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5-11-10

ORDINANCE NO. 27878

An ordinance changing the zoning classification on the following property:

BEING all of Lot 1 in City Block 327; fronting approximately 174.19 feet on the north line of Swiss Avenue; fronting approximately 120.77 feet on the east line of Texas Street; and containing approximately .4764 acres;

by establishing Historic Overlay District No. 138 (Saint Joseph's Catholic Church and Academy); 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:

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SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 138 on the following property (“the Property”):

BEING all of Lot 1 in City Block 327; fronting approximately 174.19 feet on the north line of Swiss Avenue; fronting approximately 120.77 feet on the east line of Texas Street; and containing approximately .4764 acres.

SECTION 2. That, except as provided in Section 3, 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, pursuant to Section 51A-4.501(e)(1) of the Dallas Development Code, which provides that the ordinance establishing the historic overlay district may permit additional uses and regulations, this historic overlay district is subject to the following additional uses and regulations:

- a. Single family uses are permitted by right.
- b. Side yard setbacks are not required.
- c. For single family and duplex uses, no off-street parking is required.

SECTION 4. 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.

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SECTION 5. 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 6. That the director of sustainable development and construction shall correct Zoning District Map No. J-7 in the offices of the city secretary, the building official, and the department of sustainable development and construction to reflect the changes in zoning made by this ordinance.

SECTION 7. 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 8. 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 9. 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.

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SECTION 10. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

Passed **MAY 12 2010**

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EXHIBIT A
PRESERVATION CRITERIA
ST. JOSEPH'S CATHOLIC CHURCH AND ACADEMY
2712 Swiss Avenue

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 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 1905 to 1912.

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 **BUILDING A** means the St. Joseph Church structure shown on Exhibit B.
- 2.4 **BUILDING B** means the St. Joseph Academy structure shown on Exhibit B.
- 2.5 **CERTIFICATE OF APPROPRIATENESS** means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.6 **COLUMN** means the entire column, including the base and capital.
- 2.7 **CONTRIBUTING STRUCTURE** means a structure that retains its essential architectural integrity of design and whose architectural style is typical of or integral to this district.
- 2.8 **CORNERSIDE FENCE** means a fence adjacent to a side street.
- 2.9 **CORNERSIDE YARD** means a side yard abutting a street.
- 2.10 **DIRECTOR** means the Director of the Department of Sustainable Development and Construction or the Director's representative.
- 2.11 **DISTRICT** means Historic Overlay District No. 138, the St. Joseph's Church and Academy Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B.

- 2.12 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.13 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.14 INTERIOR SIDE FENCE means a fence not adjacent to a street or alley.
- 2.15 INTERIOR SIDE YARD means a side yard not abutting a street or alley.
- 2.16 LANDSCAPE FEATURE means a free-standing open-air structure, including a pergola, pavilion, or trellis.
- 2.17 NO-BUILD ZONE means that part of this district in which no new construction may take place.
- 2.18 PROTECTED means an architectural feature or landscaping that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.19 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.
- 2.20 SIDE YARD means that area extending from the front setback line to the rear setback line between the side lot line and the facade of a building.

3. BUILDING SITE AND LANDSCAPING.

- 3.1 Except as provided in this section, new construction is prohibited in the no-build zone shown on Exhibit B.
- 3.2 Landscape features, a surface parking lot, and a driveway may be constructed within the no-build zone in the interior side yard west of Building B.
- 3.3 Building A and Building B are contributing structures that are protected.
- 3.4 New driveways, sidewalks, steps, and walkways must be constructed of brush finish concrete, stone, or other appropriate material. Parking surfaces behind the main buildings may be asphalt.
- 3.5 Artificial grass, artificially-colored concrete, exposed aggregate, and outdoor carpet are not permitted.
- 3.6 Circular driveways and parking areas are not permitted in a front yard.

- 3.7 Carports or garages are permitted in the no-build zone west of Building B adjacent to the western property line as shown on Exhibit B.
- 3.8 Any new mechanical equipment must be erected in the side or rear yards, and must be screened.
- 3.9 Landscaping.
- a. Landscape features must be at least 70 percent open, may not exceed 300 square feet in floor area, and may not exceed 12 feet in height.
 - b. Outdoor lighting must be appropriate and enhance the structure.
 - c. Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.
 - d. It is recommended that landscaping reflect the historic landscape design.
- 3.10 Fences.
- a. Fences are permitted in the front yard, interior side yard, rear yard, and that portion of the cornerside yard facing Texas Street that is between the rear facade of Building A and the southeast property line.
 - b. Fences located in the front and cornerside yards must be 70 percent open. Screening is permitted where necessary to ensure privacy due to unusually high pedestrian or vehicular traffic.
 - c. Interior side fences and rear yard fences may not exceed eight feet in height. Cornerside and front yard fences may not exceed six feet in height.
 - d. Fences must be constructed of brick, cast stone, iron, stone, wood, a combination of these materials, or other appropriate materials.

