

Historic Preservation Ordinance Issues Statement

December 01, 2014



**PLANNING &
DEVELOPMENT
DEPARTMENT**

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1. Administrative Approvals (Section 33-241(d))

Issue: Currently, only 4 types of projects can be approved administratively by the Director. There are a number of relatively straightforward project types that are widely recognized as appropriate, but currently are required to receive HAHC approval. This approval necessitates significant and unnecessary investment of time as well as effort and expense on the part of the applicant, staff, and the HAHC. In 2013, the Department approved 18 out of the 400+ Certificate of Appropriateness applications administratively. So far in 2014, there have been approximately 12.

Approach: Broaden the scope of Administrative Approvals to: 1) Speed up the application process for applicants wishing to do minor, appropriate work; 2) Reduce number of applications HAHC must review monthly, allowing them to focus on the more complex projects; 3) Reduce significant staff and applicant time used to prepare applications for HAHC review.

Current administrative approvals:

...the director is authorized to issue a certificate of appropriateness for the following types of alteration...

- *Removal of an inappropriate non-original window or door and replacement with an appropriate window or door that does not change the size, shape or location of the opening*
- *Removal of synthetic exterior wall cladding that was not original to the structure and replacement with appropriate cladding*
- *Installation of any details that have been partially lost or removed but whose existence has been substantiated*
- *Reconstruction of a contributing structure in-kind that was completely or partially destroyed by a fire, natural disaster, or other damage not intentionally caused by the owner*

Proposed change (10/13/2014): Staff researched the Administrative Approval process for 12 different cities (see attachment entitled Administrative Approval Research). From this research, staff is recommending the following items be added to the list of projects for which the Director is authorized to issue a Certificate of Appropriateness.

1. *Freestanding garages, freestanding carports, and secondary structures located at the rear of the structure*
2. *Shall approve additions*
3. *Installation of rear porches not wider or taller than the existing rear wall*
4. *Removal of non-historic additions, including attached garages or carports, comprised of non-historic materials*
5. *Repair or replacement of existing historic damaged siding materials with materials of the same size, shape, material and pattern.*
6. *Removal of non-historic and non-appropriate decorative elements such as shutters, brackets, awnings, or signs*
7. *Alterations to non-contributing structures*
8. *Installation of signs and awnings to commercial buildings that do not compromise or cover historic features; are appropriately scaled for the building; and are affixed without damaging significant historic material*
9. *Installation of ramps or lifts for accessibility purposes*

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10. *Skylights, solar panels, antennas, satellite dishes, or other roof equipment that are at the rear half of the structure and are installed without damaging significant historic material*
 11. *Minor changes to previously approved COAs.*
 12. *Extension of soon-to-expire Certificate of Appropriateness or renewal of expired Certificate of Appropriateness for up to one additional year from the original expiration date (i.e. maximum extension is two years from date of COA approval). No revision to original approved scope of work allowed with staff administrative approval.*

Committee Discussion (10/13/2014): The Committee discussed the list of proposed Administrative Approvals and had the following recommendations:

- If signage is to be included as an Administrative Approval, then it will need to have detailed standards for review. Currently, signage is reviewed against the eleven criteria in Section 33-241 (exterior alterations, rehabilitation, restoration or additions).
- The committee expressed concern that because applications for Administrative Approvals are not publicly posted and the neighborhood will therefore not have any notification for them. The committee requested that staff consider this concern and develop a recommendation for resolving it. (see newly added item 21).

Proposed Change (10/27/2014): Per committee recommendation, signage has a more detailed description. In addition, burglar bars was removed from Exemptions and added to Administrative Approvals. Finally, staff recognizes the value of public notification for certain Administrative Approvals and recommends that the list be divided into two categories. The first would be items for which the applicant would be required to provide public notice, such as posting a sign in their yard (See Issue 20). The second list would not require such notification. In addition, as a policy (not a change to the code) staff will provide a list of every Administrative Approval granted during the previous month to the HAHC at their meeting.

