

JAMES HARRINGTON
Appellant,

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In re 4902 SWISS AVENUE

vs.

Appeal to the City Plan Commission

LANDMARK COMMISSION,
Appellee.

BRIEF IN SUPPORT OF THE LANDMARK COMMISSION

A. Facts and Background

The structure in question is an existing single-family home located at 4902 Swiss Avenue (the “Property”). The Property is in the Swiss Avenue Historic District (“Swiss District”), also known as PD 63, and the home upon it is a main contributing structure. The Swiss District was designated as a Dallas Landmark, National Register of Historic Places, in 1974. It was the first local historic district designated in Dallas. The Swiss District protects the front and side facades of contributing structures.

The owner of the property, James Harrington (“Appellant”), has lived on the Property for 18 years and has known since then that the house is in a historic district. (Tr. 4¹). Previously, a fence existed in front of the corner side facade, but the fence was only on the rear 50% portion of the facade, which was an exception allowed by PD 63 and previously approved by the Landmark Commission. (LCR0016²)(Tr.11). On July 1, 2019, the Appellant sought approval for a certificate of appropriateness (“CA”) for two items. (LCR0004). The first request was to allow the fence on the corner side yard to extend all the way to the front of the side facade of the house. This request was a retroactive one because the fence had already been built to the front of the side facade without a CA. (Tr. 11). The second request was to allow Christmas Jewel Holly trees to be planted in an area that was approximately 20 feet in front of the fence.

On July 1, 2019, the Landmark Commission held a hearing (“the Hearing”) on Appellant’s request for approval of the CA. Staff noted several concerns with the Appellant’s requests. In addition to the fact that the request sought approval for a fence that had already been constructed, such request violated the requirements for fences in corner lots in the Swiss District. (LCR0008). The second request was to plant five Christmas Jewel Holly trees in the front corner side yard, which staff noted would have an adverse effect on the historic overlay district because of the potential to block the sidewalk. (LCR0009).

¹ “Tr.” refers to the transcription of excerpt of audio recording of the Landmark Commission public hearing from July 1, 2109 that is attached to this brief.

² The City has bates labeled the landmark commission hearing record from July 1, 2019. A bates numbered copy is being filed with this brief for the board’s convenience.

At the Hearing, a commission member asked if the Appellant would consider building a fence with material that would allow one to see through the fence, the front corner side facade but still allow for privacy and some security. (Tr. 11-12). The Appellant rejected the compromise. (Tr. 12). A motion was made to deny both requests without prejudice and the motion passed. (Tr. 15, 17).

The Appellant appealed the Landmark Commission's decision to the City Plan Commission ("CPC") within the required 30-day deadline. (LCR0001).

B. The Historic Preservation Program and Staff Recommendations

The purpose of the historic district preservation program is to protect, enhance, and perpetuate places that represent distinctive and important elements of the city of Dallas's historical and architectural history, and to preserve diverse architectural styles, patterns of development, and design preferences reflecting phases of the city of Dallas's history. Dallas Development Code § 51A-4.501(a).

Due to the quasi-judicial nature of Landmark Commission proceedings, Landmark Commissioners are restricted from visiting properties that have pending CA applications, so the Landmark Commission finds the preservation criteria and staff recommendations helpful in determining what proposed work is compatible with the historic overlay district and what proposed work is not compatible.

C. The Legal Standard

The Landmark Commission must grant a CA for contributing structures if it determines that the proposed work:

- a. is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;
- b. will not have an adverse effect on the architectural features of the structure;
- c. will not have an adverse effect on the historic overlay district; and
- d. will not have an adverse effect on the future preservation, maintenance, and use of the structure or the historic overlay district.

§ 51A-4.501(g)(6)(C)(i). At the Hearing, the Appellant had the burden of proof to establish the necessary facts to warrant a favorable action. § 51A-4.501(g)(6)(B).

Regarding appeals to the CPC, the City Council provided guidance and mandated that the CPC give deference to the Landmark Commission's decision. § 51A-3.103(a)(1). Their reasoning is based on their requirement that all Landmark Commissioners have expertise in historic

preservation. *See* § 51A-4.501(o) (CPC must give deference to the Landmark Commission decision and may not substitute its judgment for the Landmark Commission’s judgment).

When the CPC hears an appeal from the Landmark Commission, it may not substitute its judgment for the judgment of the Landmark Commission, but, rather, shall determine if the Landmark Commission erred in its decision. § 51A-4.501(o)(1). The CPC is required to affirm the decision of the Landmark Commission unless it finds that the decision: “(A) violates a statutory or ordinance provision; (B) exceeds the [L]andmark [C]ommission’s authority; or (C) was not reasonably supported by substantial evidence considering the evidence in the record.” § 51A-4.501(o)(2).

In this matter, there is no violation of a statutory or ordinance provision. Neither did the Landmark Commission exceed its authority as the Dallas Development Code specifically grants the Landmark Commission jurisdiction to approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and may impose conditions on the certificate of appropriateness. § 51A-4.501(g)(6)(B). Therefore, this appeal considers whether there is substantial evidence in the record to support the decision of the Landmark Commission.

D. Argument

The record in this case is clear and there is substantial evidence to support the Landmark Commission’s decision. The Landmark Commission’s decisions were consistent with Staff’s recommendations. Both Staff and Landmark Commission’s reasoning for their recommendations and vote to deny without prejudice is clear on the record.

Appellant had to prove all four of the criteria in section 51A-4.501(g)(6)(C)(i) in order to prevail at the Landmark Commission. Appellant failed to meet his burden. With regard to his first request, for the fence, Appellant did not prove the first criteria under section 51A-4.501(g)(6)(C)(i). For his second request, the holly trees, Appellant failed to establish the third criteria of section 51A-4.501(g)(6)(C)(i).

Appellant’s request to build a fence extending to the front of the entire corner side facade did not meet the preservation criteria for the Swiss District. Section 51P-63.116(2)(B)(iv)(cc) of the preservation criteria prohibits fencing in front of the corner side facade, except when there are concerns of privacy. However, the privacy exception only allows a fence in the rear 50% of the corner side facade. Appellant’s Property was previously granted an exception for fencing in the rear 50% of the corner side facade, and that fence was constructed. Instead of repairing or rebuilding that fence as Appellant originally notified the City (Tr. at 10-11), Appellant sought a CA for a new fence, already built without permission, extending beyond the previous one.

Appellant requested that the Landmark Commission allow him to extend the fence to include the front portion of the corner side facade. However, there is no exception for such a request under the preservation criteria in section 51P-63.116(2)(B)(iv)(cc). Appellant’s testimony related to his privacy concerns may have supported the *allowable* exception to the fence prohibition, but it would be redundant since his property had already been granted the exception previously.

Appellant admits that he always intended to build the fence along the entire corner side facade, even though the site plans provided to the City only showed a replacement of the then-existing fence in the rear of the corner side. (Tr. at 10-11). Appellant did not establish to the Landmark Commission that the request “is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance.” See § 51A-4.501(g)(6)(C)(i)(aa).

Appellant’s request to plant the Christmas Jewel Holly trees was related to his wish to deter homeless individuals from sleeping in the area of his side yard. However, Appellant provided no evidence to show that such request would not have an adverse effect on the historic overlay district. § 51A-4.501(g)(6)(C)(i)(cc). In fact, the opposite is true. The trees would potentially block the sidewalk next to Appellant’s property.

Appellant failed to meet his burden and demonstrate that either request met the four criteria under section 51A-4.501(g)(6)(C)(i)(bb) through (dd). The Staff’s evidence provided in the record is the only substantial evidence and it supports the decision of the Landmark Commission. There is substantial evidence on the record to support the decision of the Landmark Commission.

E. Conclusion

Because the Landmark Commission did not violate a statutory or ordinance provision, did not exceed its authority, and its decision is reasonably supported by substantial evidence in the record, the City Plan Commission must affirm the decision of the Landmark Commission. The City Plan Commission must give deference to the Landmark Commission, even if the City Plan Commission may have come to a different conclusion than the Landmark Commission. Because the City Plan Commission may not substitute its judgment for that of the Landmark Commission, the decision to deny the CA without prejudice must be affirmed.

Respectfully submitted,

CITY ATTORNEY OF THE CITY OF DALLAS
Christopher J. Caso
Interim City Attorney

/s/ Sonia T. Syed

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Assistant City Attorney
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Dallas, Texas 75201
Telephone: 214-670-3519
Facsimile: 214-670-0622

**ATTORNEY FOR LANDMARK
COMMISSION**



City of Dallas

August 16, 2019

Mr. James Harrington
4902 Swiss Avenue
Dallas, TX 75214

Via Certified Mail: 7013 3020 0001 1420 8741

RE: Appeal of Certificate of Appropriateness: Hearing – July 1, 2019
4902 Swiss Avenue, Case No. CA189-579(MLP)

Dear Mr. Harrington:

We have received your correspondence appealing the Landmark Commission's denial of a Certificate of Appropriateness application for 4902 Swiss Avenue. Please be advised that the City Plan Commission hearing for **this appeal is scheduled for Thursday, October 3, 2019** during the public hearing scheduled to begin no earlier than 1:30 p.m. in the City Council Chambers at Dallas City Hall, 1500 Marilla Street.

The appeal of the decision of the Landmark Commission regarding the application for a Certificate of Appropriateness is a quasi-judicial action. No communication with City Plan Commission members may occur outside the hearing of October 3, 2019.

The Dallas Development Code, Section 51A-4.501(g)(6)(E) provides the procedures applicable to a Certificate of Appropriateness appeal. For your convenience, I have enclosed a copy of the ordinance containing the applicable section and a copy of the Appeal Procedures.

Included with this letter is the Landmark Commission record and other related paperwork (with the exception of the transcript which will be mailed under separate cover). The Landmark Commission record includes all documents related to your specific case. Should you wish to provide the City Plan Commission a brief on the matter, please submit a copy to me at Dallas City Hall, 1500 Marilla Street, Room 5BN, Dallas, TX 75201 or to phyllis.hill@dallascityhall.com by end of the day **Thursday, September 17, 2019**. I will then distribute the copies of your brief to the City Plan Commission. I will also send you a copy of the brief by the Assistant City Attorney for the Landmark Commission.

Please contact me at 214-670-4206 if there are any questions regarding the deadline dates. You are encouraged to contact Assistant City Attorney Kanesia Williams at 214-670-3429 if you have any questions regarding the format of the City Plan Commission hearing or other related matters.

