tract D may not exceed four feet in height.

c. Construction

1. Except as provided in Item 3.6(c)(2), new fences visible from the street must be constructed of brick, stone, wood, metal pickets, or a combination of these materials.
2. For a school in Tract D, new fences visible from the street may be constructed of chain link for safety purposes.
3. The tops of fences must be horizontal, stepped, or parallel to grade, as shown in Exhibit E.
4. The finished side of a fence must face out if seen from any street, as shown in Exhibit E.

4. FACADES**4.1 Protected facades**

- a. Front facades and the front 50 percent of side facades of contributing structures are protected.
- b. Reconstruction, renovation, repair, or maintenance of protected facades must be appropriate and employ materials similar to the historic materials in texture, color, pattern, grain, and module size.
- c. Historic solid-to-void ratios of protected facades must be maintained.
- d. Brick added to protected facades must match the original brick as closely as possible in color, texture, module size, bond pattern, and mortar color.
- e. Brick, cast stone, and concrete elements on protected facades may not be painted, except that portions of the structure that had been painted prior to the effective date of this ordinance may remain painted.

- 4.2 All additions and alterations must be architecturally sensitive and appropriate to the overall design of the existing structure.
- 4.3 Wood siding, trim, and detailing must be restored wherever practical.
- 4.4 All exposed wood must be painted, stained, or otherwise preserved.
- 4.5 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 4.6 Paint must be removed in accordance with the *Secretary of the Interior's Standards for Rehabilitation* and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, prior to refinishing.
- 4.7 Vinyl or aluminum siding and exterior insulated finish systems (EIFS) are not permitted on main buildings.
- 4.8 Colors appropriate to the period of historic significance are recommended. No fluorescent or metallic colors are permitted on the exterior of any structure.
- 4.9 All structures must have a dominant body color and no more than three trim colors, including any accent colors. Front porch floors and ceilings do not count as one of these colors. The colors of a structure must complement each other and the overall character of this district. Complimenting color schemes are encouraged throughout the blockface.
- 4.10 Exposing and restoring original historic finish materials is recommended.
- 4.11 Cleaning of the exterior of a structure must be in accordance with the *Secretary of the Interior's Standards for Rehabilitation* and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

5. FENESTRATION AND OPENINGS

- 5.1 Historic doors and windows must remain intact and their openings must be preserved on protected facades, except that doors and windows may be replaced if necessary due to damage or deterioration.
- 5.2 It is recommended that non-original or altered original doors and windows that do not match the historic appearance of the main building be replaced with appropriate doors and windows.

- 5.3 Replacement doors and windows must express mullion size, light configuration, and material to match the original.
- 5.4 Storm doors and windows are permitted if they are sensitive additions and match the existing doors and windows in frame width and proportion, glazing material, and color. Wood is the preferred material, but painted or factory-finished aluminum storm doors, storm windows, or screens are permitted. Mill-finished aluminum is not permitted.
- 5.5 Decorative ironwork and burglar bars are permitted over doors or windows on rear facades and accessory structures. Interior mounted burglar bars are permitted on protected facades.
- 5.6 Glass and glazing must match historic materials as much as practical. Films and dark tinted or reflective glazings are not permitted on glass.
- 5.7 New door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled or the safety of life is threatened.
- 5.8 The *Secretary of the Interior's Standards for Rehabilitation* and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, should be referred to for acceptable techniques to improve the energy efficiency of historic fenestration.

6. ROOFS

- 6.1 The historic slope, massing, configuration, and materials of the roof must be preserved and maintained.
- 6.2 The following roofing materials are allowed: wood shingles; composition shingles; slate, clay, concrete, or terra-cotta tiles; and other appropriate materials. Roof materials must be appropriate to the historic style of the main building.
- 6.3 Historic eaves, coping, cornices, dormers, parapets, roof trim, gables, and porch roofs must be retained, and should be repaired with material matching in size, finish, module, and color.
- 6.4 Mechanical equipment, skylights, and solar panels on the roof must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.
- 6.5 Satellite dishes require a certificate of appropriateness only if they are visible from a street.

7. PORCHES AND BALCONIES

- 7.1 Historic porches and balconies on protected facades are protected.
- 7.2 Porches and balconies on protected facades may not be enclosed. It is recommended that existing enclosed porches on protected facades be restored to their historic appearance.
- 7.3 Historic columns, detailing, railings, and trim on porches and balconies are protected.
- 7.4 Front and side porch floor finishes must be concrete, wood, or other appropriate materials. Porch floors may not be covered with carpet. Wood floors must be painted or stained. Brick or stone floors may not be painted. A clear sealant is acceptable on porch floors.

8. MAIN BUILDING: NEW CONSTRUCTION AND ADDITIONS IN TRACTS A, B, C, D, AND E

- 8.1 New construction and vertical and horizontal additions to existing main buildings are permitted.
- 8.2 If a contributing structure is destroyed by other than the intentional act of the owner or the owner's agent, it may be rebuilt in the original architectural style of the structure as substantiated by documentary or pictorial evidence.
- 8.3 New construction and vertical or horizontal additions must be compatible with the historic architectural styles for that tract as listed below. Architectural styles are illustrated in Exhibit D.
 - a. Tract A: Except as otherwise provided in this paragraph, new construction and additions must be in the Craftsman style typical to contributing main buildings within this tract.
 - 1. New construction on Dumas Street must have brick veneer on the front and side facades.
 - 2. New construction on Dumont Street, Parkmont Street, Beacon Street, and Huntley Street must have wood siding on the front, side, and rear facades.
 - 3. New construction on Glendale Street may also be in the Prairie style and must have brick veneer or wood siding on the front and sides facades.

- b. Tract B: New construction and additions must be in the Craftsman or Tudor style typical to contributing main buildings within this tract and have brick veneer on the front and side facades.
 - c. Tract C: New construction and additions must follow the architectural requirements in Planned Development District No. 99 (Gaston Avenue). See Section 51P-99.109 of the Dallas Development Code, as amended.
 - d. Tract D: Except as otherwise provided in this paragraph, new construction and additions must be in the Prairie or Craftsman style, typical to contributing main buildings within this tract. New construction and additions to a school building must be compatible with the existing school building.
 - e. Tract E: New construction and additions must be two-story and in the Prairie style typical to contributing main buildings within this tract.
- 8.4 The massing, shape, building and roof form, materials, solid-to-void ratios, details, color, and general appearance of new construction must be compatible with the selected historic architectural style.
- 8.5 The massing, shape, building and roof form, materials, solid-to-void ratios, details, color, and general appearance of additions must be compatible with the existing historic structure.
- 8.6 The height of new construction and vertical or horizontal additions must not exceed the height of similar historic structures on the block.
- 8.7 New construction is prohibited in front and cornerside yards except as noted in Item 8.8 and Section 9. Front, interior side, cornerside, and rear yards are illustrated in Exhibit F.
- 8.8 New construction and additions are permitted in the cornerside yard of a school in Tract D.
- 8.9 The width of new construction must be within 20 percent of the average width of existing structures on the blockface.
- 8.10 New construction on interior lots must have a front yard setback that is equal to the average setback of other structures on the blockface. Front, rear, interior side, and cornerside yards are illustrated in Exhibit F.
- 8.11 New construction on interior lots must have a front driveway on the same side of the main building as typical of other main buildings on the blockface. New construction must have a side yard setback of at least 10 feet on the driveway side of the main building and at least a five-foot side yard setback on the other side of the main building. Driveways must extend to the rear of the main building.

- 8.12 Vinyl, aluminum, or exterior insulated finish systems (EIFS) are not permitted as cladding materials for the construction of a new main building or an addition to an existing historic structure. Cementitious siding is not permitted as cladding of a horizontal or vertical addition.
- 8.13 Chimneys visible from a public street must be clad in masonry.
- 8.14 New construction and additions must be designed so that connections between new construction or additions and the historic structure are clearly discernible as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the historic structure must be established and maintained. Historic details in the coping, eaves, and parapet of the historic structure must be preserved and maintained at the point where the historic structure abuts new construction or additions.

