

Background

These proposed ordinance and procedural changes are designed to address a problem our office of historic preservation (OHP) is experiencing. The vision of the OHP is to take on many essential stabilizing and transformative projects such as updating historic resource surveys, comprehensive planning, preservation education and awareness, economic development, environmental responsibility, code enforcement for historic resources, and more. Unfortunately, the preparation of materials for certificate of appropriateness (CA) review at the City of Dallas Landmark Commission and other routine administrative matters consume most of staff's time, leaving little opportunity to work on more comprehensive projects. On November 19, 2020, the City of Dallas Plan Commission authorized a public hearing to consider ordinance amendments addressing these issues. Thereafter, the landmark commission created an ad hoc committee to define concrete action items to make processes in OHP less time-consuming and more efficient and productive for staff. The attached proposals are the product of the committee's work.

We hope concerned citizens and interested groups, such as historic district neighborhood associations, will meet and analyze these proposals. On **May 25, 2021, 6pm** Preservation Dallas will host a virtual community meeting to allow an exchange of thoughts and to collect input on the proposed recommendations to be provided to the ad hoc committee and the landmark commission. If you are not able to attend the meeting, you may submit written comments on the proposals to david@preservationdallas.org.

Summary of Proposals

Proposal 1 recommends the creation of guides for each historic district based on their historic resources. This proposal responds to concerns that the regulations in Dallas' district ordinances are often broad and discretionary, inviting inconsistent interpretation. The guide would provide definition and clarity to the ordinances based on district context, historical records and character-defining features, helping applicants with CAs, as well as those involved in application review.

Proposal 2 recommends amendments to the current routine maintenance CA review process, generally by adding items suitable for administrative review.

Proposal 3 recommends several ideas to make the CA review process more efficient and user-friendly for applicants.

Here is the login information for the community meeting, May 25 2021, 6p to receive input on the Ad Hoc Committee proposals:

Join Zoom Meeting

<https://us02web.zoom.us/j/88418692186?pwd=cjVWR1FGanYzdG1MZlhBem9DeXZsUT09>

Meeting ID: 884 1869 2186

Passcode: 058017

One tap mobile

+13462487799,,88418692186#,,,*058017#

Dial – 346-248-7799

Meeting ID: 884 1869 2186

Passcode: 058017

Thanks for your time and consideration.

Cindy Steiner, Chair

Ad Hoc Vision Implementation Committee

Proposal 1:

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

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

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

Context:

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

Definition and examples of items covered in the Guide:

For purposes of this proposal, continuity of a district means the alteration does not have a visual presence to the street. **CONTINUITY:** Continuity is the visual attribute of a lot, block or district over a sustained period of time (as seen from a designated point of reference, usually the primary street). The particular quality is a common reference, a repeated feature/ relationship/ characteristic that unifies the lot, block, or district. The attribute or attributes establish a thread of visual connection from one point to another.

For purposes of this proposal, a character-defining feature means a prominent or distinctive aspect, quality, or characteristic of a historic property that contributes significantly to its physical character. **CHARACTER DEFINING FEATURE:** Character Defining Features are specific visual attributes which define the general understanding of a place or structure that is distinct from other places or structures. While Continuity speaks to unity, Character Defining Feature speaks to differentiation. Some Character Defining Features may be unifying within a district or design of a structure while also setting them apart from other districts or structures, but not all elements of Continuity have to be Character Defining.

Features that contribute to Continuity and Character Definition may include:

- Architectural Style, Design and Details
- Spatial Relationships
- Shape and Form
- Roof and Porch Supports
- Openings, such as Windows and Doors
- Projections such as Eaves and Cornices
- Porch Design
- Accessory Building Location and Design
- Materials and Finishes
- Decorative Details and Ornamental Features
- Area Form (District and its immediate surroundings)
- District Patterns (movement, circulation, zoning)
- District Form (streets, blocks, lots, and landscape/site development)
- Lot Dimensions

Sec. 51A-4.501. HISTORIC OVERLAY DISTRICT
[EXISTING LANGUAGE]

(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

SEC. 51A-4.501. HISTORIC OVERLAY DISTRICT

[PROPOSED LANGUAGE - DRAFT]

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(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 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;
- (ii) installation of chimneys, gutter and downspouts, or awnings on **non-protected facades or accessory buildings**;
- (iii) replacement of a roof;
- (iv) installation or replacement of fences;
- (v) installation of antenna or receiving devices;
- (vi) the installation of skylights and solar panels;

