

9-8-15

ORDINANCE NO. 29846

An ordinance changing the zoning classification on the following property:

BEING Lots 3 and 4 in City Block 97¼; fronting approximately 100 feet on the south line of Commerce Street; fronting approximately 100 feet on the east line of Ervay Street; and containing approximately 0.23 acre,

by establishing Historic Overlay District No. 146 (Allen Building); 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 described in this ordinance; 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. 146 on the property described in Exhibit A (“the Property”), which is attached to and made a part of this ordinance.

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 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 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.

SECTION 6. 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 7. 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 8. 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:

WARREN M.S. ERNST, City Attorney

By Casey Buzard
Assistant City Attorney

SEP 09 2015

Passed _____

Exhibit A
Legal Description

BEING all of Lots 3 and 4, in Block 97^{1/4}/136 of the Smith, Murphy & Martin Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof, recorded in Volume 143, Page 403, Map Records, Dallas County, Texas and being more particularly described as follows:

BEGINNING at an "X" in concrete at the Southeast corner of the present intersection of the South right-of-way of Commerce Street (a 78.70 foot right-of-way) with the East right-of-way line of South Ervay Street (a 50 foot right-of-way);

THENCE North 76 deg. 00 min. 00 sec. East, 100.00 feet with the South line of commerce Street to a "PK" nail at the common Northeast corner of Lot 3 and the Northwest corner of Lot 2 of said addition;

THENCE South 14 deg. 00 min. 00 sec. East, 100.00 feet with the common line of Lots 2 and 3 of said addition to a point for corner at the common South corner therefor from which a "PK" nail found in a brick wall for corner;

THENCE South 76 deg. 00 min. 00 sec. West 100.0 feet with the common line of Lots 3, 6, 4 and 5 to a railroad spike for corner in the East line of South Ervay Street;

THENCE North 14 deg. 00 min. 00 sec. West, 100.00 feet within the East line of South Ervay Street to the PLACE OF BEGINNING, and containing 10,000 square feet or 0.230 acres of land.

**EXHIBIT B
PRESERVATION CRITERIA
ALLEN BUILDING
1700 COMMERCE STREET**

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. If there is a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness.
 - a. 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. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - d. 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 1926 to 1953.

2. DEFINITIONS.

- 2.1 Unless defined in this section, the definitions in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 DIRECTOR means the Director of the Department of Sustainable Development and Construction or the Director's representative.
- 2.5 DISTRICT means Historic Overlay District No. 146, the Allen Building Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit C.
- 2.6 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.7 MAIN BUILDING means the Allen Building, as shown on Exhibit C.
- 2.8 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.9 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

3. BUILDING SITE AND LANDSCAPING.

- 3.1 The main building is protected.

- 3.2 New sidewalks and walkways must be constructed of brick, brush finish concrete, or other appropriate material. Artificial grass, artificially-colored concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted.
- 3.3 Entry canopies are allowed if compatible and must be freestanding or attached.
- 3.4 Outdoor lighting must be appropriate and enhance the structure.

4. FACADES.

- 4.1 Protected facades.
 - a. The facades shown on Exhibit B are protected.
 - b. Reconstruction, renovation, repair, or maintenance of protected facades must be appropriate and must 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 in color, texture, module size, bond pattern, and mortar color.
 - e. Brick, cast stone, and terra cotta on protected facades may not be painted, except that portions of the structure that had been painted before the effective date of this ordinance may remain painted.
 - f. Awnings are allowed on protected facades and must be compatible.
 - g. Reconstruction of awnings is allowed.
- 4.2 Reconstruction, renovation, repair, or maintenance of nonprotected facades must be compatible with protected features.
- 4.3 Detailing must be restored wherever practical.
- 4.4 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 4.5 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, before refinishing.
- 4.6 Aluminum siding, exterior insulation finish system (EIFS), and vinyl cladding are not permitted.

- 4.7 Historic color must be maintained wherever practical. Color schemes for non-masonry elements should conform to any available documentation as to historic color.
- 4.8 Exposing and restoring historic finish materials is recommended.
- 4.9 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 New street-level doors and windows must be compatible with historic doors and windows in materials, design, and detail, or must match the existing nonhistoric doors or windows. Historic storefronts may be restored if documentation is provided.
- 5.2 Wholesale replacement of windows and doors on floors two through 18 must express profile, muntin and mullion size, light configuration, and material to match the historic period. Replacement of individual windows may match existing nonhistoric windows.
- 5.3 Glass and glazing must match historic materials as much as practical. Insulated glazing may be added to existing units. Films and tinted or reflective glazings are not permitted on glass.
- 5.4 New door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled, the safety of life is threatened, or at retail storefronts to accommodate tenant needs.
- 5.5 Techniques to improve the energy efficiency of historic fenestration should follow 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.

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: built-up and single-ply membrane.

- 6.3 Historic coping, parapets, and roof trim 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 street level on the opposite side of any adjacent right-of-way.

7. EMBELLISHMENTS AND DETAILING.

- 7.1 The following architectural elements are considered important features and are protected:
 - a. Limestone base cladding on floors one through three.
 - b. Decorative cornice at the base of the fourth floor.
 - c. Limestone cladding on floor 18.
 - d. Seven blue terra cotta insets with swag embellishments on the north facade.
 - e. Six blue terra cotta insets with swag embellishments on the west facade.
 - f. Three decorative cartouches on the west facade.
 - g. Arched door openings on the west facade.
 - h. Decorative balustrade on cornice.