9. ACCESSORY STRUCTURES FOR TRACTS A, B, C, D, AND E

- 9.1 Accessory structures are only permitted in the rear yard, except that portable classroom buildings are permitted in the cornerside yard of a school in Tract D, and garages may be built in the rear 30 feet of cornerside yards.
- 9.2 Accessory structures must be compatible with the scale, shape, roof form, materials, detailing, and color of the main building.
- 9.3 Accessory structures must be at least eight feet from the main building.
- 9.4 Accessory structures in Tracts A, B, D, and E may not exceed a footprint of 600 square feet, unless documentation shows that an original structure exceeding this size was previously on the building site. The 600 square feet footprint requirement does not apply to portable classroom buildings located at a school in Tract D. Accessory structures in Tract C may not exceed a footprint of 1,200 square feet, unless documentation shows that an original structure exceeding this size was previously on the building site.
- 9.5 Cementitious siding is allowed on accessory structures if it is in keeping with the style and materials of the main building. Except as otherwise provided in this paragraph, vinyl and aluminum siding and Exterior Insulated Finish Systems (EIFS) are not permitted on the exterior of accessory structures. Vinyl and aluminum siding are permitted on the exterior of portable classroom buildings located at a school in Tract D.
- 9.6 The eave height of accessory structures may not exceed the eave height of the main building.
- 9.7 If a garage is within 20 feet of the alley pavement and parking is entered from the alley, the garage must have electric garage door openers.

9.8 For accessory structures not adjacent to an alley, the minimum rear yard setback is two-and-a-half feet with a one-and-a-half foot allowed roof overhang encroachment. For accessory structures adjacent to an alley, a three-foot setback must be provided. In Tract C, accessory structures must comply with the rear yard setback requirements of Planned Development District No. 99.

9.9 Minimum side yard setback for accessory structures is three feet, with a one-and-a-half foot allowed roof overhang encroachment, except that accessory structures in Tract C must comply with the side yard setback requirements for Planned Development District No. 99.

9.10 Accessory structures may be rebuilt in the location of a structure that existed prior to April 26, 2006, the date of creation of this district, if the location of the pre-existing structure is properly documented.

10. MAIN BUILDING: NEW CONSTRUCTION AND ADDITIONS IN TRACT F

10.1 New construction and vertical and horizontal additions to existing main buildings are permitted.

10.2 New commercial construction and additions must be in the style of the existing 1920's commercial building. New vertical additions to the existing main building must be set back 15 feet from the front facade. New residential construction must be in the Prairie or Craftsman style, typical to contributing main buildings in Tract D.

10.3 New construction and additions must be designed so that connections between new construction or additions and the historic structure are clearly discernible as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the historic structure must be established and maintained. Historic details in the coping, eaves, and parapet of the historic structure must be preserved and maintained at the point where the historic structure abuts new construction or additions.

11. ACCESSORY STRUCTURES IN TRACT F

11.1 Accessory structures are permitted in side and rear yards.

11.2 Accessory structures may not exceed a footprint of 2,000 square feet.

12. SIGNS

12.1 Signs may be erected if appropriate.

12.2 All signs must comply with the provisions of the Dallas City Code, as amended.

12.3 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.

13. ENFORCEMENT

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

13.2 A person is criminally responsible for a violation of these preservation criteria 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.

13.3 Any person who adversely affects or demolishes a structure in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the Director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.

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- 13.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

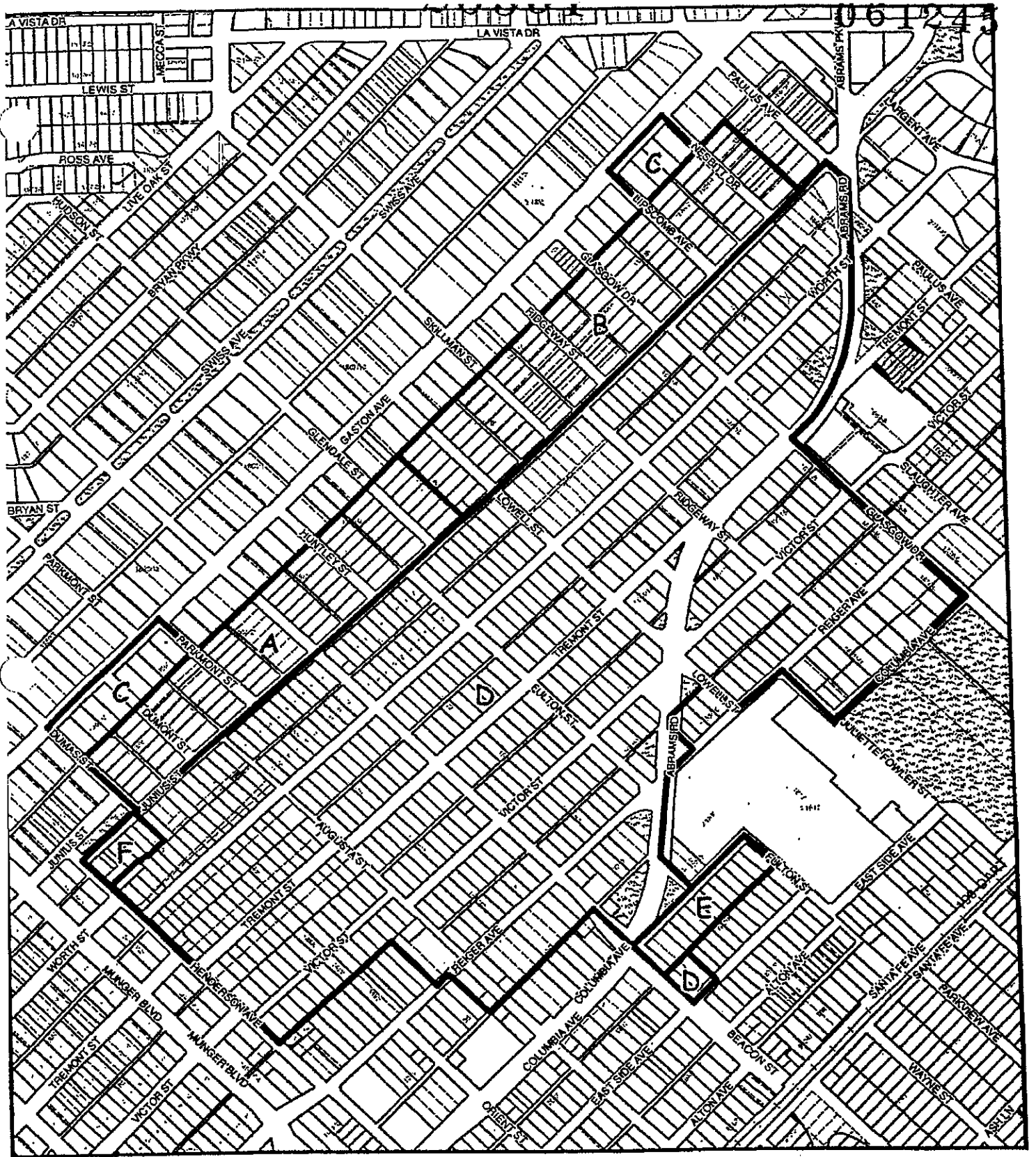


EXHIBIT C
 TRACT MAP
 H/128 (Junius Heights)
 Contains 6 Tracts



1:6,800

Matched to Parcel 105 lines

000065

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Craftsman

1905-1930

low-pitched gabled roof (occasionally hipped) with wide, unenclosed eave overhang

decorative (false) beams or braces under gables

roof rafters usually exposed

porches, either full- or partial-width, with roof supported by square columns

columns or column bases frequently continue to ground level (without break at level of porch floor)



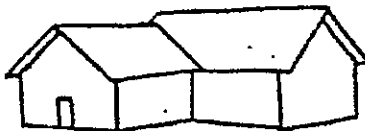
Architectural drawings sourced from A Field Guide To American Houses (1984) with the permission of the author Virginia McAlester.