Those Administrative Approval items requiring public notice:

1. *Freestanding garages, including garage apartments, freestanding carports, and secondary structures with a footprint of less than 600 square feet, located at the rear of the lot.*
2. *Shall approve additions*
3. *Installation of rear porches not wider or taller than the existing rear wall*
4. *Alterations to non-contributing structures*
5. *Installation of signs and awnings to commercial buildings that do not compromise or cover historic features, are appropriately scaled for the building and are less than 25 square feet in sign area, are not internally illuminated, and are affixed without damaging significant historic material*

Those Administrative Approval projects not requiring public notice:

1. *Removal of non-historic additions, including attached garages or carports, comprised of non-historic materials*
2. *Repair or replacement of existing historic damaged siding materials with materials of the same size, shape, material and pattern.*
3. *Burglar bars*
4. *Removal of non-historic and non-appropriate decorative elements such as shutters, brackets, awnings, or signs*

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5. *Installation of ramps or lifts for accessibility purposes*
 6. *Skylights, solar panels, antennas, satellite dishes, or other roof equipment that are at the rear half of the structure and are installed without damaging significant historic material*
 7. *Minor changes to previously approved COAs.*
 8. *Extension of soon-to-expire Certificate of Appropriateness or renewal of expired Certificate of Appropriateness for up to one additional year from the original expiration date (i.e. maximum extension is two years from date of COA approval). No revision to original approved scope of work allowed with staff administrative approval.*

Committee Discussion (10/27/2014): The Committee discussed the items listed as Administrative Approvals and accepted the proposal with the following exceptions:

1. Change the language in #1-Freestanding Garages “at the rear of the lot” to be more specific. Staff suggested “at the rear property line.”
2. Clarify that all signage must adhere to the City of Houston sign code
3. Identify that all Fences not identified as Exempt be included in Administrative Approvals.

Proposed Change (11/10/2014):

Those Administrative Approval items requiring public notice:

1. *Freestanding garages, including garage apartments, freestanding carports, and secondary structures with a footprint of less than 600 square feet, located at the rear of the lot.*
2. *Shall approve additions*
3. *Installation of rear porches not wider or taller than the existing rear wall*
4. *Alterations to non-contributing structures (NOTE: the resolution on this item will need to wait for resolution on Issue # 10)*
5. *Installation of signs and awnings to commercial buildings that do not compromise or cover historic features, are appropriately scaled for the building and are less than 25 square feet in sign area, are not internally illuminated, and are affixed without damaging significant historic material*
6. *Solid fences over four feet (48") in height that are located in front of the structure's front wall. Solid is defined as less than 50% transparent.*

Those Administrative Approval projects not requiring public notice:

1. *Removal of non-historic additions, including attached garages or carports, comprised of non-historic materials*
2. *Repair or replacement of existing historic damaged siding materials with materials of the same size, shape, material and pattern.*
3. *Burglar bars*
4. *Removal of non-historic and non-appropriate decorative elements such as shutters, brackets, awnings, or signs*
5. *Installation of ramps or lifts for accessibility purposes*
6. *Skylights, solar panels, antennas, satellite dishes, or other roof equipment that are at the rear half of the structure and are installed without damaging significant historic material*

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7. *Minor changes to previously approved COAs.*
 8. *Extension of soon-to-expire Certificate of Appropriateness or renewal of expired Certificate of Appropriateness for up to one additional year from the original expiration date (i.e. maximum extension is two years from date of COA approval). No revision to original approved scope of work allowed with staff administrative approval.*

Committee Discussion (11/10/2014): make sure that the definition of fences is in line with the definition of fences under Exemptions. This issue is closed out.

2. Exemptions (Section 33-237)

Issue: The current ordinance allows an exemption from the need for a COA for some simple modifications; however, the ordinance leaves out this exemption for a number of simple modifications to several common features found on properties in the district.

Approach: Consider adding burglar bars, antennas, fences and reroofing with in-kind materials as exempted items.

Current exemptions:

- *Landscaping*
- *HVAC units*
- *Light fixtures*
- *Porch ceiling fans*
- *Roofs*

Proposed change (10/13/2014): Staff recommends the following items be added to the list of modifications be exempt from the need for a COA:

- *Change "Roofs" to "Re-roofing with in-kind materials"*
- *Additions obscured from view from the public right of way by the original structure.*
- *Burglar bars*
- *Fences (existing fences are currently considered ordinary maintenance and repair)*
- *Gutters and downspouts*
- *Storm windows and doors*
- *Screen windows and doors*
- *Installation of temporary emergency weatherization features such as plywood coverings on windows*

Committee Discussion (10/13/2014): The Committee discussed the list of proposed Exemptions. They generally agreed with the list however wanted additional information for the following:

- Clarify what is meant by "obscured by the original structure."
- Research how other cities handle the installation of new burglar bars and fences

Proposed Change (10/27/2014): Following the discussion at the committee meeting, including public comment, staff recommends the following items be listed as exempt.