Respectfully,

Elaine Hill
Board Secretary for Landmark Commission
Sustainable Development and Construction

cc: Kris Sweckard, Director, Current Planning
Neva Dean, Assistant Director, Current Planning
Patricia Medrano De La Garza, Executive Assistant City Attorney
Kanesia Williams, Assistant City Attorney
Anna Lamberti Holmes, Assistant City Attorney
Casey Burgess, Assistant City Attorney
Melissa Parent, Planner, Historic Preservation

INDEX

4902 Swiss Avenue CA189-579(MLP)

Certificate of Appropriateness	Section 1
--------------------------------	-----------

Landmark Commission Agenda, July 1, 2019	Section 2
--	-----------

Docket Material and Power Point presentation	Section 3
--	-----------

Landmark Commission Minutes, July 1, 2019	Section 4
---	-----------

Transcript of the July 1, 2019 Landmark Commission Hearing	Section 5
--	-----------

Historic Preservation Criteria Dallas Development Code §51A-4.501	Section 6
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Correspondence	Section 7
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SECTION 1

Certificate of Appropriateness

4902 Swiss Avenue
CA189-579(MLP)

Certificate of Appropriateness (CA)

City of Dallas Landmark Commission

CA 189 - 579 (MUP)
Office Use Only

Name of Applicant: JAMES HARRINGTON
 Mailing Address: 4902 SWISS AVE.
 City, State and Zip Code: DALLAS, TX 75214
 Daytime Phone: 214-824-9324 Alternate Phone: 469-360-9027
 Relationship of Applicant to Owner: OWNER IS THE APPLICANT

OFFICE USE ONLY
 Main Structure:
 Contributing
 Non-contributing

PROPERTY ADDRESS: 4902 SWISS AVE. DALLAS, TX 75214
 Historic District: SWISS AVENUE HISTORIC DISTRICT

PROPOSED WORK:

Please describe your proposed work simply and accurately. DO NOT write "see attached." Attach extra sheets if necessary and supplemental material as requested in the submittal criteria checklist.
RECONSTRUCT WOODEN CEDAR BOARD ON BOARD FENCE AT FRONT OF HOUSE (1/2 16-FT FROM PREVIOUS LOCATION) TO ENCLOSE TWO (2) SINGLE PANE WINDOWS WHICH ARE EXPOSED TO "ROUGH" FOOT TRAFFIC ON FITZHUGH AVE. TO ELIMINATE SERIOUS SECURITY CONCERNS. FENCE TO HAVE 2"X6" CAP BOARD STEPPED DOWN TO ACCOUNT FOR ELEVATION CHANGE. INSTALL 5-15 GALLON CHRISTMAS JEWEL TREES (1/2 6 FEET TALL AT PLANTING) IN FRONT OF RETURN FENCE 8-FT FENCE AS PREVIOUS.

RECEIVED BY

Signature of Applicant: James E. Harrington Date: 6/6/2019
 Signature of Owner: _____ Date: JUN 06 2019
 (IF NOT APPLICANT)

APPLICATION DEADLINE:

Application material must be completed and submitted by the FIRST CURRENT PLANNING MONTH 12:00 NOON (see official calendar for exceptions), before the Dallas Landmark Commission can consider the approval of any change affecting the exterior of any building. This form along with any supporting documentation must be filed with a Preservation Planner at City Hall, 1500 Marilla 5BN, Dallas, Texas, 75201.

Please use the enclosed criteria checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4209 to make sure your application is complete.

OTHER:

In the event of a denial, you have the right to an appeal within 30 days after the Landmark Commission's decision. You are encouraged to attend the Landmark Commission hearing the first Monday of each month at 1:00 pm in Council Chambers of City Hall (see exceptions). Information regarding the history of past certificates of appropriateness for individual addresses is available for review in 5BN of City Hall.

Please review the enclosed Review and Action Form
 Memorandum to the Building Official, a Certificate of Appropriateness has been:

- APPROVED. Please release the building permit.
- APPROVED WITH CONDITIONS. Please release the building permit in accordance with any conditions.
- DENIED. Please do not release the building permit or allow work.
- DENIED WITHOUT PREJUDICE. Please do not release the building permit or allow work.

Signed drawings and/or specifications are enclosed ___ Yes X No

Melissa Brown _____ 7/8/2019 _____
 Sustainable Construction and Development Date

SECTION 2

Agenda

July 1, 2019

See Page 10, Item #7

Landmark Commission Agenda
Monday, July 1, 2019

	<p>3. Remove tree on right (Northeast) side yard - No quorum; comments only. Approve removal of crepe myrtle on Northeast side yard.</p>
<p>6. 4525 SYCAMORE ST Peak's Suburban Addition Neighborhood Historic District CA189-600(MP) Marsha Prior</p>	<p><u>Request:</u> Install gravel in driveway. Work initiated without a Certificate of Appropriateness. <u>Applicant:</u> Connors, Jacqui <u>Application Filed:</u> 6/7/19 <u>Staff Recommendation:</u> Install gravel in driveway. Work initiated without a Certificate of Appropriateness – Approve with conditions – Approve completed work with the condition that only the driveway portion within applicant's property boundary is graveled with the finding the work meets the standard in City Code Section 51A-4.501(g)(6)(C)(ii). <u>Task Force Recommendation:</u> Install gravel in driveway. Work initiated without a Certificate of Appropriateness – No quorum; comments only - Recommend approval of installing gravel driveway at existing driveway location.</p>
<p>7. 4902 SWISS AVE Swiss Avenue Historic District CA189-579(MLP) Melissa Parent</p>	<p><u>Request:</u> 1. Install new 8'-0" wood fence in front corner side yard. Work completed without Certificate of Appropriateness. 2. Plant five Christmas Jewel Holly trees in front corner side yard. <u>Applicant:</u> Harrington, James <u>Application Filed:</u> 6/6/19 <u>Staff Recommendation:</u> 1. Install new 8'-0" wood fence in front corner side yard. Work completed without Certificate of Appropriateness- Denial without Prejudice - The completed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with the preservation criteria Section 51P-63.116(2)(B)(iv)(cc) that prohibits fencing in front of a cornerside facade. 2. Plant five Christmas Jewel Holly trees in front corner side yard – Deny without prejudice – The proposed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(ii) on the basis that the proposed work will have an adverse effect on the historic overlay district. <u>Task Force Recommendation:</u> 1. Install new 8'-0" wood fence in front corner side yard. Work completed without Certificate of Appropriateness</p>

SECTION 3

- Docket Material
- Power Point presentation



LANDMARK COMMISSION**JULY 1, 2019**

FILE NUMBER: CA189-579(MLP)
LOCATION: 4902 Swiss
STRUCTURE: Main, Contributing
COUNCIL DISTRICT: 14
ZONING: PD No.63

PLANNER: Melissa Parent
DATE FILED: June 6, 2019
DISTRICT: Swiss Avenue
MAPSCO: 46-B
CENSUS TRACT: 0014.00

APPLICANT: James Harrington

OWNER: HARRINGTON JAMES E & JEANNE A

REQUEST:

- 1) Install new 8'-0" wood fence in front cornerside yard. Work completed without Certificate of Appropriateness.
- 2) Plant five Christmas Jewel Holly trees in front cornerside yard.

BACKGROUND/HISTORY:

10/4/1994: Landmark Commission approved the replacement of fencing with new electric gate, installation of a pool, new landscaping, and painting (No associated CA#).

9/1/1998: Landmark Commission approved the construction of a new garage in the rear yard (No associated CA#).

ANALYSIS:

Request #1: This property received an approved routine maintenance CA for repairs to fencing in March 2019. While work was being conducted, Staff received an email from a concerned neighbor about the placement of the fencing. The Building Inspector determined that the entire fence had been replaced and extended by approximately 16 feet into the front 50% of the cornerside yard, to within a few inches of the front façade. The original fence location had been approved by Landmark Commission in October 1994 and allowed for the fence to be placed in front of the rear 50% section of the cornerside façade. The Applicant has stated, but not submitted evidence, that this is a high-traffic corner with some security and safety concerns. The Applicant has also not investigated other ways that might alleviate the problems, such as landscaping or security cameras. Although the Applicant is asking to retain the extended section of fencing due to these security concerns, it is in direct violation of the ordinance, therefore Staff is recommending denial without prejudice.

Request #2: Staff is also denying without prejudice the planting of 5 Holly trees. While staff is supportive of the landscaping, the location of the plantings is only approximately 20' wide, and after speaking with the city arborist, we do not feel that all five trees will be able to meet city code requirements due to the proximity to the sidewalk.

STAFF RECOMMENDATION:

- 1) Install new 8'-0" wood fence in front cornerside yard. Work completed without Certificate of Appropriateness - Denial without Prejudice - The completed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with the preservation criteria Section 51P-63.116(2)(B)(cc) that prohibits fencing in front of a cornerside facade.
- 2) Plant five Christmas Jewel Holly trees in front cornerside yard – Deny without prejudice – The proposed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(ii) on the basis that the proposed work will have an adverse effect on the historic overlay district.

TASK FORCE RECOMMENDATION:

- 1) Install new 8'-0" wood fence in front cornerside yard. Work completed without Certificate of Appropriateness – Deny without prejudice – Location of fence is not consistent with ordinance, reference 64.116(2) and exhibit 8 of 8.
- 2) Plant five Christmas Jewel Holly trees in front cornerside yard – Deny without prejudice – Task force did not review separately

****STAFF NOTE:** The Task Force was unable to convene for the June 11th Task Force meeting due to storm damage at the Lakewood Library. This case was reviewed previously (applicant withdrew prior to the Landmark hearing on June 3), and with no new documentation submitted, Task Force members voted via email that in lieu of rescheduling, they would allow the previous recommendation to stand.

**Certificate of Appropriateness (CA)
City of Dallas Landmark Commission**

CA 189 - 579 (MLP)
CIVIC USE ONLY

Name of Applicant: JAMES HARRINGTON
 Mailing Address: 4902 SWISS AVE.
 City, State and Zip Code: DALLAS TX 75214
 Daytime Phone: 214-924-9324 Alternate Phone: 469-360-7027
 Relationship of Applicant to Owner: OWNER IS THE APPLICANT
 PROPERTY ADDRESS: 4902 SWISS AVE. DALLAS, TX 75214
 Historic District: SWISS AVENUE HISTORIC DISTRICT

OFFICE USE ONLY
 Main Structure:
 Contributing
 Non-contributing

PROPOSED WORK:

Please describe your proposed work simply and accurately. DO NOT write "see attached." Attach extra sheets if necessary and supplemental material as requested in the submittal criteria checklist.
RECONSTRUCT WOODEN CEDAR BOARD ON BOARD FENCE AT FRONT OF HOUSE (1/2 16-FT FROM PREVIOUS LOCATION) TO ENCLOSE TWO (2) SINGLE PANE WINDOWS WHICH ARE EXPOSED TO "ROUGH" FOOT TRAFFIC ON FITZHUGH AVE. TO ELIMINATE SERIOUS SECURITY CONCERNS. FENCE TO HAVE 2"x6" CAP BOARD STEPPED DOWN TO ACCOUNT FOR ELEVATION CHANGE. INSTALL 5-15 GALLON CHRISTMAS JEWEL TREES (1/2 6 FEET TALL AT PLANTING) IN FRONT OF RETURN FENCE 8-FT FENCE AS PREVIOUS.