FRONT-GABLED ROOF



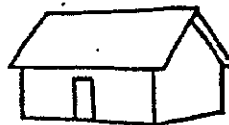
pages 456-7

CROSS-GABLED ROOF



pages 458-9

SIDE-GABLED ROOF



pages 460-1

HIPPED ROOF

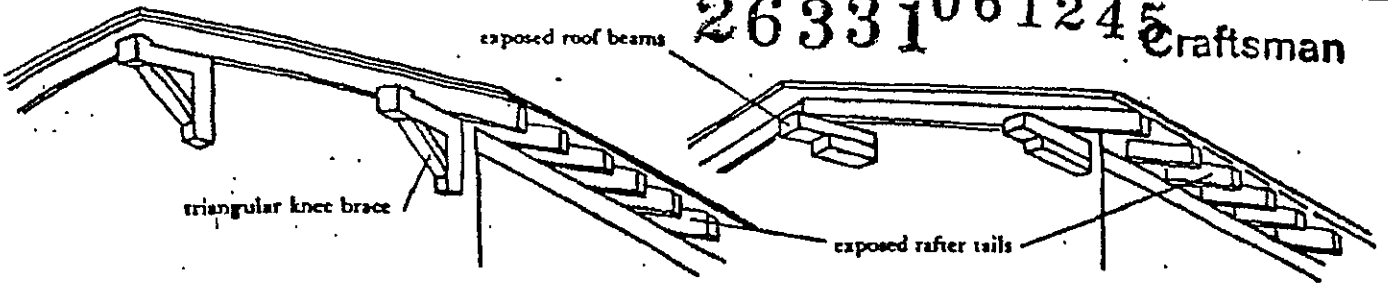


page 463

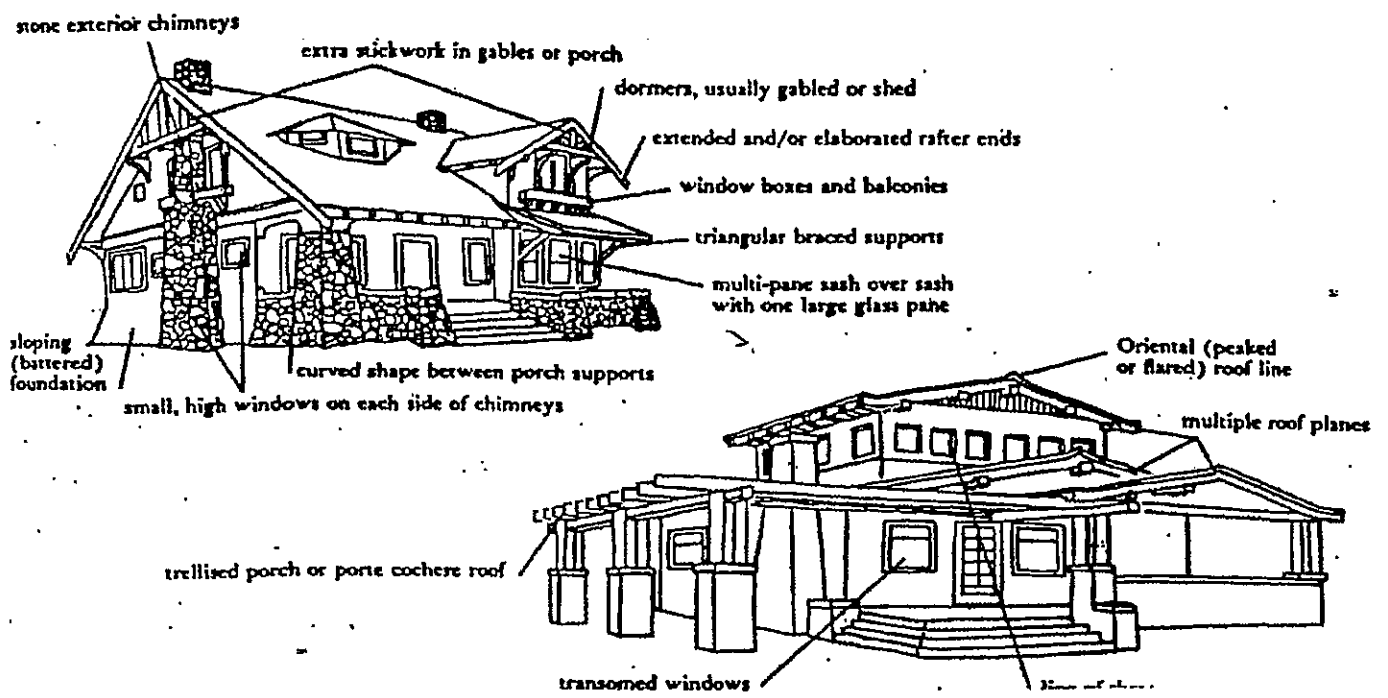
EXHIBIT D

D-1

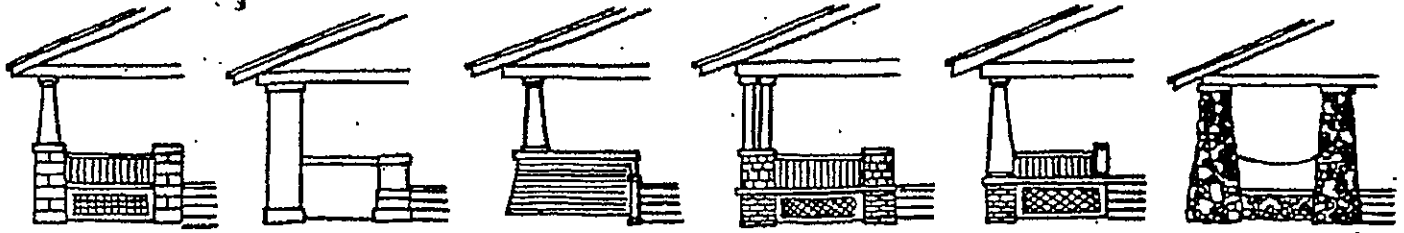
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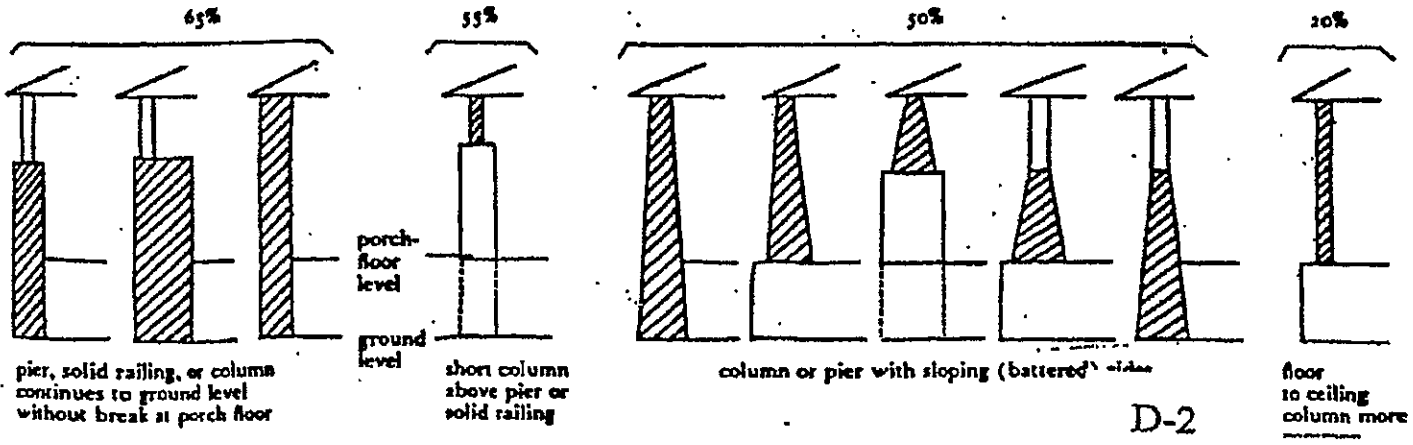
TYPICAL ROOF-WALL JUNCTIONS



TYPICAL ELABORATIONS Architectural drawings sourced from *A Field Guide To American Houses* (1984) with the permission of the author Virginia McAlester.