8. NEW CONSTRUCTION AND ADDITIONS.

- 8.1 Vertical additions to the roof are permitted. Vertical additions to the roof must be set back so that they are not visible to a person standing at street level on the opposite side of any adjacent right-of-way.
- 8.2 Horizontal additions to the main building are permitted only in the areas shown on Exhibit B.
- 8.3 The color, details, form, materials, and general appearance of additions must be compatible with the existing historic structure.
- 8.4 Additions must have appropriate color, detailing, fenestration, massing, materials, roof form, shape, and solid-to-void ratios.
- 8.5 The height of new additions must not exceed the height of the historic structure.

- 8.6 Aluminum siding, exterior insulation finish system (EIFS), and vinyl cladding are not permitted.
- 8.7 New additions must be designed so that connections between new 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. SIGNS.

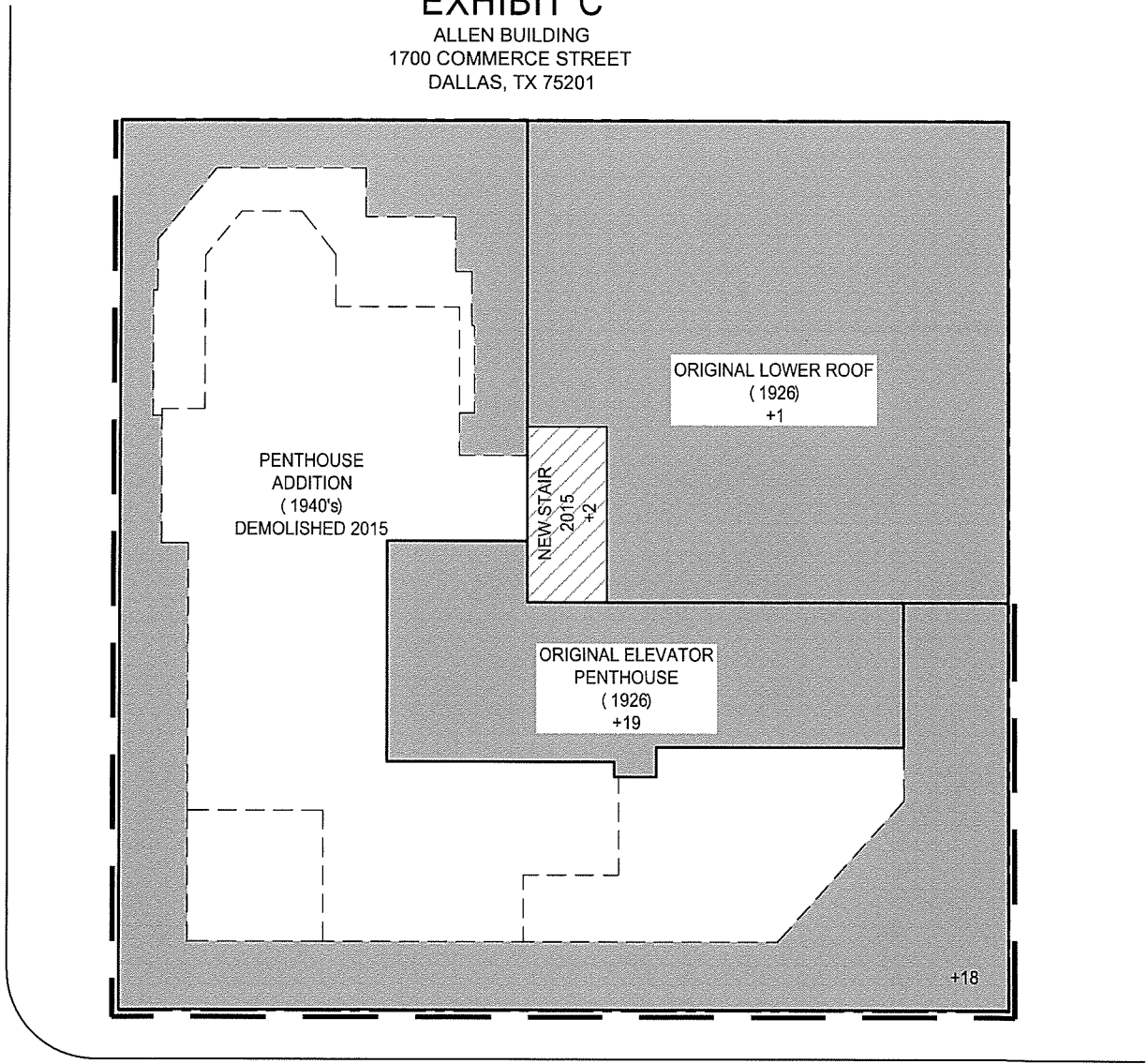
- 9.1 Signs may be erected if appropriate.
- 9.2 All signs must comply with the provisions of the Dallas City Code, as amended.
- 9.3 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.


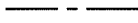

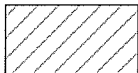
10. ENFORCEMENT.

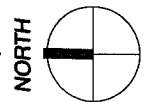
- 10.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
- 10.2 A person is criminally responsible for a violation of these preservation criteria if:
- a. the person knowingly commits the violation or assists in the commission of the violation;
 - b. the person owns part or all of the property and knowingly allows the violation to exist;
 - c. 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; or
 - d. 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.

- 10.3 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.
- 10.4 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.

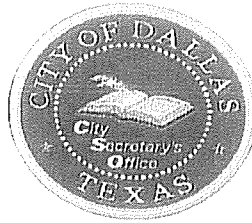
EXHIBIT C
ALLEN BUILDING
1700 COMMERCE STREET
DALLAS, TX 75201



| LEGEND | |
|---|---|
|  | PROTECTED FACADE |
|  | LIMITS OF DESIGNATION |
|  | PROTECTED BUILDING |
|  | NEW CONSTRUCTION 1 STORY ABOVE EXISTING LOWER ROOF |



151675



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL SEP 09 2015

ORDINANCE NUMBER 29846

DATE PUBLISHED SEP 12 2015

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose G. Liss".