Signature of Applicant: James E. Harrington Date: 6/6/2019
 Signature of Owner: _____ Date: JUN 06 2019
 (IF NOT APPLICANT)

RECEIVED BY
 Current Planning

APPLICATION DEADLINE:

Application material must be completed and submitted by the FIRST MONDAY OF EACH MONTH, 12:00 NOON (see official calendar for exceptions), before the Dallas Landmark Commission can consider the approval of any change affecting the exterior of any building. This form along with any supporting documentation must be filed with a Preservation Planner at City Hall, 1500 Marilla 5BN, Dallas, Texas, 75201.

Please use the enclosed criteria checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4209 to make sure your application is complete.

OTHER:

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Please review the enclosed Review and Action Form

Memorandum to the Building Official, a Certificate of Appropriateness has been:

- APPROVED. Please release the building permit.
- APPROVED WITH CONDITIONS. Please release the building permit in accordance with any conditions
- DENIED. Please do not release the building permit or allow work.
- DENIED WITHOUT PREJUDICE. Please do not release the building permit or allow work.

Signed drawings and/or specifications are enclosed ___ Yes ___ No

Sustainable Construction and Development

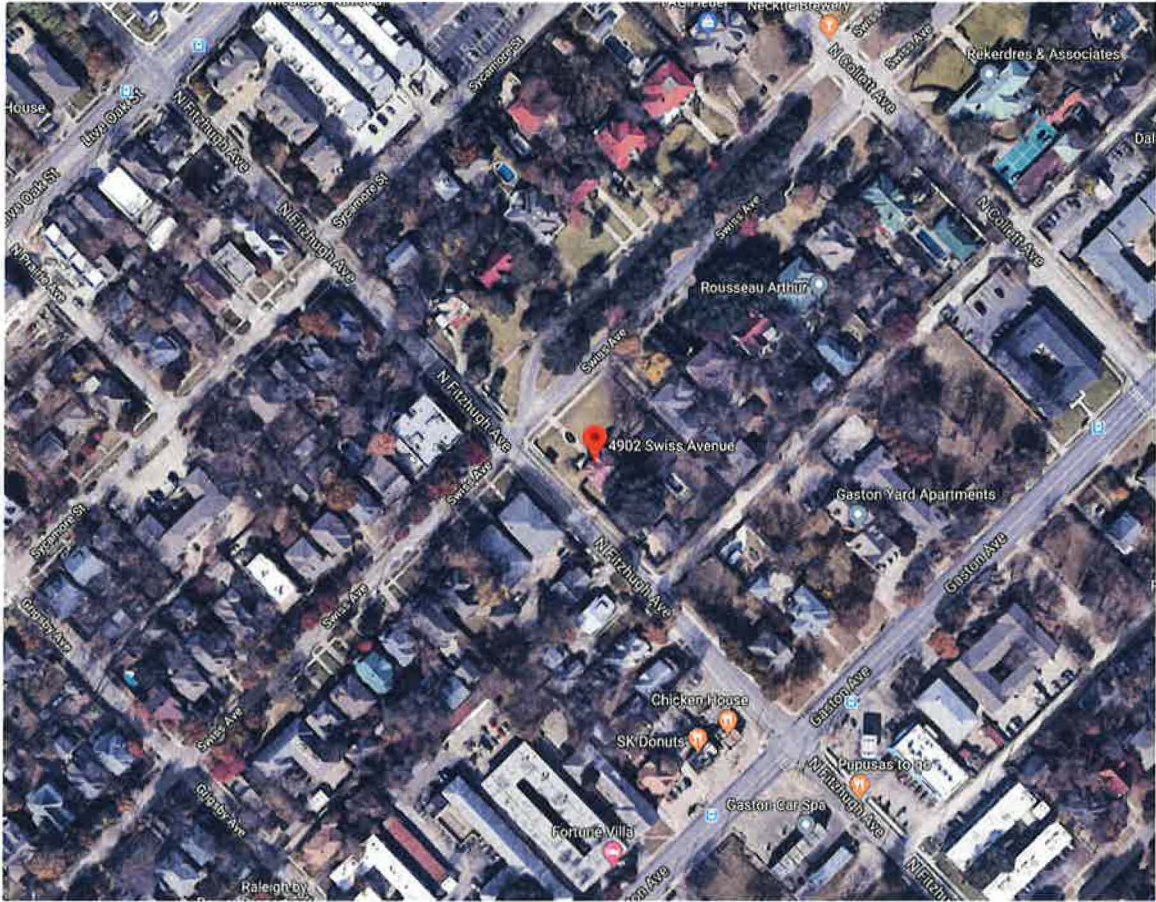
Date

Certificate of Appropriateness

City of Dallas

Historic Preservation

Rev 060518



Aerial View



Front façade



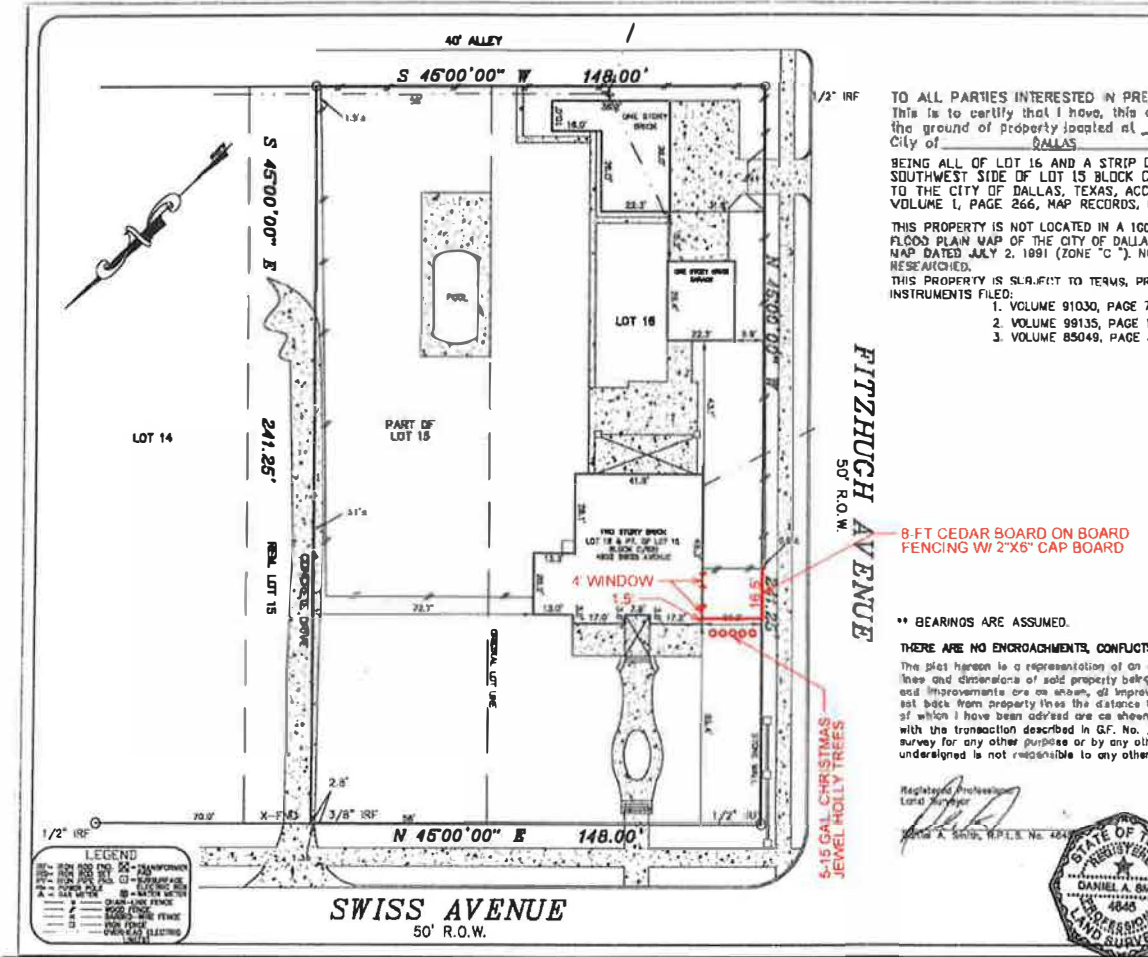
Adjacent property to the left



View across Swiss Ave



View across N Fitzhugh



Site plan

Request #1: Install new 8'-0" wood fence in front cornerside yard

Request #2: Plant five Christmas Jewel Holly trees in front cornerside yard.



Newly installed fence



Original fence location



Alternate view of fence from across N Fitzhugh



Christmas Jewel Holly

PRESERVATION CRITERIA CITED FOR STAFF RECOMMENDATION:

Section 51P-63.116 (2) Landscaping

(B) Fences

(iv) Location

(cc) A fence in the corner side yard must not be directly in front of the cornerside façade, except that the commission may allow a fence that is directly in front of all or any portion of the rear 50% of the cornerside façade if:

[1] more screening is necessary to ensure privacy due to unusually high pedestrian or vehicular traffic.

[2] the fence does not screen all or any portion of a significant architectural feature of a main building.

CONTRIBUTING STANDARDS:

Standards for contributing structures: Dallas Development Code: No. 19455, Section 51A-4.501(g)(6)(C)(i):

The landmark commission must approve the application if it determines that:

(i) for contributing structures:

- (aa) The proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;
- (bb) The proposed work will not have an adverse effect on the architectural features of the structure;
- (cc) The proposed work will not have an adverse effect on the historic overlay district; and
- (dd) The proposed work will not have an adverse effect on the future preservation, maintenance and use of the structure or the historic overlay district.

**TASK FORCE RECOMMENDATION REPORT
SWISS AVENUE/MUNGER PLACE**

DATE: 05/07/19
TIME: 5:30 pm
MEETING PLACE: Lakewood Library (6121 Worth Street)

Applicant Name: James Harrington
Address: 4902 Swiss
Date of CA/CD/CR Request: 04/04/19

RECOMMENDATION:

Approve Approve with conditions Deny Deny without prejudice

Recommendation / comments/ basis:

location of fence is not consistent with ordinance,
ref. 03-116(2) & Exhibit B 8 of 8

Task force members present

<input checked="" type="checkbox"/> Joanna Hampton (Chair)	<input checked="" type="checkbox"/> Kari Houston Osborn (Munger Alt.)	<input checked="" type="checkbox"/> John Gormley
<input checked="" type="checkbox"/> Wesley Powell	<input checked="" type="checkbox"/> Virginia Bonifield (Swiss Alt.)	<input checked="" type="checkbox"/> Elizabeth Mast
<input checked="" type="checkbox"/> Emily Stevenson	<input checked="" type="checkbox"/> Greg Johnston	
<input checked="" type="checkbox"/> Mark Guest (Vice-Chair)		

Ex Officio staff members present : Melissa Parent

Simply Majority Quorum: yes no (four makes a quorum)

Maker: *John Gormley*
2nd: *Emily Stevenson*
Task Force members in favor: *all*
Task Force members opposed:
Basis for opposition:

CHAIR, Task Force



DATE 05/07/2019

The task force recommendation will be reviewed by the landmark commission in the City Council chamber, Room 5ES, starting at 10:00 with a staff briefing.