- *Change "Roofs" to "Re-roofing with in-kind materials and no change to roof structure"*
- *Additions obscured from view from the public right of way by the original structure (not to include impermanent obstructions such as fences, landscaping or other non-contributing structures)*
- *Fences located at or behind the front wall of the structure and all fences that are in front of the structures' façade that are less than or equal to four feet (48") in height.**

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- *Gutters and downspouts*
 - *Storm windows and doors*
 - *Screen windows and doors*
 - *Installation of temporary emergency weatherization features such as plywood coverings on windows*
 - *Painting, except for painting over masonry (stone and brick)**

*Note: This will require a change in the definitions of Ordinary Maintenance and Repair.

Committee Discussion (10/27/2014): Accept proposed Exemptions, with the following exceptions:

- Redefine exempt fences as: Fences that are at least 50% transparent and less than four feet tall. All other fences require a CofA and may obtain one through Administrative Approval.

This item is closed out.

Committee Discussion (11/10/2014): Make sure that the definition of fences is in keeping with the definition of fences in Administrative Approvals.

- Fences are exempt from the Code if they are:
 - A) located in front of the front façade of a structure and are at least 50% transparent or no taller than four feet; or
 - B) located at or behind the front façade of a structure.

This item is closed out.

3. Exterior Features (Section 33-201)

Issue: The ordinance defines Exterior Features as “an element of the architectural character and general arrangement of the external portion of a building, structure or object, including building material that is visible from a public right-of-way.” It is unclear from this definition that the “building material” includes the entire wall assembly, including shiplap. The definition of Exterior Features may also include the structural supports that are integral to the support of the exterior feature whether they are visible from the right of way or not. This is critical because removal of interior shiplap has a significantly negative impact on the structural integrity of the exterior wall. In some prior instances, the removal of interior shiplap has caused irreparable damage to contributing structures.

Approach: Consider whether the code should be amended to ensure that the structural integrity of the structure is preserved.

Comments from the committee: (Edminster) Involving a structural engineer in all instances of shiplap removal may maintain the structural integrity of the wall

Committee Discussion (11/10/2014): Shiplap is considered an integral part of the exterior wall assembly because you cannot remove one without hurting the other. Clarifying this, and stating it in several places within the ordinance will help the public understand why shiplap is covered. The code should say that an applicant cannot remove shiplap unless they have a structural engineer affirm that doing so will not damage the structural integrity.

Place this discussion in Section 33.202c and in Section 33-236 to make sure it is seen and understood. Staff should develop the exact language to state that the default position is that shiplap is structural but that it may be removed only under review of a structural engineer. Any application to remove it should be accompanied by structural drawing stamped by a registered structural engineer.

This item is closed out.

4. Design Guidelines (Sections 33-266-268)

Issue: The current language requires that all Historic Districts created after the 2010 amendments have design guidelines. It sets forth the timeline and process for creating and amending the guidelines and obtaining HAHC and Council approval. While it does not prohibit design guidelines for districts created prior to 2010, it does not set out a process for the creation of them. Furthermore, the ordinance is not clear if guidelines can be more or less stringent than the ordinance.

Approach: As there has been growing interest in the creation of design guidelines for districts that pre-date the 2010 ordinance change, the committee should consider providing a process for creating guidelines in those districts.

Proposed Change (11/10/2014): It is general consensus that Design Guidelines, which have been developed with significant public engagement, reviewed and recommended for approval by the HAHC, and adopted by the City Council, will provide valuable information that will inform the decisions made by applicants, staff and the HAHC. In preparing a recommendation for the Committee, staff has compiled some information on the subject (see attachment entitled Design Guidelines Information). From this information, staff has developed several questions they believed were important to the discussion:

- Should Design Guidelines be completed for every district created before 2010? By what measure are districts selected or prioritized?
- Who participates in the Guidelines development process? What constitutes a Stakeholder? How are all the district stakeholders engaged? How is adequate public participation measured?
- How detailed should the guidelines be? Can they be more/less restrictive than the Code? What should be the timeline for completing them?
- What role does the Commission or City Council play in the creation process? Can the public request either body to amend Guidelines?