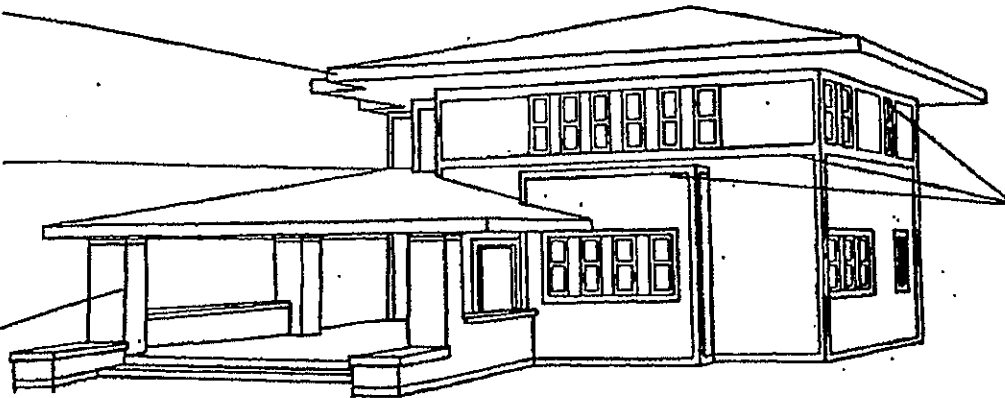
SOME TYPICAL PORCH SUPPORTS AND PORCH RAILINGS A pier without column is common



low-pitched roof
 with widely
 overhanging eaves

two stories with
 one-story porches
 or wings

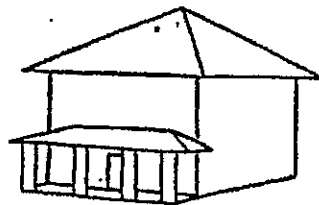
massive square
 porch supports



detail emphasizing
 horizontal lines

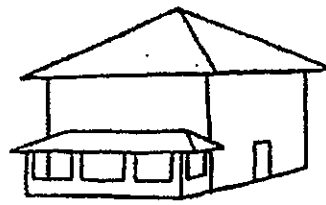
Architectural drawings sourced from A Field Guide To American Houses (1984) with the permission of the author Virginia McAlester.

HIPPED ROOF, SYMMETRICAL,
 WITH FRONT ENTRY



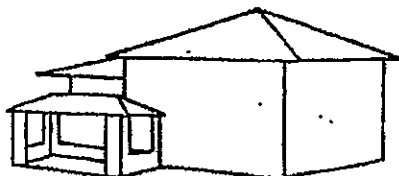
pages 444-5

HIPPED ROOF, SYMMETRICAL,
 NO FRONT ENTRY



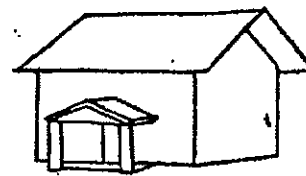
pages 446-7

HIPPED ROOF,
 ASYMMETRICAL



pages 448-9

GABLED ROOF



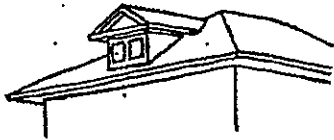
pages 450-1

PRINCIPAL SUBTYPES

D-3

26331

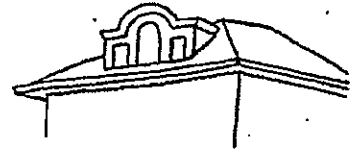
061245



gable

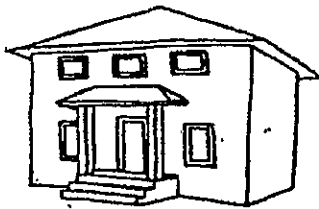
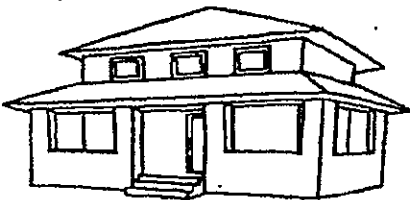
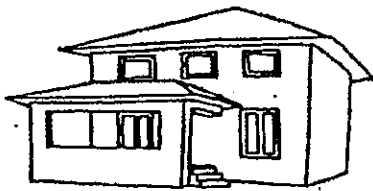


through-cornice



Palladian

COMMON DORMER VARIANTS

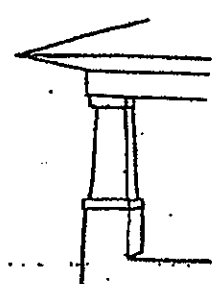
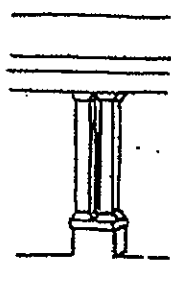
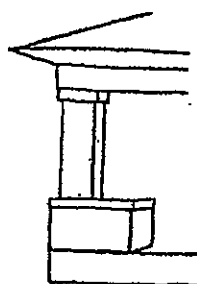
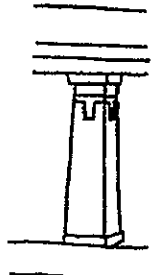
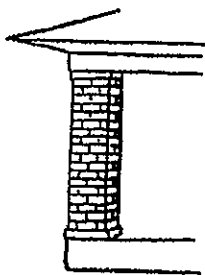


COMMON PORCH VARIANTS



MOST COMMON VERNACULAR FORM

Architectural drawings sourced from A Field Guide To American Houses (1984) with the permission of the author Virginia McAlester.

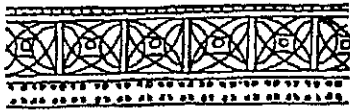


D-4

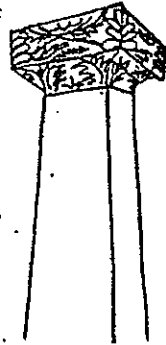
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061245

SULLIVANESQUE
stylized floral and circular geometric



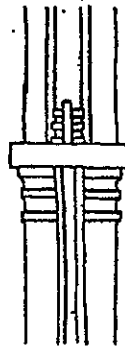
bands at cornice or door



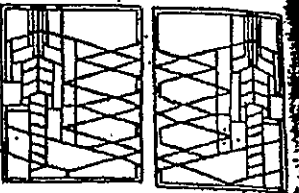
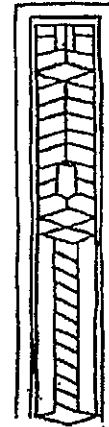
column capitals



terra cotta medallion



column elaboration and capitals

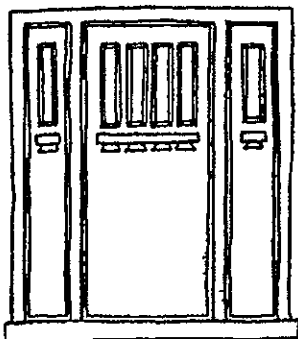
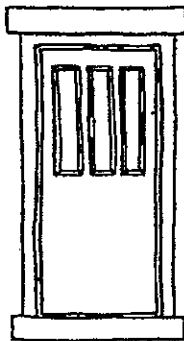
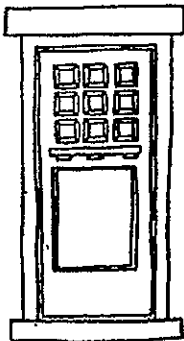
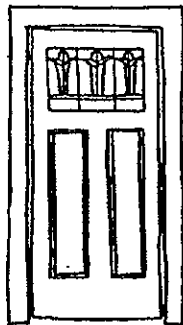
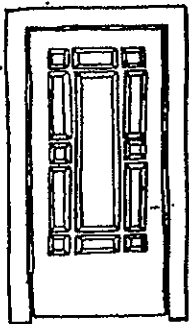


leaded glass windows

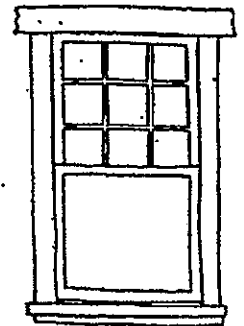
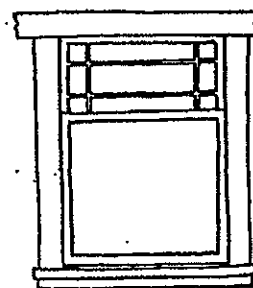
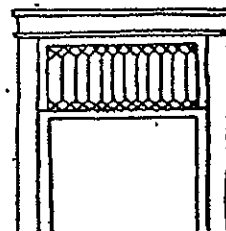
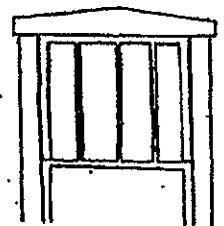
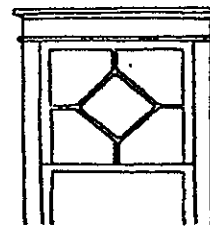
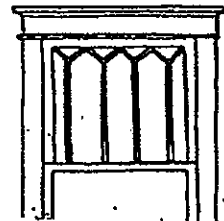
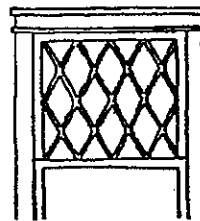
WRIGHTIAN
angular geometric

DECORATIVE DETAIL

Architectural drawings sourced from *A Field Guide To American Houses* (1984) with the permission of the author Virginia McAlester.