The Landmark Commission public hearing begins at 1:00 pm in Room 6EN, the Council Chamber, which allows the applicant and citizens to provide public comment.

Discussion Item #7: 4902 Swiss Ave



Front Facade

District: Swiss Avenue

Request: 1) Install new 8'-0" wood fencing in front cornerside yard. Work completed without Certificate of Appropriateness. 2) Plant five Christmas Jewel Holly trees in front cornerside yard.

Staff Recommendation: 1) Deny without prejudice 2) Deny without prejudice



City
of
Dallas

DALLAS LANDMARK COMMISSION
CASE #CA189-579(MLP)

July 1, 2019

Task Force Recommendation: 1) Deny without prejudice 2) Deny without prejudice



City
of
Dallas

DALLAS LANDMARK COMMISSION
CASE #CA189-579(MLP)

July 1, 2019



Previously existing fence

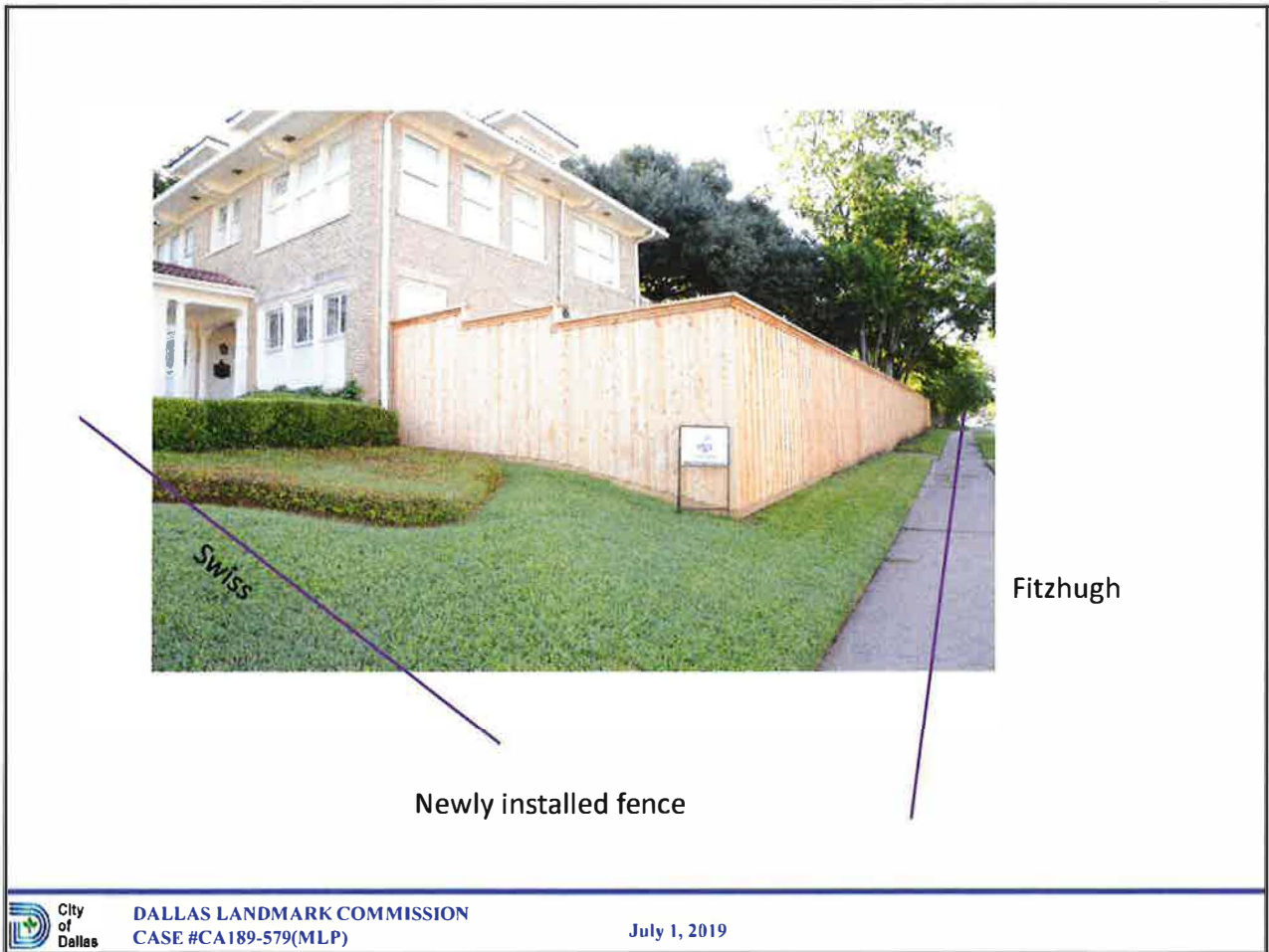


View of new fence from across N Fitzhugh



DALLAS LANDMARK COMMISSION
CASE #CA189-579(MLP)

July 1, 2019



Standard for approval: The landmark commission must approve the application if it determines that:

(i) for contributing structures:

- (aa) The proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;**
- (bb) The proposed work will not have an adverse effect on the architectural features of the structure;**
- (cc) The proposed work will not have an adverse effect on the historic overlay district; and**
- (dd) The proposed work will not have an adverse effect on the future preservation, maintenance and use of the structure or the historic overlay district.**

Dallas Development Code: No. 19455, Section 51A-4.501(g)(6)(C)(ii)



City
of
Dallas

DALLAS LANDMARK COMMISSION
CASE #CA189-579(MLP)

July 1, 2019

Staff Recommendation:

1) Install new 8'-0" wood fencing in front cornerside yard. Work completed without Certificate of Appropriateness - Denial without Prejudice - The completed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with the preservation criteria Section 51P-63.116(2)(B)(cc) that prohibits fencing in front of a cornerside facade.

2) Plant five Christmas Jewel Holly trees in front cornerside yard – Deny without prejudice – The proposed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(ii) on the basis that the proposed work will have an adverse effect on the historic overlay district.



SECTION 4

Minutes

July 1, 2019

See Page 12, Item #7

7. 4902 SWISS AVE

Swiss Avenue Historic District
 CA189-579(MLP)
 Melissa Parent

- 1. Install new 8'-0" wood fence in front corner side yard. Work completed without Certificate of Appropriateness.
- 2. Plant five Christmas Jewel Holly trees in front corner side yard.

Speakers: For: James Harrington
 Against: No one

Motion

- 1. Install new 8'-0" wood fence in front corner side yard. Work completed without Certificate of Appropriateness- Denial without Prejudice - The completed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with the preservation criteria Section 51P-63.116(2)(B)(iv)(cc) that prohibits fencing in front of a corner side facade.
- 2. Plant five Christmas Jewel Holly trees in front corner side yard – Deny without prejudice – The proposed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(ii) on the basis that the proposed work will have an adverse effect on the historic overlay district.

Maker:	Montgomery			
Second:	De la Harpe			
Results:	9/1			
		Ayes:	- 9	Amonett, De La Harpe, Haskel, Hinojosa, Montgomery, Richter, Swann, Williams, Sherman
		Against:	- 1	Payton
		Absent:	- 4	Seale, Slade, Spellicy, Strickland
		Vacancies:	- 2	Dist. 10, Dist. 11

8. 4918 SWISS AVE

Swiss Avenue Historic District
 CA189-587(MLP)
 Melissa Parent

Install new Storm Master shingles in "Blackstone Slate."

Speakers: For: Robin Marin
 Against: No One

SECTION 5

Transcript of the
July 1, 2019
Landmark Commission
Hearing
4902 Swiss Avenue
CA189-579(MLP)

SECTION 6

Historic Preservation Criteria Dallas Development Code § 51A-4.501

ARTICLE 63.

PD 63.

SEC. 51P-63.101. LEGISLATIVE HISTORY.

PD 63 was established by Ordinance No. 14247, passed by the Dallas City Council on September 10, 1973. Ordinance No. 14247 amended Ordinance No. 10962, Chapter 51 of the 1960 Revised Code of Civil and Criminal Ordinances of the City of Dallas. Ordinance No. 14247 was amended by Ordinance No. 15715, passed by the Dallas City Council on December 21, 1977, and Ordinance No. 15766, passed by the Dallas City Council on March 15, 1978. On February 3, 1982, the Dallas City Council passed Ordinance No. 17285, repealing Ordinance Nos. 14247, 15715, and 15766, and re-establishing PD 63. Ordinance No. 17285 was amended by Ordinance No. 18563, passed by the Dallas City Council on January 23, 1985. (Ord. Nos. 10962; 14247; 15715; 15766; 17285; 18563; 25423)

SEC. 51P-63.102. PROPERTY LOCATION AND SIZE.

PD 63 is established on property generally located southeast of Live Oak Street, south of La Vista Drive, northwest of the alley between Swiss Avenue and Gaston Avenue, and northeast of Fitzhugh Avenue. The size of PD 63 is approximately 116.88 acres. (Ord. Nos. 17285; 25423)

SEC. 51P-63.103. DEFINITIONS.

- (a) In this article:
- 63C.
- (1) ACCEPTABLE COLOR RANGE means the range of colors shown on Exhibit
 - (2) APPLICANT means the property owner or his designee.
 - (3) BLOCK means an area bounded by streets on all sides.
 - (4) BLOCKFACE means all of the lots on one side of a block.
 - (5) CERTIFICATE OF APPROPRIATENESS means a certificate issued by the city to authorize certain acts to be performed in this district. (See the enforcement section of this article.)
 - (6) COLUMN means the entire column including the base and capital, if any.
 - (7) COMMISSION means the city plan and zoning commission.
 - (8) COMMITTEE means the landmark committee created under Section 51-3.103.
 - (9) CORNER LOT means a lot that has frontage on two different streets.
 - (10) CORNER SIDE FACADE means a main building facade facing the side street.
 - (11) CORNER SIDE YARD means a side yard that abuts a street.
 - (12) DIRECTOR means the director of development services or his representative.

(13) FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.

(14) FRONT YARD means the portion of a lot that abuts a street and extends across the width of the lot between the street and a main building and lines parallel to and extending outward from the front facade of a main building. "Required" front yard means the portion of the front yard between the street and the setback line.