Based on the information compiled, as well as conversations with the Committee and comments from the public, staff has this recommendation:

- *The Commission shall direct the Department to complete Design Guidelines for one or more districts. In determining which districts should have design guidelines and/or in prioritizing the order in which the guidelines will be created, the Commission will consider:*
 - *The amount of CofA activity in the district,*
 - *The degree to which additional guidance would be beneficial to the property owners in the district, and*
 - *The degree to which the guidelines would assist the staff and Commission in decision-making on applications.*
- *The Department shall conduct a process that is open and transparent, which allows for input from all interested parties. It shall present a set of draft guidelines to the Commission within one year of the Commission's directive. If the department cannot complete the guidelines process within one year, the Director shall report back to the commission, providing a schedule for completion.*

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- *The Department shall present the draft guidelines to the Commission at a public hearing. The Commission shall consider the guidelines and shall determine whether to recommend to City Council that they be adopted. Upon the recommendation of the Commission, the Director shall present the guidelines to City Council.*

Upon adoption, in the event of a conflict between the criteria in this division and the design guidelines, the design guidelines shall control (Sec 33-240(a)).

The amendment process will follow the process currently found in Sec 33-268.

Committee Discussion (11/10/2014): The Committee began their discussion by agreeing that Guidelines should not take precedence over the Code language; they should be subordinate to it. Guidelines should illustrate what the Code requires. If the guidelines end up being rules, then Design Standards would be a better name.

The Committee asked why the Design guidelines created by Jonathan Smulian are no longer used. Staff explained that those guidelines were created before the 2010 changes to the Code and that they include some recommendations that are contrary to those changes. There had been instances where applicants became confused by the Guidelines and staff believed that it was best to remove them from distribution. Those Guidelines certainly contain some relevant material and will be a good starting point for future guidelines.

There was discussion that the guidelines should be clarification, not different from what the Code says. However, some committee members stated that they preferred specificity – a pattern book for allowable changes. Concern was expressed that these Guidelines should not encourage people to build right up to the edge of the rules. The ordinance does not allow property owners to build the biggest house on the lot – it requires that it be compatible with contributing historic structures and character.

The Committee agreed that the public process is crucial. There should be input from all stakeholders. There was discussion about what makes someone a stakeholder and some committee members believe that it includes builders and architects that may not presently own property in the districts. Other members of the committee believed that only property owners should be considered stakeholders.

Public Comment (11/10/2014): Various members of the public had these comments:

- Character is irreplaceable. Guidelines should be guidelines that give leniency on either side. Not standards. Have one set that covers all districts and specific addendums per district.
- Guidelines must be specific. Property owners must know what they can do.
- The Old Sixth Ward's Design guidelines may be amended by the HAHC and property owners in that district request that the committee not change that. They do not want to be grouped with other districts.

Proposed Change (12/01/2014):

The Commission shall direct the Department to complete Design Guidelines for one or more districts. In determining which districts should have design guidelines and/or in prioritizing the order in which the guidelines will be created, the Commission will consider:

- *The amount of CofA activity in the district,*
- *The degree to which additional guidance would be beneficial to the property owners in the district, and*

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- *The degree to which the guidelines would assist the staff and Commission in decision-making on applications.*

The Department shall conduct a process that is open and transparent, which allows for input from all interested parties. It shall present a set of draft guidelines to the Commission within one year of the Commission's directive. If the department cannot complete the guidelines process within one year, the Director shall report back to the commission, providing a schedule for completion.

The Guidelines should encourage behavior that supports the Ordinance's intent. The overriding goal should be to preserve the character of the district. The guidelines should allow adequate flexibility so as to encourage diversity of construction while still adhering to the requirement that such construction be compatible and contribute to the historic character of the district.

The Department shall present the draft guidelines to the Commission at a public hearing. The Commission shall consider the guidelines and shall determine whether to recommend to City Council that they be adopted. Upon the recommendation of the Commission, the Director shall present the guidelines to City Council.

The Design Guidelines shall conform to the Criteria in the Code.

Upon adoption, in the event of a conflict between the criteria in this division and the design guidelines, the criteria shall control (Sec 33-240(a)).

The amendment process will follow the process currently found in Sec 33-268.

5. Designating a Historic District (Section 33-222.1)

Issue: Administration of the process for creating recent historic districts illustrated some aspects of the Code that create confusion and could lead toward a district that is less than optimal. Examples include the limitation on the number of lots that can be included in an application, imprecise terminology, and confusion on what the Director's authority is regarding the configuration of the District following the survey period. In addition, some members of the community have expressed an interest in ensuring new district boundaries are more logical and cohesive.