TYPICAL DOORS



FOUND IN BOTH
CRAFTSMAN & PRAIRIE

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

26331

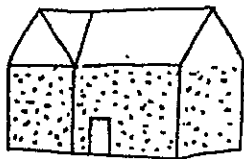
061245 Tudor

1890-1940



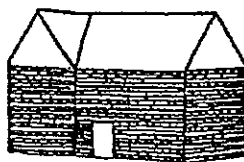
Architectural drawings sourced from A Field Guide To American Houses (1984) with the permission of the author Virginia McAlester.

STUCCO WALL CLADDING



pages 360-1

BRICK WALL CLADDING



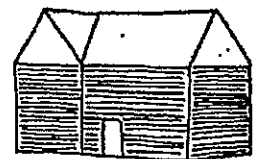
pages 362-5

STONE WALL CLADDING



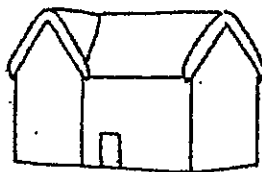
pages 366-7

WOODEN WALL CLADDING



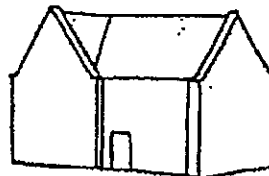
page 368

FALSE THATCHED ROOF



page 369

PARAPETED GABLES

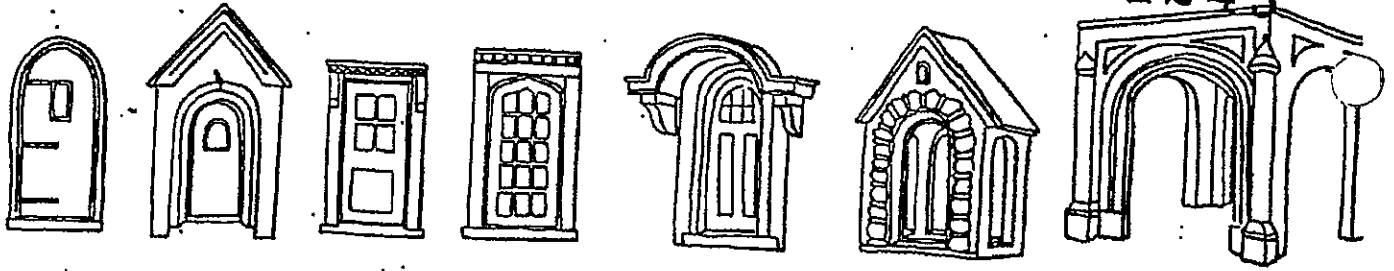


pages 370-1

PRINCIPAL SUBTYPES

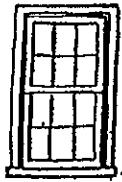
D-6

000071

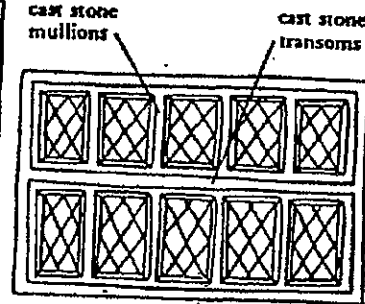
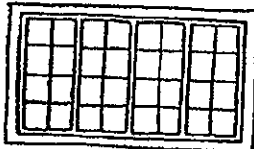
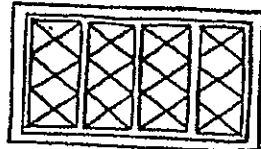


TYPICAL ENTRANCES

entry porches



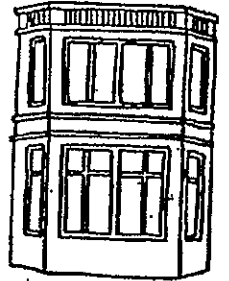
double-hung



casement



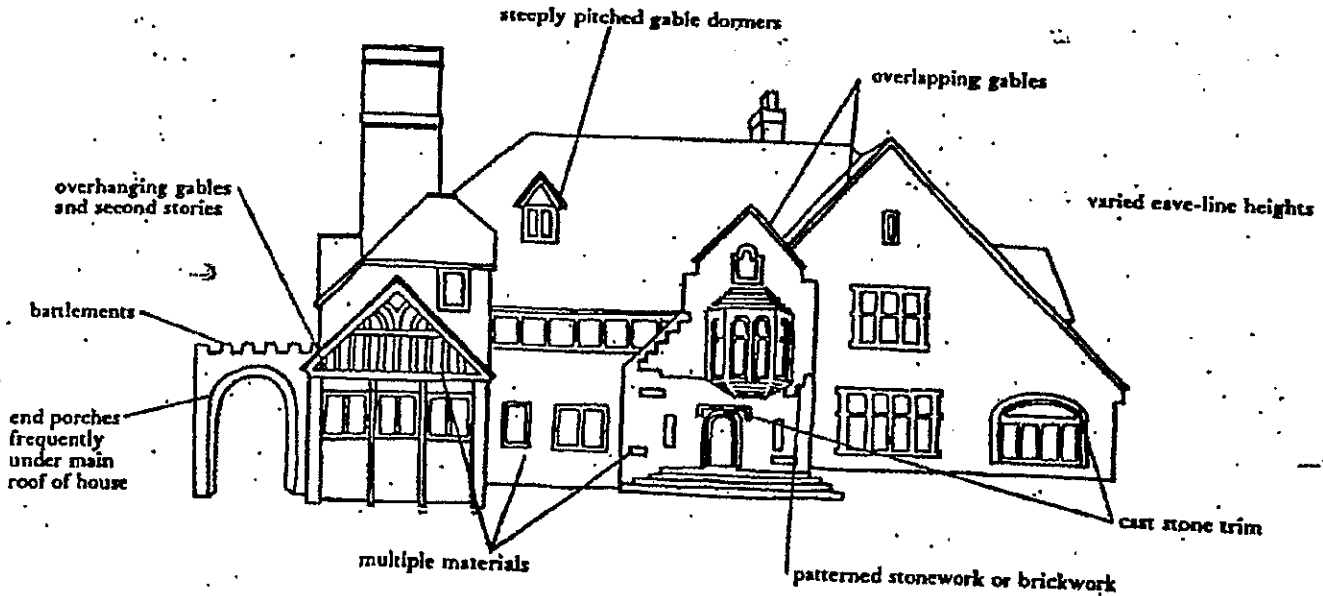
oriel



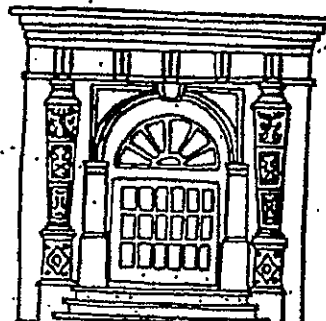
semi-hexagonal one- and two-story bays

TYPICAL WINDOWS

Architectural drawings sourced from A Field Guide To American Houses (1984) with the permission of the author Virginia McAlester.