(15) LOT means a building site, as defined in the Dallas Development Code.

(16) PARKWAY means the area between the paved portion of a street and a front lot line.

(17) PLANTER BOX means a permanent container for plants that is non-movable.

(18) PRESERVATION CRITERIA means the standards considered by the director, committee, and commission in determining whether a certificate of appropriateness should be granted or denied.

(19) REAR YARD means:

(A) on an interior lot, the portion of the lot between the side lot lines that extends across the width of the lot between a main building and lines parallel to and extending outward from the rear facade of a main building and the rear lot line; and

(B) on a corner lot, the portion of the lot that extends between the interior side lot line and a line parallel to and extending outward from the rear corner of the corner side facade, and between the rear lot line and a main building and a line parallel to and extending outward from the interior side corner of the rear facade.

(20) SCREENING means a structure or planting that provides a visual barrier.

(21) SCREENING FACTOR means the degree to which a structure provides a visual barrier.

(22) SIDE YARD means any portion of a lot not occupied by a main building that is not a front or rear yard. "Side yard" includes "corner side yard."

(23) STORY means the portion of a building between any two successive floors, or between the top floor and the ceiling above it.

(24) THIS DISTRICT means the Swiss Avenue Historic District.

(25) TRIM COLOR means a paint color other than the dominant color. Wood colored translucent stain is not a trim color. Trim color does not include the color of screen and storm doors and windows, gutters, downspouts, porch floors, and ceilings.

(b) Except as otherwise provided in this section, the definitions contained in the Dallas Development Code, as amended, apply to this article. (Ord. Nos. 18563; 25423; 26340)

SEC. 51P-63.104.

INTERPRETATIONS.

- (a) Unless otherwise stated, the interpretations in Chapter 51 apply to this article.
- (b) Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51. (Ord. 25423)

SEC. 51P-63.105.

RECONCILIATION WITH ORDINANCE NO. 17285 AND THE DALLAS DEVELOPMENT CODE.

The provisions of Ordinance No. 17285 and the Dallas Development Code, as amended, apply to the Swiss Avenue Historic District unless expressly modified or repealed by this article. In the event of a conflict, the provisions of this article control. (Ord. Nos. 18563; 25423)

SEC. 51P-63.106.

NONCONFORMING USES AND STRUCTURES.

- (a) In general. Except as otherwise provided in this article, Section 51-4.704 relating to nonconforming uses and structures, applies to all uses and structures in this district.
- (b) Nonconforming uses.
 - (1) Termination when building destroyed. Except as otherwise provided below, if a building in which a nonconforming use is located is destroyed, the right to operate the nonconforming use terminates immediately.
 - (2) Nonconforming servants' or caretakers' quarters. The right to operate a nonconforming servants' or caretakers' quarters use does not terminate when the structure in which the use is located is damaged or destroyed. A servants' or caretakers' quarters must be used by bona fide servants or caretakers and may not be rental accommodations.
- (c) Rebuilding damaged or destroyed nonconforming buildings. If a nonconforming single-family main or accessory building is damaged or destroyed, it may be rebuilt at the same location without the approval of the board of adjustment. (Ord. Nos. 18563; 25423)

SEC. 51P-63.107.

GRAPHICS.

Graphics that illustrate the requirements of this article are labelled Exhibit 63B. In the event of a conflict, the text of this article controls over any graphic display in Exhibit 63B. (Ord. Nos. 18563; 25423; 26340)

SEC. 51P-63.108.

ENFORCEMENT.

- (a) Certificate of appropriateness required. A person commits an offense if, without first obtaining a certificate of appropriateness from the city expressly authorizing the act, he:
 - (1) places or constructs a main or accessory building on property in this district;
 - (2) makes exterior alterations to a main or accessory building in this district; or

(3) places, constructs, installs, or maintains a structure or non-plant-material landscape item outside a building on property in this district.

(b) Vegetation restrictions. A person commits an offense if he places or maintains a plant in this district in violation of one of the following vegetation restrictions:

(1) A vegetable garden is prohibited in the front yard and may not be located in a side yard unless it is totally screened.

(2) Foundation plantings may not exceed two feet in height above the first story finish floor.

(3) Only grass, trees, ground cover, and flowers are permitted in the parkway. All trees in the parkway must be placed a uniform distance apart and be planted along a line parallel to the street. Flower beds may not comprise more than 50 percent of the parkway area.

(c) Compliance with use regulations and development standards required. A person commits an offense if he violates one of the use regulations or development standards in Sections 51P-63.114, 51P-63.115, 51P-63.117, 51P-63.118, 51P-63.120, 51P-63.121, 51P-63.123, 51P-63.124, 51P-63.126, 51P-63.127, 51P-63.129, and 51P-63.130 of this article.

(d) Defenses to prosecution.

(1) It is a defense to prosecution under Subsections (a)(2) and (a)(3) that the act was:

(A) the installation, maintenance, or replacement of:

(i) outdoor lights that are 10 inches or less in diameter and

(aa) located at ground level;

(bb) attached to a tree or shrub and located on or above its lowest branch;

(cc) located along eaves or soffits; or

(dd) located on an accessory building;

(ii) recreational equipment for children, such as a swingset, playhouse, or jungle gym, in a rear yard;

(iii) security or ornamental bars on the rear facade of a main building or on an accessory building;

(iv) a lawn sprinkler system; or

(v) an air conditioning unit in a side or rear yard; or

(B) performed in a rear yard, and the alteration, structure, or landscape item is six feet or less in height or totally screened;

(C) performed in a side yard, and the alteration, structure, or landscape item is six feet or less in height and totally screened by a fence or hedge that is at least six feet in height; or

(D) the installation or maintenance of a special purpose sign.

(2) It is an additional defense to prosecution under Subsection (a)(3) that the structure or landscape item was temporarily placed, constructed, or installed. For purposes of this subsection, an act is temporary in nature if it occurs no more than two time periods during the calendar year for a maximum of five days per time period.

(3) There is no defense to prosecution for a violation of Subsection (a)(1).

(e) Criminal responsibility. A person is criminally responsible for a violation if he:

(1) commits or assists in the commission of an act in violation; or

(2) owns part or all of the land or a structure on the land where a violation exists.
(Ord. Nos. 18563; 25423)

SEC. 51P-63.109. PENALTY.

(a) A person violating a provision of Ordinance No. 17285, as amended by Ordinance No. 18563, upon conviction, is punishable by a fine not to exceed \$1000. *[The provisions of Ordinance No. 17285, as amended by Ordinance No. 18563, are codified in this article.]*

(b) In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this article, and institute any appropriate action or proceedings to prevent, restrain, correct, or abate the unlawful erection, construction, reconstruction, alteration, repair, conversion, or maintenance of a building, structure, or land in this district. (Ord. Nos. 18563; 25423)

SEC. 51P-63.110. REVIEW PROCEDURES FOR CERTIFICATES OF APPROPRIATENESS.

(a) In general. The standard review procedure outlined in Section 51-4.501 applies to this district, except as expressly modified by this section.

(b) Review by the director.

(1) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall characterize the proposed work as falling into one of the following three categories:

(A) Routine maintenance or replacement.

(B) Minor exterior alterations.

(C) Work requiring review by the committee and commission.

The director shall review and grant or deny certificates of appropriateness for proposed work that is routine maintenance or replacement or a minor exterior alteration in accordance with the review standards provided in this section. If the proposed work requires review by the committee and commission, the director shall forward the application to the committee for review in accordance with the standard certificate of appropriateness review procedure outlined in Section 51-4.501. All decisions to be made by the director under this section must be made within 10 days of receipt of the application.

(2) Routine maintenance and replacement defined. Routine maintenance is the processes of cleaning (including water blasting and stripping), repainting an item the same color, and otherwise stabilizing deteriorated or damaged architectural features. Routine replacement occurs whenever a duplicate item is substituted for an item that is deteriorated or damaged. Repainting an item a different color is neither routine maintenance nor routine replacement.

(3) Minor exterior alteration defined. The following are minor exterior alterations for purpose of this article.

(A) The application, installation, maintenance, or replacement of:

- (i) a chimney located on an accessory building, or on the rear 50 percent of a main building and not part of the corner side facade;
- (ii) an awning located on an accessory building, or on the rear facade of a main building; and
- (iii) a roof of the same or an original material that does not include a change in color;
- (iv) a wood or chain link fence that is not painted or stained;
- (v) gutters and downspouts of a color within the acceptable color range that matches or complements the dominant, trim, or roof color;
- (vi) paint of a color within the acceptable color range;
- (vii) skylights and solar panels;
- (viii) storm windows and doors; or
- (ix) window and door screens.

(B) The restoration of original architectural elements that does not include the use of paint outside the acceptable color range.

(4) Review standards for routine maintenance and replacement. The director shall review all proposed work that falls into the categories of routine maintenance and routine replacement to determine whether or not the original item to be maintained or replaced was legally installed. Legal installation includes both work that was legally performed before September 10, 1973, the date this district was established, and work performed after that date by authority of a valid certificate of appropriateness. The director shall grant a certificate of appropriateness for the proposed maintenance or replacement of an original item that was legally installed. If the original item was not legally installed, the director shall not grant a certificate but instead shall treat the application as being for a certificate of appropriateness to authorize the installation of the original item.

(5) Review standards for minor exterior alterations. The director shall review all proposed work that falls into the category of minor exterior alterations to determine whether the proposed work complies with the preservation criteria and regulations contained in this article and all other applicable ordinances. If the proposed work complies, the director shall grant a certificate of appropriateness for the work. If the proposed work does not comply with or is not addressed by the preservation criteria and regulations contained in this article or any other applicable ordinance, the director shall deny the certificate.

(c) Appeals. A decision to grant a certificate of appropriateness may not be appealed. A decision to deny a certificate of appropriateness may be appealed only by the applicant. An appeal from a decision to deny a certificate is made by submitting a written request for appeal to the director within ten days of the decision.

(d) Review by the committee. The standards in Subsection (e) below should be used by the committee in making its recommendation to the commission.

(e) Review by the commission and city council.

(1) When reviewing an appeal from the director's decision to deny a certificate of appropriateness, the commission or city council shall first determine whether the proposed work is routine maintenance or replacement. If the proposed work is routine maintenance or replacement, the commission or council shall next determine whether or not the original item to be maintained or replaced was legally installed. If the original item was legally installed, the commission or council shall approve the routine maintenance or replacement. If the original item was not legally installed or if the proposed work is not routine maintenance or replacement, the commission or council shall review the application using the standards provided in the following subsections.

(2) In reviewing an application, the commission or city council shall determine whether the proposed work complies with the preservation criteria and regulations contained in this article and all other applicable ordinances. If the proposed work complies, the commission or council shall grant the certificate.

