

4-20-06

ORDINANCE NO. 26314

An ordinance changing the zoning classification on the following property:

BEING Lots 9 and 10 in City Block F/2834, at the corner of Lakewood Boulevard and Winsted Drive, with the address of 7035 Lakewood Boulevard, and containing approximately 0.51 acres;

by establishing Historic Overlay District No. 127 (Clifford D. Hutsell House); providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

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

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

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

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 127 on the following property ("the Property"):

BEING Lots 9 and 10 in City Block F/2834, at the corner of Lakewood Boulevard and Winsted Drive, with the address of 7035 Lakewood Boulevard, and containing approximately 0.51 acres.

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 A.

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

SECTION 5. That the director of development services shall correct Zoning District Map No. H-9 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

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

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

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

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

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By Cathy Burgess  
Assistant City Attorney

Passed APR 26 2006

**EXHIBIT A  
PRESERVATION CRITERIA  
CLIFFORD D. HUTSELL HOUSE  
7035 LAKEWOOD BOULEVARD**

**1. GENERAL**

- 1.1 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to property within this district must comply with the regulations in Chapter 51A of the Dallas City Code, as amended. In the event of a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness
  - a. 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 1930, the date of construction.

## 2. DEFINITIONS

- 2.1 Unless defined below, the definitions contained 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 COLUMN means the entire column, including the base and capital.
- 2.5 CORNERSIDE YARD means a side yard abutting a street.
- 2.6 DIRECTOR means the Director of the Department of Development Services or the Director's representative.
- 2.7 DISTRICT means Historic Overlay District No. 127, the Clifford D. Hutsell House Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B.
- 2.8 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.9 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.10 INTERIOR SIDE YARD means a side yard not abutting a street or alley.

- 2.11 MAIN BUILDING means the Clifford D. Hutsell House, as shown on Exhibit B.
- 2.12 NO-BUILD ZONE means that part of this district in which no new construction may take place.
- 2.13 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.14 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 New construction is prohibited in the no-build zone shown on Exhibit B.
- 3.2 The main building is protected.
- 3.3 New sidewalks, steps, leadwalk, and walkways in the front yard and the cornerside yard on Winsted Drive must be constructed of colored concrete or concrete topped in a terra-cotta color (to match the color of the historic concrete) with concrete tile inserts approved by the landmark commission. Sidewalks in the public right-of-way must be constructed of gray concrete. Artificial grass, artificially-colored concrete in colors other than terra-cotta, asphalt, exposed aggregate, and outdoor carpet are not permitted.
- 3.4 Colored concrete in a terra-cotta color (to match the existing color of the historic colored concrete) with concrete tile inserts or gray concrete may be used for driveways and for porch flooring at a garage or studio.
- 3.5 Circular driveways and parking areas are not permitted in a front yard or the cornerside yard on Winsted Drive.
- 3.6 Limestone paving, concrete tiles, colored concrete, and gray concrete may be used for paving and sidewalks in the interior side yard, rear yard, and areas that are not visible from the public right-of-way.
- 3.7 The existing garage/studio may be demolished and replaced with a new garage/studio. A new garage/studio is permitted only in the general area of the historic two-story garage/studio as shown on Exhibit B. Carports are not allowed.
- 3.8 Any new mechanical equipment must be erected in the interior side yard or rear yard, and must be screened.

### 3.9 Landscaping

- a. Outdoor lighting must be appropriate and enhance the structure.
- b. Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.
- c. It is recommended that landscaping reflect the historic landscape design.
- d. Existing trees are protected, except that unhealthy or damaged trees may be removed.

### 3.10 Fences and walls

- a. The existing brick walls in the front yard, cornerside yard, and front court, as shown on Exhibit B, are protected. If the existing brick walls require replacement, new brick walls may be erected in the same location using the same design and materials as the original.
- b. New fences and walls are not permitted in the front yard or cornerside yard.
- c. Fences and walls in the interior side yard and the rear yard may not exceed eight feet in height. These fences and walls must be constructed of brick (with or without wrought iron ornamentation), wood, or other appropriate materials.