TYPICAL ELABORATIONS

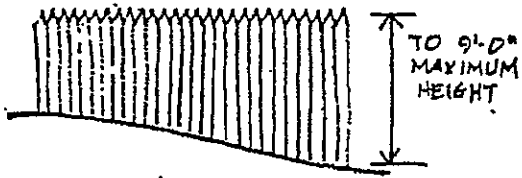


D-7

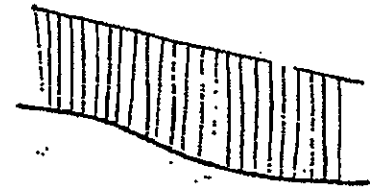
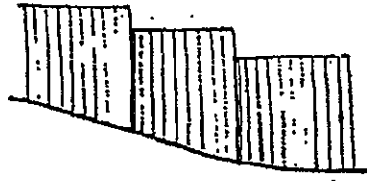


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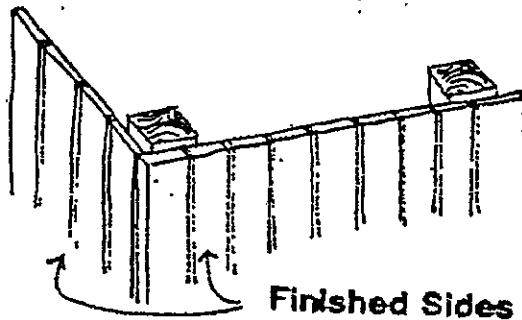
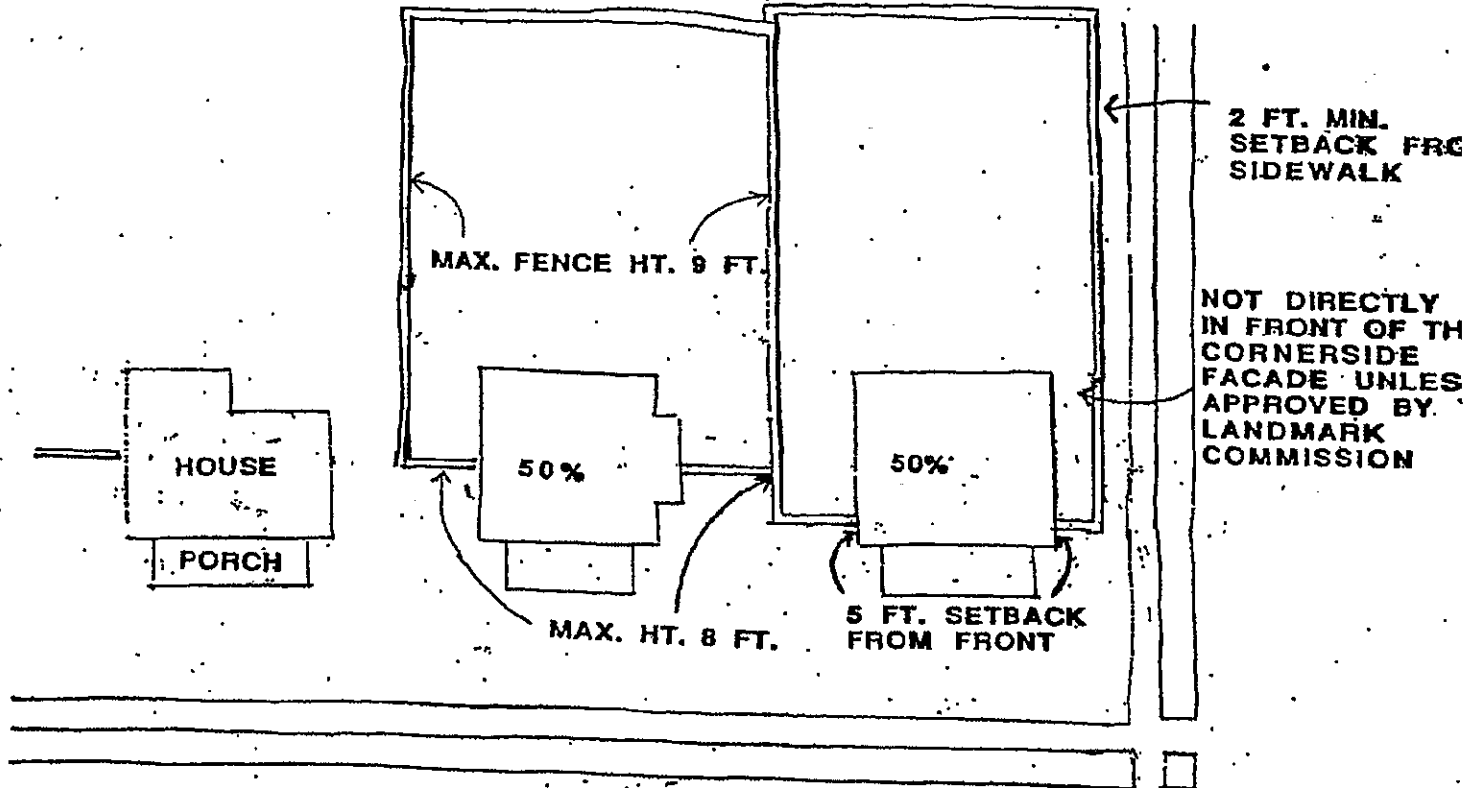
061245



Horizontal



Parallel to Grade



FENCES

EXHIBIT E

000073

26331

061245

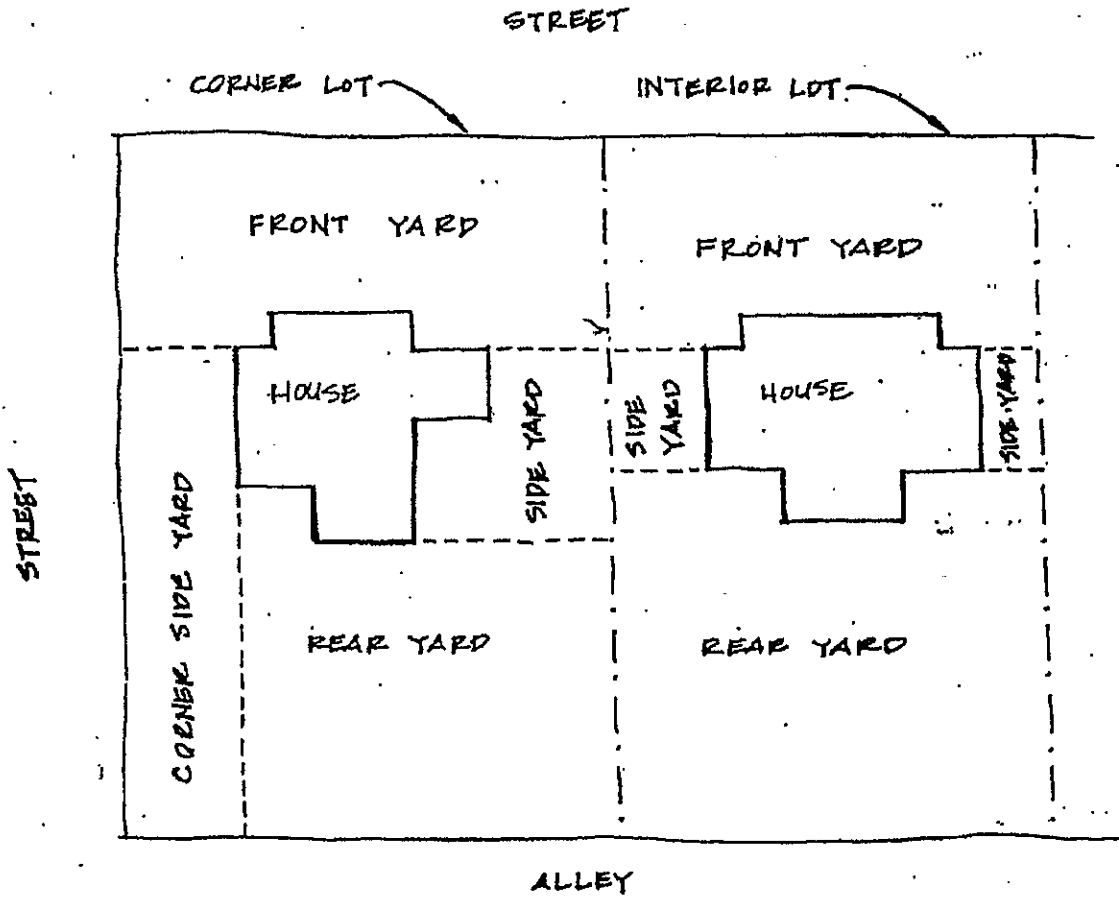
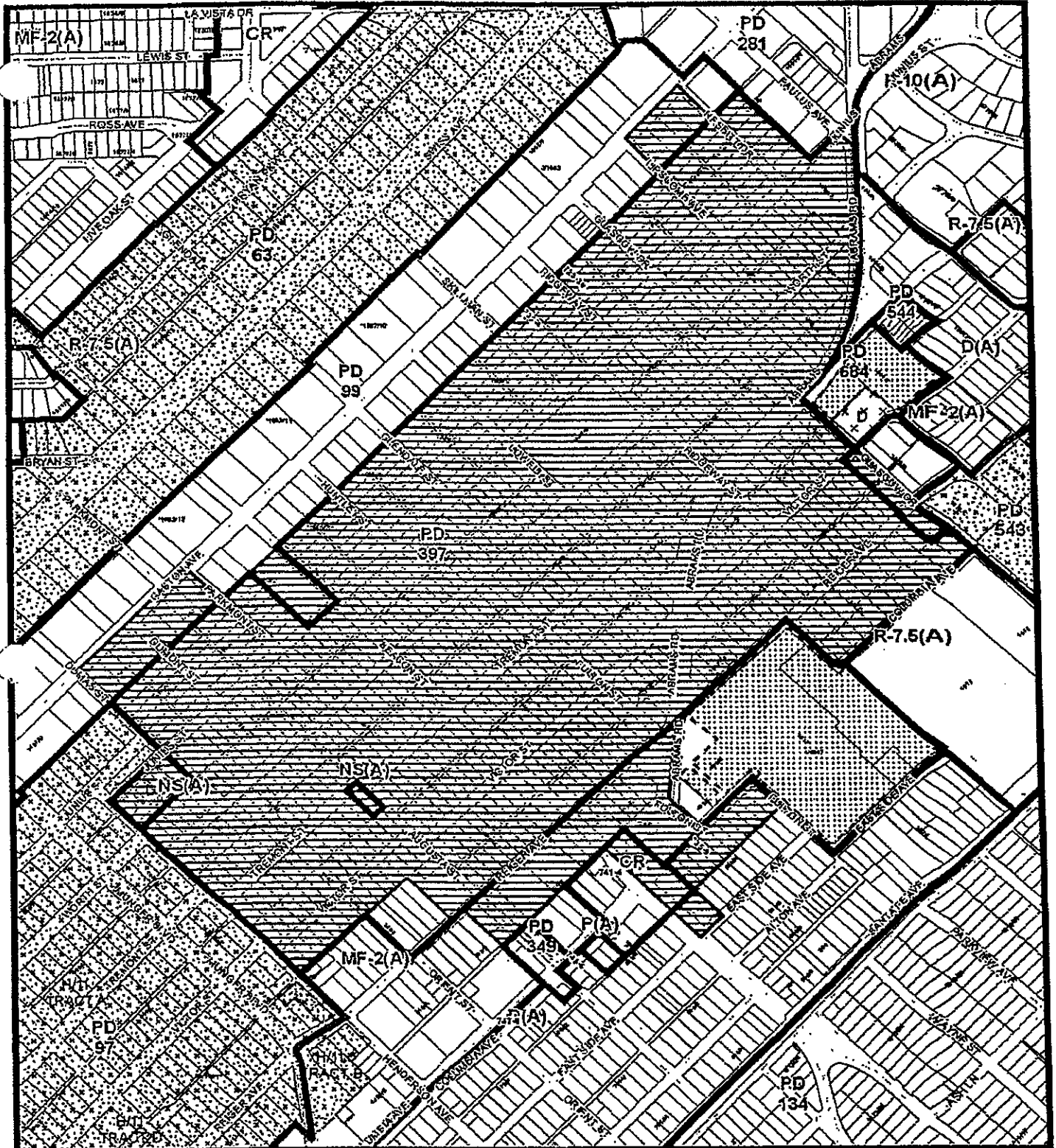