(3) Except as otherwise provided in this section, if the proposed work does not comply with or is not addressed by the preservation criteria and regulations contained in this article or any other applicable ordinance, the commission or council shall deny the certificate.

(4) If the proposed work is not addressed by the preservation criteria and regulations contained in this article and all other applicable ordinances and the work will not have an adverse effect on the external architectural features, future preservation, maintenance, or use of:

(A) a structure in this district;

(B) a blockface in this district; or

(C) this district as a whole; the commission or council shall grant the certificate.

(5) If the proposed work is the restoration of original architectural elements and will not have an adverse effect on the external architectural features, future preservation, maintenance, or use of:

(A) a structure in this district;

(B) a blockface in this district; or

(C) this district as a whole; the commission or council shall grant the certificate. In determining whether the proposed work constitutes the restoration of original architectural elements, the commission or council shall consider all available materials, including but not limited to photographs and drawings showing the original appearance of the building and its surrounding property at the time of construction. (Ord. Nos. 18563; 25423)

SEC. 51P-63.111.

NOTICE REQUIREMENTS.

The following notice requirements apply to this district:

(1) When required. The director shall give the notice required by this section only when a person applies for a certificate of appropriateness to construct a new main building, or to move a main building onto an existing lot.

(2) Content of notice. The notice required by this section must contain a description of the lot where a main building will be constructed or moved, and the date, time, and location of the committee meeting at which the application will be considered.

(3) Manner of notification. The notice required by this section is a written notice to be given not less than 21 days before the committee meeting at which the application will be considered. Notice is given by depositing the notice properly addressed and postage paid in the United States Mail to the property owners entitled to notice under Paragraph (4) of this subsection as evidenced by the last approved city tax roll.

(4) Who must be notified. The director shall notify the following persons in this district whenever notice is required by this section:

- (A) The owners of all lots in the blockface of the area of request.
- (B) The owners of all lots in the blockface across the street from the area of request.
- (C) If the area of request is a corner lot, the owners of all other corner lots at the same intersection.
- (D) The president of the Swiss Avenue Historic District Association at an address provided by the association. (Ord. Nos. 18563; 25423)

SEC. 51P-63.112.

PROCEDURAL CHANGES WHEN NOTICE IS REQUIRED.

The procedural time requirements in Section 51-4.501 applicable to the committee and the commission apply to this district except in those cases where notice is required under the previous section of this article. In such cases, the committee shall make its recommendation within 45 days of receipt of the application by the director. If final action has not been taken by the committee and the commission within 55 days of the director's receipt of the application:

- (1) the director shall issue a certificate of appropriateness to the applicant for the proposed work; and
- (2) if all requirements of the Dallas Development Code and the construction codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work. (Ord. Nos. 18563; 25423)

SEC. 51P-63.113.

CREATION OF AREAS.

This district is hereby divided into six separate areas, which shall be known as "Area A," "Area B," "Area C," "Area D," "Area E," and "Area F." Property descriptions of Areas A through F are

attached to Ordinance No. 18563. A map showing the area boundaries is labelled Exhibit 63A. (Ord. Nos. 18563; 25423)

SEC. 51P-63.114. USE REGULATIONS FOR AREA A.

The following use regulations apply to all property in Area A:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Except as otherwise provided below, uses are limited to single-family residential uses.

(4) The duplex use at 5600-02 Swiss Avenue is expressly recognized as a legal use unless and until the structure in which the use is located is destroyed, in which case the right to operate the duplex use terminates immediately.

(5) The medical society auxiliary social club use currently operated by the Dallas County Medical Society Auxiliary at 5500 Swiss Avenue is expressly recognized as a nonconforming use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.115. DEVELOPMENT STANDARDS FOR AREA A.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-10 Single-Family District apply to all property in Area A. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 10,000 square feet and a minimum depth of 230 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 25 percent.

(e) Minimum front yard.

- (1) All buildings and structures must have a minimum front yard setback of 65 feet.
- (2) The main building on an interior lot must have a front yard setback that is:
 - (A) equal to that of the closest main building on either side of the lot in the same blockface; or
 - (B) between those of the closest main buildings on either side of the lot in the same blockface.
- (3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

- (1) 60 feet for a main building if the lot is 230 feet or less in depth;
- (2) 90 feet for a main building if the lot is over 230 but less than or equal to 250 feet in depth;
- (3) 120 feet for a main building if the lot is over 250 feet in depth; and
- (4) five feet for an accessory building or structure.

(g) Minimum side yards.

- (1) All buildings and structures must have:
 - (A) on interior lots, a minimum side yard the greater of 10 feet or 80 percent of the average interior side yard in the blockface; and
 - (B) on corner lots, a minimum corner side yard the greater of 15 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.
- (2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family and duplex uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have at least two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.116.

PRESERVATION CRITERIA FOR AREA A.

The following preservation criteria apply to all property in Area A:

(1) Building placement, form, and treatment.

(A) Accessory buildings. Accessory buildings:

(i) are only permitted in the rear yard no closer than 15 feet to a main building; and

(ii) must be compatible with the scale, shape, roof form, materials, detailing, and color of a main building.

(B) Additions. All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing, and color of the building.

(C) Architectural detail. Materials, colors, structural and decorative elements, and the manner in which they are used, applied, or joined together must be typical of the style and period of a main building and compatible with the other buildings on the blockface.

(D) Awnings.

(i) Wood, metal, and plastic awnings are not permitted unless they:

(aa) are on an accessory building or the rear facade of a main building;

(bb) complement the color scheme of the building to which they are attached; and

(cc) are totally screened.

(ii) All awnings on the front and side facades of a main building must be typical of its style and period and complement its color scheme.

(E) Building placement. All buildings must be placed so as not to adversely affect the rhythm of spaces between buildings on the blockface.

(F) Building widths. Minimum permitted width for a main building is 80 percent of the average width of the existing main buildings in the blockface.

(G) Chimneys. All chimneys must be compatible with the style and period of a main building. Chimneys on the front 50 percent of a main building or on a corner side facade must be:

(i) constructed of brick, stucco, stone, or other materials that look typical of the style and period of a main building; and

(ii) of a style and proportion that is typical of the style and period of a main building.

(H) Color.

(i) Brick and stone surfaces. Brick and stone surfaces not previously painted must not be painted unless the applicant establishes that:

(aa) painting is the only method by which the brick or stone may be restored or preserved; or

(bb) the color and texture of replacement brick or stone cannot be matched with that of the existing brick or stone surface and the paint color matches that of the existing brick or stone surface.

(ii) Certain colors prohibited. Fluorescent and metallic colors are not permitted on the exterior of any structure in this district.

(iii) Dominant and trim colors. All structures must have a dominant color and no more than three trim colors. The colors of a structure must be complementary of each other and the overall character of this district.

(iv) Gutters and downspouts. Gutters and downspouts must be painted or colored to match or complement the color scheme of the structure to which they are attached.

(v) Roof colors. Roof colors must complement the style and overall color scheme of the structure.

(vi) Stain. The use and color of stain must be typical of the style and period of the building on which the stain is applied.

(I) Columns.

(i) Function. Columns are only permitted as vertical supports near the front entrance of a main building, or as vertical supports for porches.

(ii) Materials. Columns must be constructed of brick, wood, cut stone, or other materials that look typical of the style and period of a main building. No pipe or wrought iron columns are permitted.

(iii) Style. Columns must be of a style typical of the style and period of a main building.

(iv) Width dimensions.

(aa) The width of a one-story column shaft at its widest point must be at least one-eighth the height of the column.

(bb) The width of a two-story column shaft at its widest point must be at least one-tenth the height of the column.

(J) Facade materials.

(i) In general. The only permitted facade materials are brick, wood siding, stone, and stucco. All facade treatments and materials must be typical of the style and period of a main building.

(ii) Brick. All exposed brick on facades must be fired brick as defined by the American Standard Testing Materials Designation C-126-75A, Type Grade FBS-SW.

(iii) Wood facades. Existing wood facades must be preserved as wood facades. Wood shingles are not permitted as a primary facade material, but may be used in roof gables and on columns and foundation skirts in a manner that is typical of the style and period of a main building.

(K) Front entrances and porches.

(i) Detailing. Railings, moldings, tilework, carvings, and other detailing and architectural decorations on front entrances and porches must be typical of the style and period of a main building.

(ii) Enclosures. A front entrance or porch may not be enclosed with any material, including iron bars, glass, or mesh screening.

(iii) Facade openings. Porches must not obscure or conceal any facade openings in a main building.

(iv) Floor coverings. Carpeting is not permitted as a porch floor or step covering.

(v) Location. An entrance treatment, including door transoms, sidelights, stained glass, trim, and hardware, must be retained in its original location.

(vi) Style. The main building must have a front porch or entry treatment with a shape, roof form, materials, and colors that are typical of the style and period of the building.

(L) Height to width ratio. The relationship between the height and width of the front facade of a main building, including side projections, must be compatible with those of the other main buildings in the blockface.

(M) Porte cocheres. Except as otherwise provided in this subsection, porte cocheres must be preserved as architectural features and not be enclosed on any side by fences, gates, or any other materials. A wrought iron gate is permitted across the rear opening of a porte cochere if it has a screening factor of less than 50 percent and is compatible with the style and scale of a main building.

(N) Roof forms.

(i) Eaves and soffits. The height of eaves and soffits on a main building must be within 10 percent of the height of eaves and soffits on the closest main building in this district of a similar style and having the same number of stories.

(ii) Materials and colors. Roof materials and colors must complement the style and overall color scheme of the building or structure. Tar and gravel (built-up) is only permitted as a roof material on covered porches and porte cocheres with flat roofs.

(iii) Overhang. The roof overhang on a building must be compatible with the style and scale of the building. A replacement roof on an existing building must have an overhang that is equal to or greater than the overhang of the roof it replaces.

(iv) Patterns. Roof patterns of a main building must be typical of the style and period of the architecture of the building and include separate substructure roofs.

(v) Skylights and solar panels. Skylights and solar panels are only permitted on:

(aa) the rear 50 percent of the roof of a main building on an interior lot;

(bb) the rear inside quadrant of the roof of a main building on a corner lot; and

(cc) the roof of an accessory building in the rear yard.

(vi) Slope and pitch. The degree and direction of roof slope and pitch must be typical of the style and period of a main building and compatible with existing building forms in this district. Flat or Mansard roof designs are not permitted on main or accessory buildings or structures, except that a covered porch or porte cochere may have a flat roof that is typical of the style and period of a main building.

(O) Stairs. Second and third story exterior staircases are only permitted on accessory buildings and the rear 50 percent of a main building, except that they are not permitted on a corner side facade.

(P) Windows and doors.

(i) Front facade openings. The total number of window and door openings (combined) in the front facade of a main building must be equal to or greater than the total number of original window and door openings (combined) in that facade. The number of door openings in the front facade of a main building may not be increased.