## 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.

### 4.2 Wood siding, trim, and detailing must be restored wherever practical.

- 4.3 All exposed wood must be painted, stained, or otherwise preserved.
- 4.4 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 4.5 Existing original brick may not be painted.
- 4.6 Paint must be removed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, prior to refinishing.
- 4.7 Aluminum siding, vinyl cladding, and exterior insulated finish systems (EIFS) are not permitted.
- 4.8 Historic color must be maintained wherever practical. Color schemes for non-masonry elements should conform to any available documentation as to historic color.
- 4.9 Exposing and restoring historic finish materials is recommended.
- 4.10 Cleaning of the exterior of a structure must be in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

## **5. FENESTRATION AND OPENINGS**

- 5.1 Historic doors and windows must remain intact except when replacement is necessary due to damage or deterioration.
- 5.2 Replacement of doors and windows which have been altered and no longer match the historic appearance is recommended.
- 5.3 Replacement doors and windows must express profile, muntin and mullion size, light configuration, and material to match the historic.
- 5.4 Storm doors and windows are not permitted.
- 5.5 Decorative ironwork and burglar bars are not permitted over doors or windows of protected façades, except where original ironwork over doors or windows existed.



- 5.6 Glass and glazing must match historic materials as much as practical. Films and tinted or reflective glazings are not permitted on glass.
- 5.7 New door and window openings in protected facades are not permitted.
- 5.8 The Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, should be referred to for acceptable techniques to improve the energy efficiency of historic fenestration.

## 6. ROOFS

- 6.1 The historic slope, massing, configuration, and materials of the roof must be preserved and maintained.
- 6.2 Terra-cotta mission-style tiles of similar profile, colors, and pattern as the historic roofing tiles are the only roof materials allowed.
- 6.3 Historic eaves, 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 may not be placed on the roof.

## 7. PORCHES AND BALCONIES

- 7.1 Historic porches and balconies on protected facades are protected and may not be enclosed.
- 7.2 Historic columns, detailing, railings, trim, and flooring on porches and balconies are protected.
- 7.3 Porch floors must be concrete tiles or similar material. Historic porch floors may not be covered with carpet or paint.

## 8. EMBELLISHMENTS AND DETAILING

- 8.1 The following architectural and site elements are considered important features and are protected:

- a. Entry courtyard, including colored concrete paving with concrete tile inserts, exterior stairway leading to balcony (including gray concrete treads and glazed tile risers), brick walls, roof tiles at top of wall, wrought iron gates, fountain, and landscaped areas.
- b. Round, two-story tower element at building entry.
- c. Large parabolic window with stained glass facing Lakewood Boulevard (at the living room).
- d. Exterior canvas curtains and horizontal wrought iron rod above the parabolic window with stained glass.
- e. Historic windows at protected facades, including those with clear and art glass (stained glass), and accompanying wrought iron decorative bars and elements.
- f. Historic doors at protected facades.
- g. Exterior porches and balconies including columns, railings, flooring, and other ornamentation.
- h. Exterior masonry, including curved walls and buttresses at protected facades, brick trim, and detailing.
- i. Curvilinear front walk with steps.
- j. Masonry chimneys.
- k. Historic roof form and mission-style clay tile roofing.

## 9. PRESERVATION CRITERIA FOR THE INTERIOR

9.1 The following interior spaces are considered important features; the protection of these is strongly encouraged:

- a. Entry foyer.
- b. Living room.
- c. Fireplace in living room with Batchelder tile.
- d. Dining room.
- e. Sunroom.

- f. Two-story stairwell.
- g. Upstairs hall (including upstairs portion of two-story stairwell).

## 10. NEW CONSTRUCTION AND ADDITIONS

- 10.1 Stand-alone new construction is permitted only in the areas shown on Exhibit B.
- 10.2 Vertical additions to the main building are not permitted.
- 10.3 Horizontal additions to the main building are permitted only in the areas shown on Exhibit B.
- 10.4 New construction and additions must be compatible with the historic character of the main building, and have appropriate building form, color, detailing, fenestration, massing, materials, roof form, general appearance, and solid-to-void ratios.
- 10.5 The height of new construction and additions must not exceed the height of the main building.
- 10.6 Aluminum siding, vinyl cladding, and exterior insulated finish system (EIFS) are not permitted in new construction.
- 10.7 Only stucco, portland cement, and buff-colored brick that matches the brick of the main building may be used for new construction and additions.
  - a. Stucco and portland cement may be used on additions to the main building if its application is consistent with its use on the existing main building.
  - b. Stucco and portland cement may be used on stand-alone new construction, other than that of the garage, if its application is consistent with its use on the existing main building.
- 10.8 New construction and additions must have a footprint of 800 square feet or less, excluding exterior porches. This provision does not apply to the construction of a new garage/studio.
- 10.9 A new garage/studio may be erected in the general vicinity of the historic two-story garage/studio shown on Exhibit B.