EXHIBIT F

000074

26331

061245



1:7,200

ZONING MAP

Map no: 1-8

Case no: Z056-188 (JA)

DATE: 03/03/2006

BY: V. JENSEN

000075

SECTION 7

Historic Preservation Criteria Dallas Development Code § 51A-4.501

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

SEC. 51A-4.501. HISTORIC OVERLAY DISTRICT.

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

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

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

(14) to stabilize neighborhoods;

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

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

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

(b) Establishment of historic overlay districts.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Historic designation procedure and predesignation moratorium.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Predesignation certificate of appropriateness.

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

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

(2) Penalty. A person who violates this subsection is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a predesignation certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(3) Application. An application for a predesignation certificate of appropriateness must be submitted to the director. The application must include complete documentation of the proposed work. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The applicant may consult with the department before and after the submission of an application.

(4) Predesignation certificate of appropriateness review procedure. Upon receipt of an application for a predesignation certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing. Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director. Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director. The landmark commission may impose conditions on the predesignation certificate of appropriateness. The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark

commission's decision must be in writing and, if the decision is to deny the predesignation certificate of appropriateness, with or without prejudice, the writing must state the reasons why the predesignation certificate of appropriateness is denied.

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

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

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

(6) Issuance. If a predesignation certificate of appropriateness has been approved by the landmark commission or if final action has not been taken by the landmark commission within 40 days (for a noncontributing structure) or 65 days (for a contributing structure) after a complete application is filed:

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

(B) if all requirements of the development and building codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work.

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

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

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

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

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

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

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

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

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

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

(e) Additional uses and regulations.

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

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

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

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

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

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

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

(C) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

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

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

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

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

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

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

(J) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(f) Notice of designation.

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

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

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

(g) Certificate of appropriateness.

(1) When required. A person shall not alter a site within a historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained and in the historic overlay district ordinance.

(2) Penalty. A person who violates this subsection is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(3) Application. An application for a certificate of appropriateness must be submitted to the director. The application must include complete documentation of the proposed work. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The applicant may consult with the department before and after the submission of an application.

(4) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall determine

whether the application is to be reviewed under the routine work review procedure or the standard certificate of appropriateness review procedure.

(5) Routine maintenance work review procedure.

(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize only routine maintenance work, he may review the application to determine whether the proposed work complies with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance and approve or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. Upon request, staff will forward copies of applications to the task force. The director may forward any application to the landmark commission for review.

(B) Routine maintenance work includes:

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

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

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

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

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

(vi) the installation of skylights and solar panels;

(vii) the installation of storm windows and doors;

(viii) the installation of window and door screens;

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

(x) the restoration of original architectural elements;

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

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

(xiii) the process of cleaning (including but not limited to low-pressure water blasting and stripping), but excluding sandblasting and high-pressure water blasting; and

(xiv) painting, replacing, duplicating, or stabilizing deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, and siding) in order to maintain the structure and to slow deterioration.

(C) The applicant may appeal the director's decision by submitting to the director a written request for appeal within 10 days of the decision. The written request for appeal starts the standard certificate of appropriateness review procedure by the landmark commission.

(6) Standard certificate of appropriateness review procedure.

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

(B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing. Within 40 days after a complete

application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director. Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed work is historically accurate and is consistent with the spirit and intent of the preservation criteria and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness. The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.

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

(i) for contributing structures:

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

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

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

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

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

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

(D) Issuance. If a certificate of appropriateness has been approved by the landmark commission or if final action has not been taken by the landmark commission within 40 days (for a noncontributing structure) or 65 days (for a contributing structure) after a complete application is filed:

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

(ii) if all requirements of the development and building codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work.

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Certificate for demolition or removal.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Complete architectural drawings of the new structure.

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

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

appropriateness process or the certificate of appropriateness process;

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

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

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

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

(ii) The name of the owner.

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

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

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

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

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

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

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

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

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

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

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

(xiii) All capital expenditures during the current ownership.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Documentation of the age of the structure.

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

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

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

(3) Certificate of demolition or removal review procedure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Initial suspension period.

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

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

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

(ii) Extended suspension period.

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

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

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

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

[4] provide a guarantee agreement that:

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

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

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

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

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

(iii) Continuing suspension period.

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

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

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

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

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

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

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

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

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

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

(k) Demolition by neglect.

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

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

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

(B) A deteriorated or inadequate foundation.

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

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

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

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

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

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

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

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

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

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

(3) Demolition by neglect procedure.

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

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

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

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

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

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

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

(m) Historic preservation fund.

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

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

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

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

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

(A) Necessary repairs in demolition by neglect cases.

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

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

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

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

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

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

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

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

(C) Restoration of another historic structure.

(n) Enforcement and criminal penalties.