Approach: Clarify terminology. Determine whether there should be a limitation that a district cannot contain more than 400 tracts. Clarify whether the Director may create more than one proposed district based on the returned support forms. Also, consider creating a process to add adjacent properties to existing districts upon petition by property owner(s).

6. Change the designation of a structure located in a historic district (Section 33-201 and 33-222.1)

7. Designating a structure as a Protected Landmark (Section 33-229)

8. Shall Approve Criteria (Section 33-241(b)(1-4))

Issue: There are three types of projects that, when they meet very narrowly defined criteria, **shall be approved** by the HAHC. The criteria are unclear and have been misinterpreted by applicants.

Approach: Clarify the definition of a Shall Approve to accomplish the following:

- Make Shall Approves an administrative approval by the Director.
- Limit the number of Shall Approves per structure to one for the life of the structure.
- Clarify that #4 is not a separate criterion, but instead a required part of each of the three Shall Approve scenarios.

Current Language:

The HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration, or addition to a contributing structure in an historic district upon finding that the application satisfies the criteria in subsection (a) or the following criteria, as applicable. The HAHC shall approve an application for an addition to a contributing structure that satisfies the following criteria:

- (1) An addition taller than any point of the roof of the structure conforms to the following standards:*
 - a. The addition does not encroach into the front half of the existing structure, measured from the front façade of the existing structure to the farthest point of the rear of the existing structure from the front façade;*
 - b. The plate height of the addition does not exceed 1.25 times the plate height of the existing structure; and*
 - c. The roof of the new addition does not deviate from the roof pitch of the existing structure.*
- (2) For new additions that are not taller than any part of the roof of the structure and are adjacent to the sides of the front façade of the existing structure, the new addition conforms to the following standards:*
 - a. The addition does not encroach into the front thirty percent of the total depth of the existing structure, measured from the front façade of the existing structure to the farthest point of the rear of the existing structure from the front façade;*
 - b. The addition is not wider, as measured from the side adjacent to the front façade, than half of the distance that the addition is actually set back from the front facade. For example, if an addition is set back forty percent of the total depth of the existing structure from the front façade, the addition may not be wider than twenty percent of the total length of the existing structure; and*
 - c. The roof of the new addition does not deviate from the roof pitch of the existing structure except for cross gable roofs.*
- (3) For new additions that are not taller than any point of the roof of the existing structure and do not encroach past the farthest point of the rear of the existing structure from the front façade, the roof of the new addition does not deviate from the roof pitch of the existing structure except for cross gable roofs.*
- (4) No original building materials are removed from the portion of the structure from the front façade to the addition.*

Proposed Language:

The Director may approve a certificate of appropriateness for one of the following additions to a contributing structure in a historic district. Only one of the following additions may be approved for each structure over the life of that structure.

- (1) For a new partial second story addition on top of a one-story structure that does not extend outside the footprint of the existing structure and conforms to the following standards:
 - a. The addition does not encroach into the front half of the existing structure, measured from the front façade of the existing structure to the farthest point of the rear of the existing structure*
 - b. The plate height of the addition does not exceed the plate height of the existing structure;*
 - c. The roof pitch of the new addition does not exceed the roof pitch of the existing structure; and*
 - d. No other alterations are proposed for the structure except removal of roof materials at the location the addition connects to the structure, as well as removal of inappropriate materials and replacement with appropriate materials.**

- (2) For new side additions adjacent to only to one side of the existing structure, that does not extend past the existing rear wall of that side and conforms to the following standards:
 - a. The addition does not encroach into the front thirty percent of the total depth of the existing structure, measured from the front façade of the existing structure to the farthest point of the rear of the existing structure;*
 - b. The addition is not wider, as measured from the side adjacent to the front façade, than half of the distance that the addition is actually set back from the front facade. For example, if an addition is set back forty percent of the total depth of the existing structure from the front façade, the addition may not be wider than twenty percent of the total length of the existing structure;*
 - c. The roof pitch of the new addition does not deviate from the roof pitch of the existing structure; and*
 - d. No other alterations are proposed for the structure except removal of materials at the location the addition connects to the structure, as well as removal of inappropriate materials and replacement with appropriate materials.**

- (3) For a new addition no taller or wider than the existing structure that begins at the existing rear wall of the structure and conforms to the following standards:
 - a. The addition does not encroach into the existing structure*
 - b. The roof pitch of the new addition does not deviate from the roof pitch of the existing structure; and*
 - c. No other alterations are proposed for the structure except removal of materials at the location the addition connects to the structure, as well as removal of inappropriate materials and replacement with appropriate materials.**

Committee Discussion (10/13/2014): The committee agreed that there is a great deal of confusion regarding this item. They also determined that the Shall Approves require a longer discussion and deferred this discussion until a later time.