(ii) Glass. Clear, decorative stained, and clear leaded glass typical of the style and period of the building may be permitted in any window opening. Reflective, tinted, opaque, and mirrored glass and plastic are not permitted in any opening. Translucent glass is not permitted except in a bathroom window.

(iii) Screens, storm doors, and storm windows. Screens, storm doors, and storm windows may be permitted if:

(aa) their frames are painted or colored to match or complement the color scheme of a main building;

(bb) they do not obscure significant features of the windows and doors they cover; and

(cc) the screen mesh is 18 by 16 gauge.

(iv) Security and ornamental bars. Security and ornamental bars are only permitted on an accessory building or on the rear or side facades of a main building.

(v) Shutters. Shutters must be typical of the style and period of the building and appear to be installed in a manner to perform their intended function.

(vi) Style.

(aa) All windows and doors in the front facade of a main building must be proportionally balanced in a manner typical of the style and period of the building.

(bb) No single, fixed plate glass is allowed except as part of an original period design. The size and proportion of window and door openings located on the front and side facades of a main building must be typical of the style and period of the building.

(cc) All windows, doors, and lights in the front and side facades of a main building must be typical of the style and period of the building and compatible with the windows, doors, and lights in the front and side facades of the other main buildings in the blockface. Windows must contain at least two lights (window panes). Sidelights must be compatible in style and materials with the door.

(dd) The frames of windows must be trimmed in a manner typical of the style and period of the building.

(2) Landscaping.

(A) Certain items prohibited in front and corner side yards. The following items are not permitted in the front and corner side yards:

- (i) Above-ground meters.
- (ii) Berms.
- (iii) Pylons and similar structures.
- (iv) Rock or sculpture gardens.

(B) Fences.

(i) Definitions. The following definitions apply to terms used in these fence regulations:

(aa) FINISHED SIDE means the side of a fence that does not reveal the structural components.

(bb) STRUCTURAL COMPONENT means a post, column, or other vertical or horizontal member providing support and strength for a fence.

(ii) Form.

(aa) Fences must be constructed and maintained in a vertical position.

(bb) The top edge of a fence must be along a line that is either horizontal or parallel to grade. Except in the case of a picket, chain link, or wrought iron fence, the top edge of a fence must be flat.

(iii) Height. Maximum permitted height for a fence is nine feet.

(iv) Location.

(aa) Fences are not permitted in the front yard.

(bb) A fence in an interior side yard must be located in the rear 50 percent of the side yard and behind the rearmost side projection of a main building, except that the commission may allow a fence to be located in the rear 75 percent of the side yard if it determines that the fence does not screen any portion of a significant architectural feature of a main building on the same or an adjacent lot.

(cc) A fence in the corner side yard must not be directly in front of the corner side facade, except that the commission may allow a fence that is directly in front of all or any portion of the rear 50 percent of the corner side facade if:

[1] more screening is necessary to insure privacy due to unusually high pedestrian or vehicular traffic; and

[2] the fence does not screen all or any portion of a significant architectural feature of a main building.

(dd) A fence in the corner side yard must be set back a minimum of two feet from a public sidewalk.

(ee) A fence must run either parallel or perpendicular to a building wall or lot line.

(ff) A fence on a vacant lot must be set back a distance that is equal to or greater than the setback of the closest main building in the same blockface. In the case of a single interior vacant lot, the setback of the fence must be equal to or greater than the setback of a main building on the adjacent lot with the greater setback.

(v) Materials. A fence must be constructed of one or more of the following materials: metal or plastic-coated chain link, wrought iron, wood, brick, or stucco. Exposed concrete blocks are not permitted.

(vi) Masonry fences.

(aa) The color, texture, pattern, and dimensions of masonry and the color, width, type, and elevation of mortar joints in a fence column or base must match the masonry and mortar joints of a main building as nearly as practicable.

(bb) All exposed brick in a fence must be fired brick as defined by the American Standard Testing Materials Designation C-126-75A, Type Grade FBS-SW.

(vii) Metal fences.

(aa) Wrought iron and metal fences must be compatible with the style and period of a main building.

(bb) If a wrought iron or metal fence is painted or colored, the color must be black, dark green, or dark brown and complement the color of a main building.

(viii) Wooden fences.

- (aa) All wooden structural posts must be at least four inches in diameter (nominal size).
- (bb) The side of a wooden fence facing a public street must be the finished side.
- (cc) Wooden fences may be painted or stained a color that is complementary to a main building.

(C) Outdoor lighting. Outdoor light fixtures on the front facade of a main building and on poles in the front yard must be compatible with the style and period of a main building and not obscure or conflict with significant architectural details. Overhead and exposed wiring and conduit for outdoor lighting is not permitted.

(D) Pavement, filler, and edging materials. Pavement, filler, and edging materials, such as landscape timbers, gravel, and bark, used in landscape beds in the front and corner side yards must be reviewed by the commission as part of an overall landscape plan if the landscape beds collectively comprise more than 25 percent of the combined areas of the front and corner side yards. No more than 25 percent of the front yard of a residential use may be covered by pavement or filler materials.

(E) Planter boxes. Planter boxes must be:

- (i) an integral part of and typical of the style and period of a main building;
- (ii) 18 inches or less in height;
- (iii) 36 inches or less in depth; and
- (iv) constructed of brick, stone, or smooth-finish concrete that matches or is compatible in texture, color, and style with a main building.

(F) Retaining walls. Retaining walls are not permitted in the front and side yards except to preserve a natural or existing slope or to make a slope similar to that of an adjacent lot. The height of a retaining wall must not exceed the height of the slope it retains. A retaining wall must be constructed of unpainted stone, brick, stucco, or smooth-finish concrete that is compatible in texture, color, and style with a main building.

(G) Sidewalks, driveways, and curbing.

- (i) Materials.
- (aa) No exposed aggregate, asphaltic, or artificially colored concrete or epoxy resin is permitted as a sidewalk, driveway, or curbing material.
- (bb) All public sidewalks and curbing must be constructed of brush finish concrete.
- (cc) All private sidewalks and driveways must be constructed of brush finish concrete, brick, tile, or slate. Gravel is allowed in the center strip of a ribbon driveway.

Any material used in a sidewalk or driveway must be compatible in texture, color, and style with a main building.

(ii) Width, style, and spacing.

(aa) The maximum permitted width of a driveway in the front yard is 10 feet. The driveway width may be expanded to 20 feet at any point behind the front facade.

(bb) Ribbon driveways are only permitted if the owner establishes that a ribbon driveway was an original architectural element of the site. If a ribbon driveway is permitted, the ribbons must be at least one foot wide.

(cc) Circular driveways are not permitted in the front yard.

(dd) A driveway constructed in the front yard adjacent to an existing driveway on an adjacent lot must be spaced a minimum of one foot from the existing driveway on the adjacent lot. (Ord. Nos. 18563; 25423)

SEC. 51P-63.117. USE REGULATIONS FOR AREA B.

The following use regulations apply to all property in Area B:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Uses are limited to single-family residential uses. (Ord. Nos. 18563; 25423)

SEC. 51P-63.118. DEVELOPMENT STANDARDS FOR AREA B.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area B. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

(1) 30 feet for a main building; and

(2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,000 square feet and a minimum depth of 140 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 45 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 30 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

(1) 35 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yard.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of five feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 10 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family uses must provide at least two off-street parking spaces for each dwelling unit. One of the required parking spaces must be behind the front yard.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have less than three stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.119.

PRESERVATION CRITERIA FOR AREA B.

(a) In general. The preservation criteria in this article applicable to Area A apply to all property in Area B except as expressly modified in this section.

(b) Building placement, form, and treatment.

(1) Accessory buildings. Accessory buildings may be located closer than 15 feet to a main building.

(2) Facade materials. All facade treatments and materials need not be typical of the style and period of a main building so long as they look typical of the style and period of a main building. Existing wood facades need not be preserved as wood facades. Vinyl or aluminum siding is also permitted as a facade material if:

(A) it appears to consist of four-inch wide panels;

(B) it is horizontally oriented;

(C) its color complements the other colors of the building and the overall character of this district;

(D) it has a wood-grain or smooth-finish texture; and

(E) it is installed so that the building decorative trim is replaced over the siding in the same manner that it existed before the installation.

(3) Windows and doors. If a door opening in the front facade of a main building is eliminated as part of a conversion from a duplex to a single-family use, it need not be replaced with a window unless the commission determines that the replacement is necessary to preserve the architectural style of the building. Each story of a front facade of a main building must contain at least two windows, or one window and a door.

(c) Landscaping.

Driveway spacing. A driveway constructed in the front yard adjacent to an existing driveway on an adjacent lot need not be spaced a minimum of one foot from the existing driveway on the adjacent lot. (Ord. Nos. 18563; 25423)

SEC. 51P-63.120.

USE REGULATIONS FOR AREA C.

The following use regulations apply to all property in Area C:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Except as otherwise provided below, uses are limited to single-family residential uses.

(4) The duplex use at 5503-05 Bryan Street is expressly recognized as a legal use unless and until the structure in which the use is located is destroyed, in which case the right to operate the duplex use terminates immediately. (Ord. Nos. 18563; 25423)

SEC. 51P-63.121. DEVELOPMENT STANDARDS FOR AREA C.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area C. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,500 square feet and a minimum depth of 150 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 30 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 30 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

- (1) 50 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yards.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of five feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 10 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family and duplex uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have at least two stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.122. PRESERVATION CRITERIA FOR AREA C.

The preservation criteria in this article applicable to Area A apply to all property in Area C. (Ord. Nos. 18563; 25423)

SEC. 51P-63.123. USE REGULATIONS FOR AREA D.

The use regulations in this article applicable to Area B apply to all property in Area D. (Ord. Nos. 18563; 25423)

SEC. 51P-63.124. DEVELOPMENT STANDARDS FOR AREA D.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area D. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

(1) 36 feet for a main building; and

(2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,500 square feet and a minimum depth of 150 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 30 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 30 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

(1) 60 feet for a main building; and

(2) five feet for an accessory building or structure.

(g) Minimum side yards.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of five feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 10 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have less than three stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.125. PRESERVATION CRITERIA FOR AREA D.

The preservation criteria in this article applicable to Area A apply to all property in Area D. (Ord. Nos. 18563; 25423)

SEC. 51P-63.126. USE REGULATIONS FOR AREA E.

The following use regulations apply to all property in Area A:

- (1) Uses are limited to single-family residential uses.
- (2) The post office use at 6120 Swiss Avenue is expressly recognized as a nonconforming use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.127. DEVELOPMENT STANDARDS FOR AREA E.

(a) In general. The development standards in this article applicable to Area A apply to all property in Area E except as expressly modified in this section.