4. **FACADES.**

4.1 Protected facades.

- a. The following facades are protected:
 1. Building A: front, sides, and rear facades as shown on Exhibit B.

2. Building B: Except as provided in this subparagraph, the front and side facades as shown on Exhibit B. The fire escapes on the side facades may be removed and replaced. The basement stair structure on the west side facade may be removed or replaced with a more compatible structure.
 - 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 concrete elements 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. Light fixtures may be installed on protected facades.
- 4.2 Reconstruction, renovation, repair, or maintenance of nonprotected facades must be compatible with protected features.
- 4.3 Wood and stone trim and detailing must be restored wherever practical.
- 4.4 All exposed wood must be painted, stained, or otherwise preserved.
- 4.5 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 4.6 Paint must be removed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, before refinishing.
- 4.7 Aluminum siding, stucco, and vinyl cladding 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 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 Except as provided in this subsection, historic doors and windows must remain intact except when replacement is necessary due to damage or deterioration. The historic doors and windows on the first floor rear facade of Building A may be removed and new windows and doors may be installed.
- 5.2 Replacement of doors and windows that 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 permitted if they are appropriate and match the existing doors and windows in profile, width, height, proportion, glazing material, and color.
- 5.5 Decorative ironwork and burglar bars are not permitted over doors or windows of protected facades. Interior mounted burglar bars are permitted if appropriate.
- 5.6 Glass and glazing must match historic materials as much as practical. Films and tinted or reflective glazing are not permitted on glass.
- 5.7 Clear protective covering is permitted for stained-glass windows if installation does not cause damage or deterioration to the stained-glass windows.
- 5.8 Except for the first floor rear facade on Building A, new door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled or the safety of life is threatened.

- 5.9 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 Roof materials.

a. Building A.

1. The following roofing materials are allowed:
 - (A) On the sloped portion of the roof, pressed metal.
 - (B) On the flat portion of the roof located in the rear of the structure, built-up and single-ply membrane.
2. The following roofing materials are not allowed: synthetic wood shingle, composition shingles, clay tile, terra-cotta tiles, wood shingles and synthetic clay tile.

b. Building B.

1. The following roofing materials are allowed: built-up and single-ply membrane.
2. The following roofing materials are not allowed: synthetic wood shingle, composition shingles, slate tile, terra-cotta tile, wood shingles, and synthetic clay tile.

- 6.3 Historic eaves, coping, cornices, dormers, 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 ground level on the opposite side of any adjacent right-of-way.

7. PORCHES AND ENTRIES.

- 7.1 Historic porches and entries on protected facades are protected.

- 7.2 Porches and entries on protected facades may not be enclosed, except that gates that are at least 70 percent open may be installed for security purposes.
- 7.3 Historic columns, detailing, railings, brick work, and trim on porches and entries are protected.
- 7.4 Porch and entry floors must be brick, concrete, stone, or tile. Brick, concrete, tile, or stone porch floors may not be covered with carpet or paint.

8. EMBELLISHMENTS AND DETAILING.

- 8.1 The following architectural elements are considered important features and are protected:
 - a. Building A: brick and brick work; cast stone and stone; brick and stone embellishments and detailing; window openings and windows; stained-glass windows; roof form and cornices; steeple including bell tower, roof form and roofing; gable roof and metal roofing; building entries and porches and their steps; and front doors.
 - b. Building B: brick and brick work; cast stone and stone; brick and stone embellishment and detailing including exterior decorative elements, statuary, cross, name plates and planters; window openings and windows; stained-glass windows; roof line, parapets, cornice and fascia; building entries and porches and their steps; ceramic tile floor at the front entry; and columns and wood detailing.

9. NEW CONSTRUCTION AND ADDITIONS.

- 9.1 Except as provided in Section 3, stand-alone new construction is permitted only in the areas shown on Exhibit B. The maximum height and stories of stand-alone new construction is shown on Exhibit B.
- 9.2 For Building A, vertical additions are not permitted.
- 9.3 For Building B, vertical additions must set back so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.
- 9.4 Horizontal additions are permitted only in the areas shown on Exhibit B.
- 9.5 The color, details, form, materials, and general appearance of new construction and additions must be compatible with the existing historic structure.
- 9.6 New construction and additions must have appropriate color, detailing, fenestration, massing, materials, roof form, shape, and solid-to-void ratios.

- 9.7 Building A. Horizontal additions may not exceed one story or 16 feet in height, whichever is less, in the area shown on Exhibit B.
- 9.8 Building B.
- a. Horizontal additions to the west of Building B may not exceed the height of Building B in area shown on Exhibit B.
 - b. Horizontal additions to the south of Building B may not exceed 50 feet in height in the area shown on Exhibit B.
- 9.9 Aluminum siding, stucco, and vinyl cladding are not permitted.
- 9.10 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.