9. Certificate of Appropriateness application requirements (Sections 33-238 and 33-247)

10. Criteria for alterations and additions (Section 33-241)

Issue: Several criteria for alterations and additions are unclear. Currently, Criterion 9 requires that the Houston Archaeological and Historical Commission make two somewhat distinct findings in order to authorize a Certificate of Appropriateness. First, that an alteration or addition does not destroy significant historical exterior elements, and second, that the alteration or addition is compatible with the existing neighborhood. In addition, Criterion 10 is unclear that “existing setback” means “existing setback for contributing structures.” Finally, it is often difficult to assess whether Criterion 11 has been met.

Approach: Consider revising Criteria 9, 10, and 11 to provide more clarity.

Comments from the committee: (Elliott) The Commission should take the environment into consideration when considering COA applications. Refer to Criterion 4 for Alterations: The proposed activity must preserve the distinguishing qualities or character of the building, structure, object or site and its environment.

Comments from the committee (10/27/2014): (Elliott) expressed concern that the Code might need to address criteria for additions/alterations to existing non-contributing structures.

Proposed Change (10/27/2014):

- (a) The HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration or addition of an exterior feature of (i) any landmark, (ii) protected landmark, or (iii) any building, structure or object that is part of an archaeological site, **or (iv) contributing building in a historic district**, upon finding that the application satisfies the following criteria, as applicable:
- (9) The proposed design for any exterior alteration or addition must not destroy **significant** historical, architectural or cultural material **that are important in defining the building's historic character (including siding, windows, doors, etc.);**
 - (10) The proposed design shall be compatible with the **massing**, size, scale, **material and character of the property and the area in which it is located and architectural features to protect the historic integrity of the property and its environment;**
 - (11) The setback of any proposed addition or alteration must be compatible with the typical setbacks **of existing contributing structures** along the blockface and **opposing** blockface(s); and
 - ~~(11) The proposed activity will comply with any applicable deed restrictions.~~

11. Criteria for new construction (Section 33-242)

Issue: Two of the five criteria for New Construction refer to land uses whose definitions are unclear. Criteria 4 and 5 address the overall height of a structure, depending on whether the structure is “used for residential purposes” or “used for commercial purposes.” There is no criterion that addresses a structure that is used for any other type use than those two (for instance, a new church or school.). This creates confusion as to how to review projects that might not be obviously residential or commercial in use. A few examples of structures that cause problems for staff to review are mixed-use structures. Finally, it is currently possible to apply for a new construction COA for sites that already have a contributing structure.

Approach: Examine the criteria and revise so that it addresses all types of structures that could be constructed in the historic districts, and resolves confusion regarding definitions of land uses that correspond to various criteria. Consider adding criterion that a new construction application may be

accepted only if a buildable site is available; if there is currently a contributing building on the site, the application will not be accepted until demo/relocation has been approved.

Comments from the committee: (Elliott) Consider whether it is appropriate to compare the height of a new two-story structure to contributing two-story structures if two-story structures are not typical for the district.

Comments from the public: The word “Typical” needs definition.

Proposed Change (10/27/2014):

The HAHC shall issue a certificate of appropriateness for new construction in an historic district upon finding that the application satisfies the following criteria:

- (1) The new construction must match the typical setbacks of existing contributing structures along the blockface and opposing blockface;
- (2) The exterior features of new construction must be compatible with the exterior features of existing contributing structures in the historic district along the blockface and opposing blockface; and
- (3) The proportions of the new construction, including height, width, scale, and roof pitch, must be compatible with the typical proportions of existing contributing structures along the blockface and opposing blockface.
- ~~(4) The height of the eaves of a new construction intended for use for residential purposes must not be taller than the typical height of the eaves of existing contributing structures used for residential purposes in the historic district; and~~
- ~~(5) The height of new construction intended for use for commercial purposes must not be taller than the typical height of the existing structures used for commercial purposes in the historic district.~~

Nothing in the foregoing shall be construed to require or impose a single architectural style in any historic district.