- a. The design of the new garage/studio must be compatible with the main building and the historic garage/studio. The new garage/studio may be two stories in height.
- b. The new garage/studio must be clad in buff-colored brick, stucco, or portland cement, or a combination of these materials, and roof tiles that match that of the main building.
- c. Doors and windows must be compatible with those in the historic garage/studio or the main building.

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

## 11. SIGNS

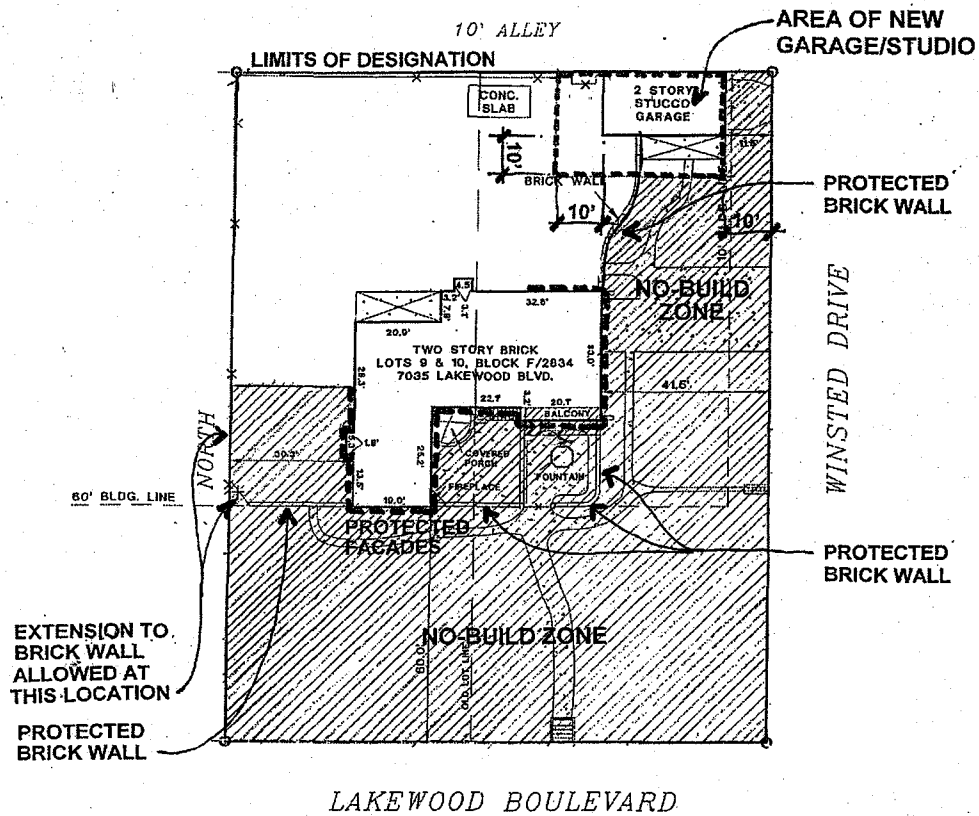
- 11.1 Signs may be erected if appropriate.
- 11.2 All signs must comply with the provisions of the Dallas City Code, as amended.
- 11.3 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.

## 12. ENFORCEMENT

- 12.1 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.
- 12.2 A person is criminally responsible for a violation of these preservation criteria if:
  - a. the person owns part or all of the property and knowingly allows the violation to exist;

- b. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials;
  - c. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property; or
  - d. the person knowingly commits the violation or assists in the commission of the violation.
- 12.3 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.
- 12.4 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 B  
HUTSELL HOUSE HISTORIC DISTRICT SITE PLAN



KEY:  
 - - - PROTECTED FACADES  
 ——— LIMITS OF DESIGNATION

- f. Two-story stairwell.
- g. Upstairs hall (including upstairs portion of two-story stairwell).