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

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

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

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

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

(2) Any person who adversely affects or demolishes a structure on property subject to the predesignation moratorium or in a historic overlay district in violation of this section is liable pursuant to Texas Local Government Code Section 315.006 for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No predesignation certificates of appropriateness, certificates of appropriateness, or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.

(3) Prosecution in municipal court for an offense under this section does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

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

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

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

(A) violates a statutory or ordinance provision;

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

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

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

SEC. 51A-4.502.

INSTITUTIONAL OVERLAY DISTRICT.

(a) General provisions.

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

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

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

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

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

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

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

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

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

(c) Special parking regulations.

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

(2) Reserved.

(3) Reserved.

(d) Procedures for establishing an institutional overlay district.

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

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

(e) Site plan process.

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

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

SECTION 8

Correspondence

- Notice of March 7, 2016 Landmark Hearing
- Notice of application approved with conditions
- Request to Appeal from applicant
- Applicant's Notice of CPC Date of Appeal
- Appeal Procedures

February 29, 2016

DALE COONROD
5835 REIGER,
DALLAS, TX 75214

**RE: Review of your Certificate of Appropriateness Application
5835 REIGER AVE
Item Number: CA156-247(MP)**

Dear: DALE COONROD

The Landmark Commission will discuss your Certificate of Appropriateness application.

**What: Review of your Certificate of Appropriateness.
When: Monday, March 7, 2016 at: 1:00 P.M., during the public hearing.
Where: Dallas City Hall, 1500 Marilla Street**

The requests and recommendations are:

- 1) Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness.

TF: Approve with Conditions

Approve with condition fence is moved to the 50% mark and moves 2 feet off (from) the sidewalk.

Staff: Approve with Conditions

Approve completed work with condition that fence is re-constructed to allow for visibility triangle and that fence height is no more than 8 ft tall in 50% front portion of side and corner side yards with the finding the work is compatible with the historic overlay district and meets the standards in City Code Section 51A-4.501(g)(6)(C)(ii).

- You will be given an opportunity to discuss your application during the 1:00 P.M. public hearing.
- Prior to the 1:00 P.M. public hearing, there will be a staff briefing, which includes a description of your application that starts at 10:30 A.M., the same day, 5ES.

THESE RECOMMENDATIONS ARE NOT FINAL

Please do not start work until you receive a final written notice from our office.

The Landmark Commission considers these recommendations and welcomes your attendance and input. If you have any questions, please contact me by phone at 214/670-4131 or email at

000098

DALE COONROD
5835 REIGER,
DALLAS, TX 75214

marsha.prior@dallascityhall.com. Thank you for your cooperation.


Marsha Prior
Senior Planner

000099

March 18, 2016

DALE COONROD
5835 REIGER,
DALLAS, TX 75214

**RE: CA156-247(MP)
REVIEW OF YOUR CERTIFICATE OF APPROPRIATENESS APPLICATION
5835 REIGER AVE**

Dear DALE COONROD:

Enclosed is a copy of the Certificate of Appropriateness (CA) application that you submitted for review by the Landmark Commission on March 7, 2016.

Be aware that you may need to bring your CA and approved drawings and/or blueprints to Building Inspection for a building permit. Before starting any approved work, be sure to post your CA in a front window or other prominent location on the structure so it may be seen by City officials to ensure work is performed as approved by the Landmark Commission. Please see enclosed Certificate of Appropriateness for Details.

If you have any questions, please contact me by phone at 214/670-4131 or email marsha.prior@dallascityhall.com.

Marsha Prior
Senior Planner

Enclosure

Certificate of Appropriateness

March 7, 2016

Standard March 7, 2016
FILE NUMBER: CA156-247(MP)
LOCATION: 5835 REIGER AVE
COUNCIL DISTRICT: 14
ZONING: PD-397

PLANNER: Marsha Prior
DATE FILED: February 3, 2016
DISTRICT: Junius Heights Historic District
MAPSCO: 46-C
CENSUS TRACT: 0013.01

APPLICANT: DALE COONROD
REPRESENTATIVE:
OWNER: COONROD DALE C

The Landmark Commission decision is: Approved with Conditions

Information regarding requests:

- 1) Install 9-foot cedar fence, with sliding gate, around perimeter and up to front of house on interior and corner side yards, and stain using Brand: Ready Seal, Mahogany. Work initiated without a Certificate of Appropriateness.

Approve with Conditions

Conditions: Approve completed work with condition that fence is re-constructed to allow for visibility triangle and a two-foot setback from the sidewalk with the finding the work is compatible at this time with the historic overlay district and meets the standards in City Code Section 51A-4.501(g)(6)(C)(ii) with the condition that the street facing front fence may be at front corner of structure and as required by ordinance, two foot setback from sidewalk. Staff proposed conditions make fence compatible with the historic overlay district and applicant has demonstrated a need for security.



Landmark Commission Chair

March 7, 2016

Date

Please take any signed drawings to Building Inspection for permits.

0000101

APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is: April 6, 2016

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.: CA156-247(MP)

Property Address: 5835 REIGER

Date of Landmark Commission Action: March 7, 2016

Applicant's Name: Dale Coonrod

Applicant's Mailing Address: 5835 Reiger Ave

City: Dallas State: TX Zip: 75214

Applicant's Phone Number: 214-389-5924 Fax:

Applicant's Email: coonrod2@hotmail.com

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

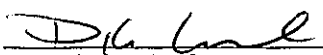
Owner's Name:

Owner's Mailing Address:

City: State: Zip:

Owner's Phone Number: Fax:

Owner's Email:


Applicant's Signature

4-5-2016
Date

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

Fee for Single Family use/structure: \$300.00

Fee for any other use/structure: \$700.00

Receipt # 6405

0000102

CITY OF DALLAS
TEXAS

No 6405

SUSTAINABLE DEVELOPMENT & CONSTRUCTION
CURRENT PLANNING

RECEIPT

NAME Dale C Connrod
ADDRESS 5835 Reiger Ave.
CITY Dallas STATE TX ZIP 75214 DATE 4-5-16

UNITS	ITEM	CODE	RATE	TOTAL
1	LMC Appeal - date 3-7-16			300.00
	CA 156-247(MP)			
	5835 Reiger			

SIGNATURE RB Check Cash 300.00
#1153

April 8, 2016



CITY OF DALLAS

Via Certified Mail: 7011 1150 0000 0380 7039

Dale Coonrod
5835 Reiger Avenue
Dallas, TX 75214

RE: Appeal of Certificate of Appropriateness: Hearing – March 7, 2016
5835 Reiger Avenue, Case No. CA156-247(MP)

Dear Mr. Coonrod:

We have received your correspondence appealing the Landmark Commission's condition that the fence is re-constructed to allow for visibility triangle and a two-foot setback from the sidewalk in conjunction with the approval of the completed work to the 9 foot fence for 5835 Reiger Avenue. Please be advised that the City Plan Commission hearing for **this appeal is scheduled for Thursday, June 16, 2016** during the public hearing scheduled to begin no earlier than 1:30 p.m. in the City Council Chambers at Dallas City Hall, 1500 Marilla Street.

The appeal of the decision of the Landmark Commission regarding the application for a Certificate of Appropriateness is a quasi-judicial action. No communication with City Plan Commission members may occur outside the hearing of June 16, 2016.

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

I will send you the Landmark Commission record (and other related paperwork) by **Friday, May 6, 2016**. The Landmark Commission record includes all documents related to your specific case. Should you wish to provide the City Plan Commission a brief on the matter, please submit a copy to me at, Dallas City Hall, 1500 Marilla Street, Room 5BN, Dallas, TX 75201 or to trena.law@dallascityhall.com by **Wednesday, June 1, 2016**. I will then distribute the copies of your brief to the City Plan Commission. I will also send you a copy of the brief by Laura Morrison, Assistant City Attorney for the Landmark Commission.

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

Sincerely,

A handwritten signature in blue ink that reads "Trena Law".

Trena Law
Board Secretary for Landmark Commission
Sustainable Development and Construction

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

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

(Revised April 2014)

1. Postponements.

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

2. Content of the record.

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

3. Additional correspondence and briefs.

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

4. Representation of the Landmark Commission.

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

5. Order of the hearing.

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

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

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

6. Introduction of new evidence at the hearing.

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

7. Remedies of the City Plan Commission.

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