12. Criteria for relocation and/or demolition (Sections 33-243 and 33-247)

Issue: The loss of contributing structures through demolition or relocation has a detrimental impact on an historic district. The existing criteria for both of these actions provides limited direction to staff on how to review applications based on “economic hardship” or “unusual or compelling circumstances.”

Approach: Research other cities’ criteria for reviewing these applications. Consider revising review criteria language to assist the applicant, staff and the Commission to make more informed decisions based on better information. Clarify the difference between relocating a structure on-site versus relocating it off-site.

13. Allow for a Certified Local Government

Issue: The city is not currently designated as a Certified Local Government. The benefits of being designated a CLG are:

- 1) Eligibility for matching grants (he said range of \$5 – 40,000) for historic resources/building surveys and
- 2) Training and technical support from Texas Historical Commission.

In Texas, a city or a county may apply to become a Certified Local Government (CLG). To qualify as a CLG, a local government must:

- Enforce state or local legislation that protects historic properties
- Establish a qualified review commission composed of professional and lay members
- Maintain a system for surveying and inventorying historic properties
- Provide for public participation in the historic preservation process, including recommending properties to the National Register of Historic Places.

Approach: The application for designation as a CLG is attached (see attachment entitled Texas Historical Commission). It is currently unclear what, if any, specific Code changes are required in order to become a Certified Local Government. Staff will continue discussions with the Texas Historical Commission and make recommendations at the next meeting of the committee.

Committee Discussion (10/13/2014): The committee agreed to defer this discussion until a later time.

14. Tax exemption policies for historic sites (Chapter 44 Section 44-5)

Issue: The city's current tax exemption program is intended to provide an incentive toward preservation activities. It is unclear exactly what expenses are included in the calculation. Currently, , home additions above and beyond preservation of the existing structure receive tax exemption benefits – including kitchen appliances and granite countertops. In addition, in some cases, homeowners who have violated COA requirements become eligible for the exemption, since the HAHC may grant a retroactive COA in order to prevent further deterioration of the historic structure. Finally, the code includes inconsistent terminology between chapters. Ch. 44-5 requires that qualifying work done to 'potentially contributing' structures have the effect of reversing incompatible alterations, although 'potentially contributing' has been eliminated as a building classification under Ch. 33.

Approach: Consider changes to the tax exemption qualifying expenditures and eligibility requirements.

Committee Discussion (10/27/2014): (Mod) The City should follow the eligibility requirements for state and federal guidelines. Essentially, the idea is that if you turn the structure upside down, anything that falls out would not count. That means that new kitchens and bathrooms do count. However, additions do not. (Elliott) Check whether land value is included. The committee asked to have a report from the City identifying the location and value of applications for tax exemptions that have been granted in recent years. The committee expressed dissatisfaction with the idea that property owners who had received a CofA after exceeding an approved scope of work would be eligible for tax exemptions. See Issue # 18 (Enforcement) for options on this issue.

15. Historic Commission (Section 33-211 and 33-212)

Issue: The requirements for positions 6 and 8 are unclear. The Commission is one of very few commissions that have term limits. Adding additional technical expertise or background on the commission could also be considered.

Approach: Consider revising the description of positions 6 and 8, eliminating term limits, and adding technical expertise to the commission.

Comments from the public: The Commission needs more technically oriented members, i.e. structural engineers

Existing language:

Sec. 33-211. Composition; qualifications of members.

(b) *The 13 members of the HAHC shall hold specific positions as follows:*

- (6) *Position 6 shall be filled by a representative of an organization for commercial businesses with knowledge of and interest in restoration, historic building renovation and compatible new construction.*
- (8) *Position 8 shall be filled by a representative of an organization for remodelers or builders with knowledge of and interest in restoration, historic building renovation and compatible new construction.*

Sec. 33-212. Meetings; vacancies; removal.

(c) *A vacancy in any position shall be filled in the manner provided for original appointments, and the person so appointed shall serve for the remainder of the unexpired term. A member may be appointed to serve consecutive terms, but not more than three consecutive terms.*

Proposed change:

Sec. 33-211. Composition; qualifications of members.