## 10. NEW CONSTRUCTION AND ADDITIONS

- 10.1 Stand-alone new construction is permitted only in the areas shown on Exhibit B.
- 10.2 Vertical additions to the main building are not permitted.
- 10.3 Horizontal additions to the main building are permitted only in the areas shown on Exhibit B.
- 10.4 New construction and additions must be compatible with the historic character of the main building, and have appropriate building form, color, detailing, fenestration, massing, materials, roof form, general appearance, and solid-to-void ratios.
- 10.5 The height of new construction and additions must not exceed the height of the main building.
- 10.6 Aluminum siding, vinyl cladding, and exterior insulated finish system (EIFS) are not permitted in new construction.
- 10.7 Only stucco, portland cement, and buff-colored brick that matches the brick of the main building may be used for new construction and additions.
  - a. Stucco and portland cement may be used on additions to the main building if its application is consistent with its use on the existing main building.
  - b. Stucco and portland cement may be used on stand-alone new construction, other than that of the garage, if its application is consistent with its use on the existing main building.
- 10.8 New construction and additions must have a footprint of 800 square feet or less, excluding exterior porches. This provision does not apply to the construction of a new garage/studio.
- 10.9 A new garage/studio may be erected in the general vicinity of the historic two-story garage/studio shown on Exhibit B.

- a. The design of the new garage/studio must be compatible with the main building and the historic garage/studio. The new garage/studio may be two stories in height.
- b. The new garage/studio must be clad in buff-colored brick, stucco, or portland cement, or a combination of these materials, and roof tiles that match that of the main building.
- c. Doors and windows must be compatible with those in the historic garage/studio or the main building.

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

## 11. SIGNS

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

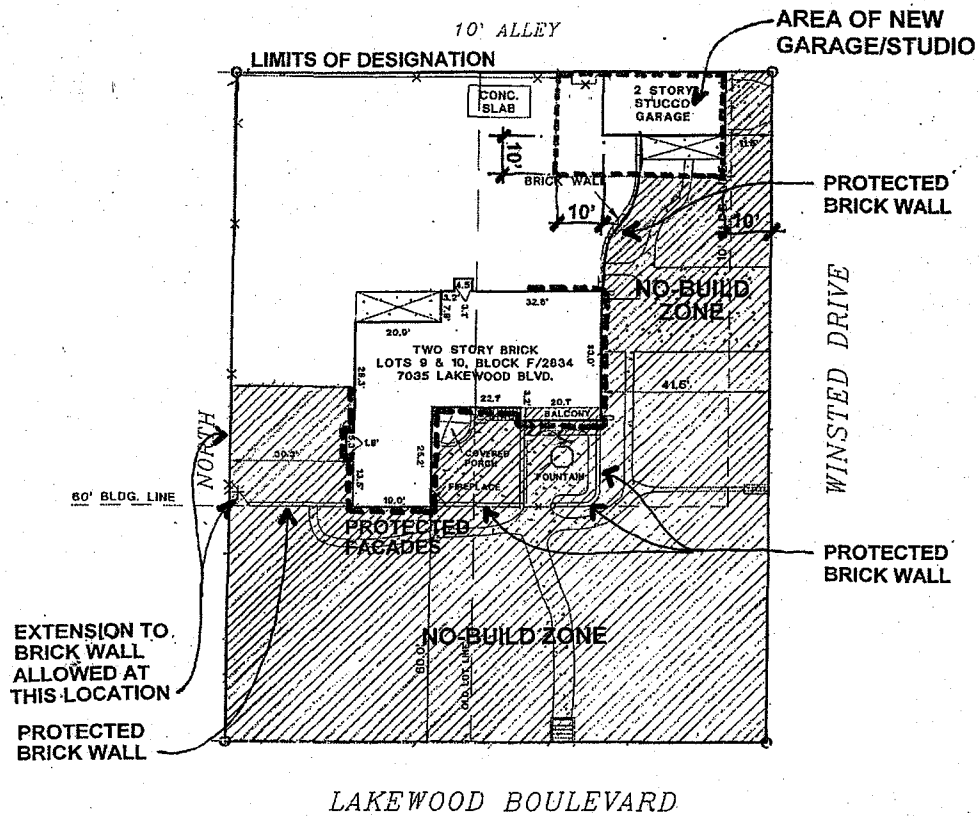
## 12. ENFORCEMENT

- 12.1 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.
- 12.2 A person is criminally responsible for a violation of these preservation criteria if:
  - a. the person owns part or all of the property and knowingly allows the violation to exist;



- b. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials;
  - c. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property; or
  - d. the person knowingly commits the violation or assists in the commission of the violation.
- 12.3 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.
- 12.4 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 B  
HUTSELL HOUSE HISTORIC DISTRICT SITE PLAN



KEY:  
 - - - PROTECTED FACADES  
 ——— LIMITS OF DESIGNATION