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

(B) Routine **maintenance** work includes:

- (i) **Work that has no visible effect on protected facades;**

- (vi) the installation of storm windows and doors;

- (vii) 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;
- (vi) installation of skylights and solar panels ~~when not visible from the centerline of the primary street;~~
- (vii) installation of storm windows and doors;
- (viii) installation of window and door screens;

- (ix) replacement of windows or doors when of the same material and configuration as the original (*review by LMC if different*);
- (x) the application of paint that is the same as the existing **approved** color or that is an appropriate dominant, trim, or accent color **in the district**;
- (xi) the restoration of original architectural elements;
- (xii) minor repair using the same material and design as the original, **replacement is limited to 30 percent of the original material**;
- (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.

siding) in order to maintain the structure and to slow deterioration.

(xiii) repair **or replacement** of sidewalks and driveways using the **same materials, color, and configuration**;

(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

(xv) alterations to non-protected facades;

(xvi) minor alterations to existing accessory structures, including but not limited to 30% replacement of eave materials, siding or cladding, relocation of doors or windows, lighting, or locations for mechanical equipment;

(xvii) construction of non-inhabitable accessory structures when not visible from the street;

(xviii) landscape alteration in the front yard that does not obscure significant architectural features or character defining features of the primary structure and does not disrupt the continuity of the block face or street;

(xix) landscape alteration to the side or rear yards;

(xx) construction of rear deck, patio or terrace less than 24 inches above the finish grade;

- (xxi) construction of a pool or water feature;
- (xxii) installation of ramps or chairlifts; or
- (xxiii) removal of diseased or dying trees, when submitted with a verifying letter issued by a certified arborist or landscape architect.
- (xxiv) ~~installation or alteration of commercial signs.~~

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

(6) Standard certificated of appropriateness review procedure.

(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine maintenance work, or if the director's decision concerning a certificate of

appropriateness to authorize only routine maintenance work is appealed, the director shall immediately forward the application to the landmark commission for review.

(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.

(B) The applicant **may request re-consideration of** the directors decision by submitting ~~to the director~~ a written request ~~for appeal~~ within 10 days of the decision. The written request for **appeal re-consideration** starts the standard certificate of appropriateness review procedure by the landmark commission.

(6) Standard certificated of appropriateness review procedure.

(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine **maintenance** work, or if the director's decision concerning a certificate of appropriateness to authorize only routine **maintenance**

work is appealed, the director shall immediately forward the application to the landmark commission for review.

(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 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.

Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed work is historically accurate and is consistent with the spirit and intent of the preservation criteria and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed work is

historically accurate and is consistent with the spirit and intent of the preservation criteria and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. 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

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.

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

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

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

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

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

(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....

~~(dd) the proposed work is not detrimental to the districts' character, visual continuity, uses, or visual impact;~~

~~(ee) the proposed work will not have an adverse effect on future preservation.~~

(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....

Proposal #3

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

1. Investigate online application and filing system.
2. Create an updated form for CA applications, including a bank of templates and staff's current checklist.
3. Provide application guidelines in initial packets for the more complex application requirements, such as the window survey requirement, with a step-to-step guide.
4. Require submission of all items necessary for review of applications (complete applications) before any formal review process is scheduled, such as task force meetings or Landmark Commission hearings.
5. Return a dedicated code compliance officer to the Historic Preservation Office.
6. Provide or facilitate additional training generally, including but not limited to training on the enabling ordinance, specific district ordinances and the applicable Guide, and the application process, to neighborhoods, task forces and Landmark Commission.
7. Update all surveys. Since this work will take time, the following 2 items suggest ways to address concerns while the surveys are being updated.
8. Create a stopgap measure to create a more sophisticated review of noncontributing structures. See draft language in Ad Hoc Committee Proposal 2, 51A-4.501(g)(6)(C)(ii), which illustrates the desire to reach properties that are technically classified as noncontributing by inaccurate or outdated surveys and, in the CA review process, to make those structures more compatible, consistent, and contributing rather than less so. While the committee endorsed the objective of the drafted provision, it deferred to staff and city attorney to develop the precise language.
9. Create definitions in the Preservation Ordinance of terms such as contributing, noncontributing, nonconforming, compatible, which trigger application of regulations. Similarly, it is contemplated that the District Guides, as set out in Ad Hoc Committee Proposal 1, will include a lexicon of terms used, and the updated surveys should do so as well, if appropriate.