(b) *The 13 members of the HAHC shall hold specific positions and must have a known and demonstrated interest, competence, or knowledge in historic preservation within the city and or the county as follows:*

- (6) *Position 6 shall be filled by a licensed structural engineer and shall have knowledge of or interest in restoration, historic building renovation and compatible new construction.*
- (8) *Position 8 shall be filled by a representative of an organization for remodelers or builders and shall have knowledge of or interest in restoration, historic building renovation and compatible new construction.*

Sec. 33-212. Meetings; vacancies; removal.

(c) *A vacancy in any position shall be filled in the manner provided for original appointments, and the person so appointed shall serve for the remainder of the unexpired term. A member may be appointed to serve consecutive terms, ~~but not more than three consecutive terms.~~*

Committee Discussion (10/13/2014): The committee was in agreement that term limits should be removed. There was discussion about the benefits of having technically oriented positions, especially the benefit of having positions filled with persons knowledgeable about the structural make-up of an historic structure. As the discussion ended, the Commission decided to leave position 6 as is currently written and change Position 9, currently identified as Citizen Representative, to identify it as a technically-oriented position. It was decided that, while a licensed structural engineer might be optimal, defining the position too narrowly

might make filling it more difficult. Staff proposes identifying Position 9 as: filled by a person who has professional knowledge in preservation construction and technology.

16. Appeals (Section 33-253)

Issue: Currently, applicants may appeal a decision made by the HAHC to the Planning Commission and ultimately as a Rule 12 appeal to the City Council. Appellants frequently introduce new information at Planning Commission that was not provided to HAHC for their review.

Approach: Consider revising the process.

17. The penalty for illegal demolition (Section 33-203)

18. Enforcement (Section 33-203)

Issue: The City does not have a fully coordinated system to enforce the Code and respond to violations of it. In addition, the current structure of fines provides little incentive for compliance. Finally, in situations where a property owner exceeds the scope of a CofA, and the action leaves the historic structure in jeopardy due to weather or potential structural failure, the Commission often has no choice but to grant a CofA in order to allow the construction to be completed. This may allow bad actors to willingly damage buildings, knowing that there can be no penalty for doing so.

Approach: Fully research and work with other City enforcement offices to develop a coordinated approach to enforcement. Research other Texas cities to determine the maximum penalties for violations. Explore the creation of a “Corrective” CofA that will allow construction on the structure to continue, so that the historic material is protected, but will not allow the owner to benefit from the tax benefits of exceeding the scope.

19. Deferrals (Section 33-239)

Issue: The HAHC may continue its consideration of an application for a certificate of appropriateness to its next regular meeting upon finding that specific information is needed by the HAHC to enable it to reach its decision or upon agreement with the applicant for a continuance.

Comments from the public: It is in the best interest of the applicant that they receive a prompt decision and therefore the Commission should be prevented from deferring a decision.

20. Required notification for CofA applications (Section 33-238.1)

Issue: Currently, the code requires applicants to post a sign on the property for demolition and relocation only. As a result, neighbors are often unaware that an application for a CofA for additions or alterations of contributing structures has been submitted. This significantly limits the public’s ability to provide comment to

the HAHC. This situation may be exacerbated with the movement of some CofA applications to Administration Approvals.

Approach: Consider requiring the placement of a sign on the property for all CofA applications, including those identified in Issue 1 of this paper.

Comments from the public: Demolition is defined as “an act or process that destroys in whole or in part any building, structure, object or site.” CofAs that allow the removal of any part of the structure are allowing for “partial demolition” and require the same posted notice as full demolitions.

21. Painting brick (Section 33-201)

Issue: Paints and sealants can significantly decrease historic brick and masonry’s natural breathability. Painting can trap water in the material, and result in molding, stress cracks, spalling, and failure. In unpainted brick structures, the porous brick naturally absorbs and expels water as needed, leaving the brick intact and in good condition for a very long time. Painting is currently exempt from review.

Approach: In order to ensure that the integrity of the material and structure is not compromised, consider requiring a CofA to determine whether or not it is appropriate to paint brick on a historic structure.

22. Application fees and penalties (Section 33-238)

Issue: The code currently prohibits the City from charging a fee for any CofA. It is not unusual for a typical CofA review to require 15 to 20 hours of staff time. Complex review require much more. Furthermore, applicants may submit the same or similar drawings on multiple review cycles.

Approach: Remove this prohibition and allow for the possibility for fees in the future.