10. SIGNS.

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

11. ENFORCEMENT.

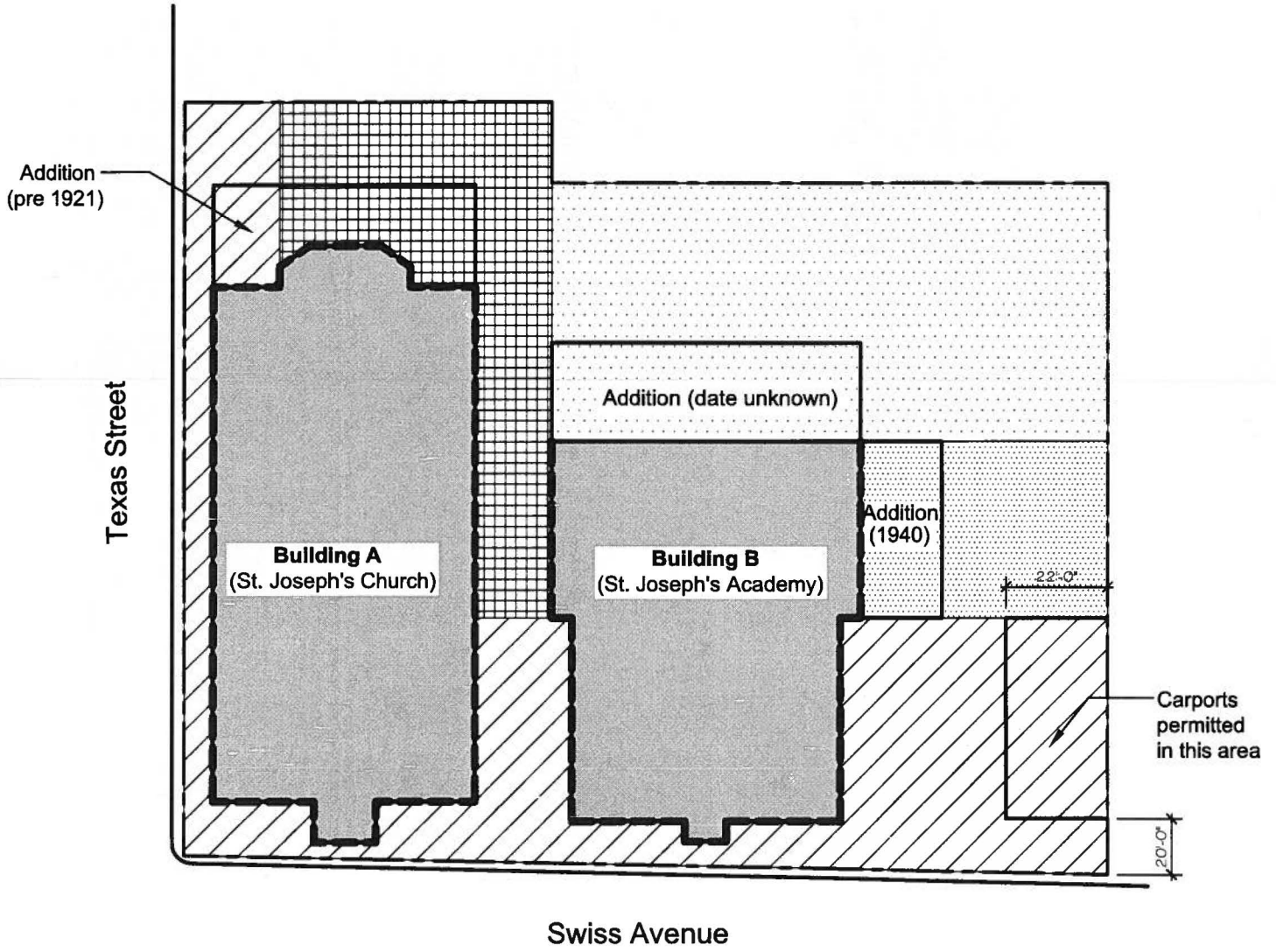
- 11.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
- 11.2 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;

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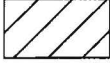

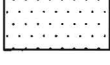

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- c. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, 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.
- 11.3 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.
- 11.4 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
St. Joseph's Church and Academy
2712 Swiss Avenue
Dallas, Texas 75204



LEGEND

-  Protected Facade
-  Limits of Designation
-  Protected Building
-  No Build Zone
-  New Construction
Limited to 1 Story, Max Height 16'-0"
-  New Construction
Limited to Max Height 50'-0"
-  New Construction
Limited to Height of Building B