(b) Minimum front yard. The post office use must have a minimum setback along Swiss Avenue that is equal to or greater than that of the closest main building fronting on Swiss Avenue in the same blockface.

(c) Off-street parking requirements. The post office use must provide at least one off-street parking space for each 200 square feet of floor area.

(d) Screening. A solid wood or masonry screening fence no less than six feet in height is required in the rear and side yards of the post office use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.128. PRESERVATION CRITERIA FOR AREA E.

The preservation criteria in this article applicable to Area A apply to all property in Area E. (Ord. Nos. 18563; 25423)

SEC. 51P-63.129. USE REGULATIONS FOR AREA F.

The use regulations in this article applicable to Area B apply to all property in Area F. (Ord. Nos. 18563; 25423)

SEC. 51P-63.130. DEVELOPMENT STANDARDS FOR AREA F.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-7.5 Single-Family District apply to all property in Area F. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

(1) Each lot must have a minimum area of 7,500 square feet and a minimum depth of 130 feet.

(2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 25 percent.

(e) Minimum front yard.

(1) All buildings and structures must have a minimum front yard setback of 65 feet.

(2) The main building on an interior lot must have a front yard setback that is:

(A) equal to that of the closest main building on either side of the lot in the same blockface; or

(B) between those of the closest main buildings on either side of the lot in the same blockface.

(3) The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(f) Minimum rear yard. Minimum permitted rear yard setbacks for buildings and structures are:

- (1) 120 feet for a main building; and
- (2) five feet for an accessory building or structure.

(g) Minimum side yards.

(1) All buildings and structures must have:

(A) on interior lots, a minimum side yard the greater of 10 feet or 80 percent of the average interior side yard in the blockface; and

(B) on corner lots, a minimum corner side yard the greater of 15 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

(2) Except as otherwise provided in this section, no balcony, porch, or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(h) Off-street parking requirements. Single-family uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit.

(i) Signs. Signs are governed by the provisions for non-business zoning districts in Article VII, "Sign Regulations," and all other applicable sign ordinances and laws.

(j) Story requirements. A main building must have at least two stories. An accessory building may have no more than two stories. (Ord. Nos. 18563; 25423)

SEC. 51P-63.131. PRESERVATION CRITERIA FOR AREA F.

The preservation criteria in this article applicable to Area A apply to all property in Area F. (Ord. Nos. 18563; 25423)

SEC. 51P-63.132. BUILDING OFFICIAL.

The building official shall not issue a building permit or certificate of occupancy for a use in this district until there has been full compliance with this article, the Dallas Development Code, the construction codes, and all other applicable ordinances, rules, and regulations of the city. (Ord. Nos. 18563; 25423; 26102)

SEC. 51P-63.133. STREETS AND PAVING.

All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard city specifications to the satisfaction of the director of public works and transportation. (Ord. Nos. 17285; 25423; 26102)

SEC. 51P-63.134. COMPLIANCE WITH CONDITIONS.

The building official shall not issue a certificate of occupancy for a use in this PD until there has been full compliance with this article, as amended, and with the construction codes and all other applicable ordinances, rules, and regulations of the city. (Ord. Nos. 17285; 25423)

SEC. 51P-63.135. ZONING MAP.

PD 63 is located on Zoning Map No. I-8. (Ord. 25423)

25423

032856

18562

850353

SWISS AVENUE HISTORIC DISTRICT

EXHIBIT 63A

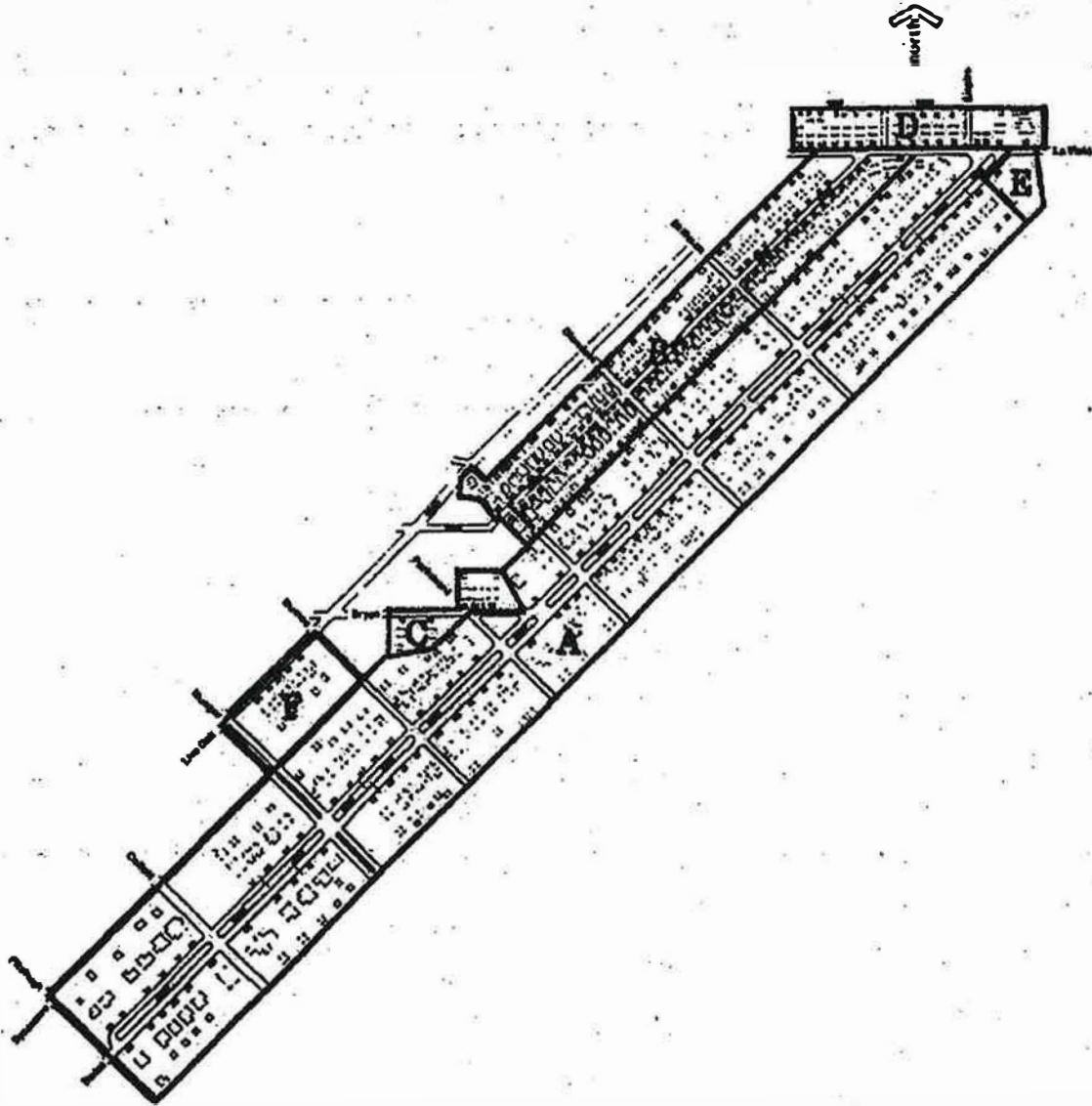


EXHIBIT A PAGE 1 of 9



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EXHIBIT 63B
PAGE 1 of 8

EXHIBIT B

60

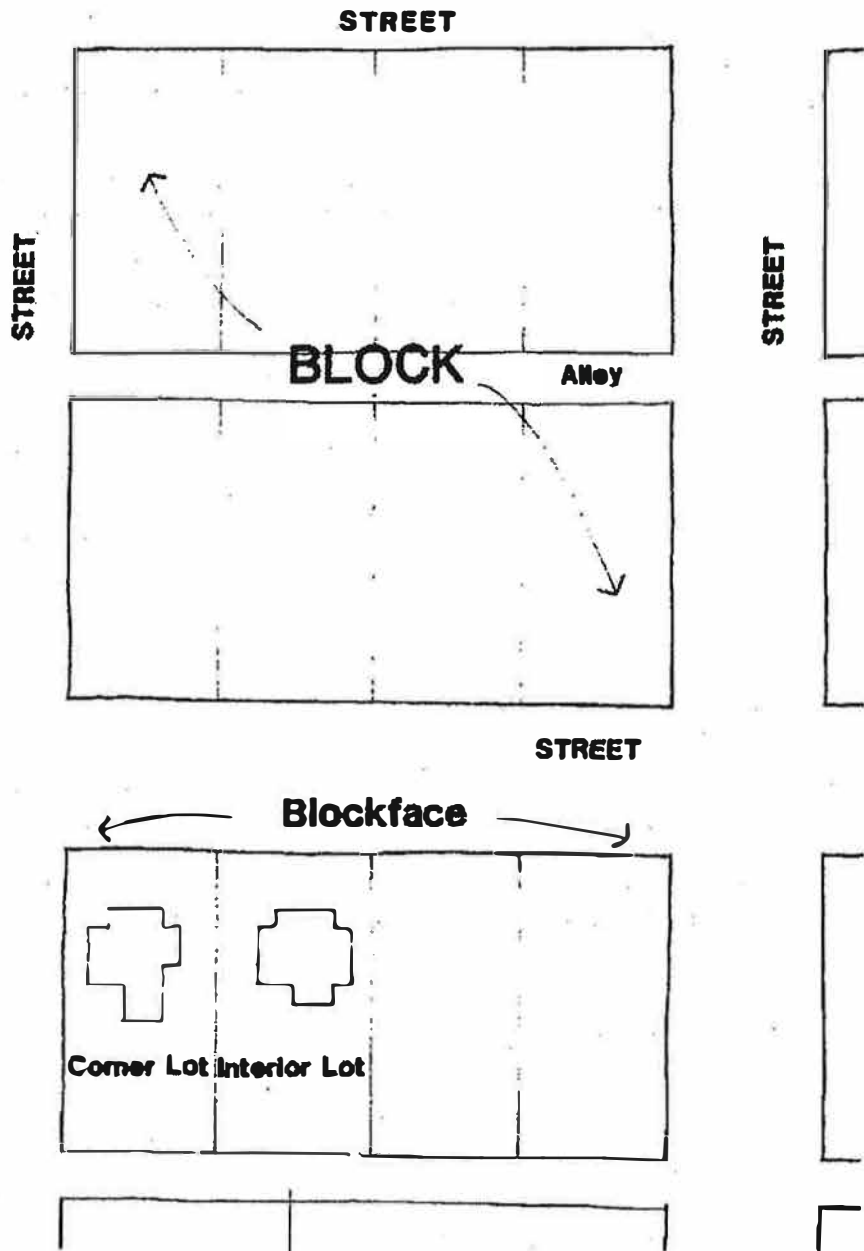
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**EXHIBIT 63B SECTION 2(a)
PAGE 2 OF 8**



61

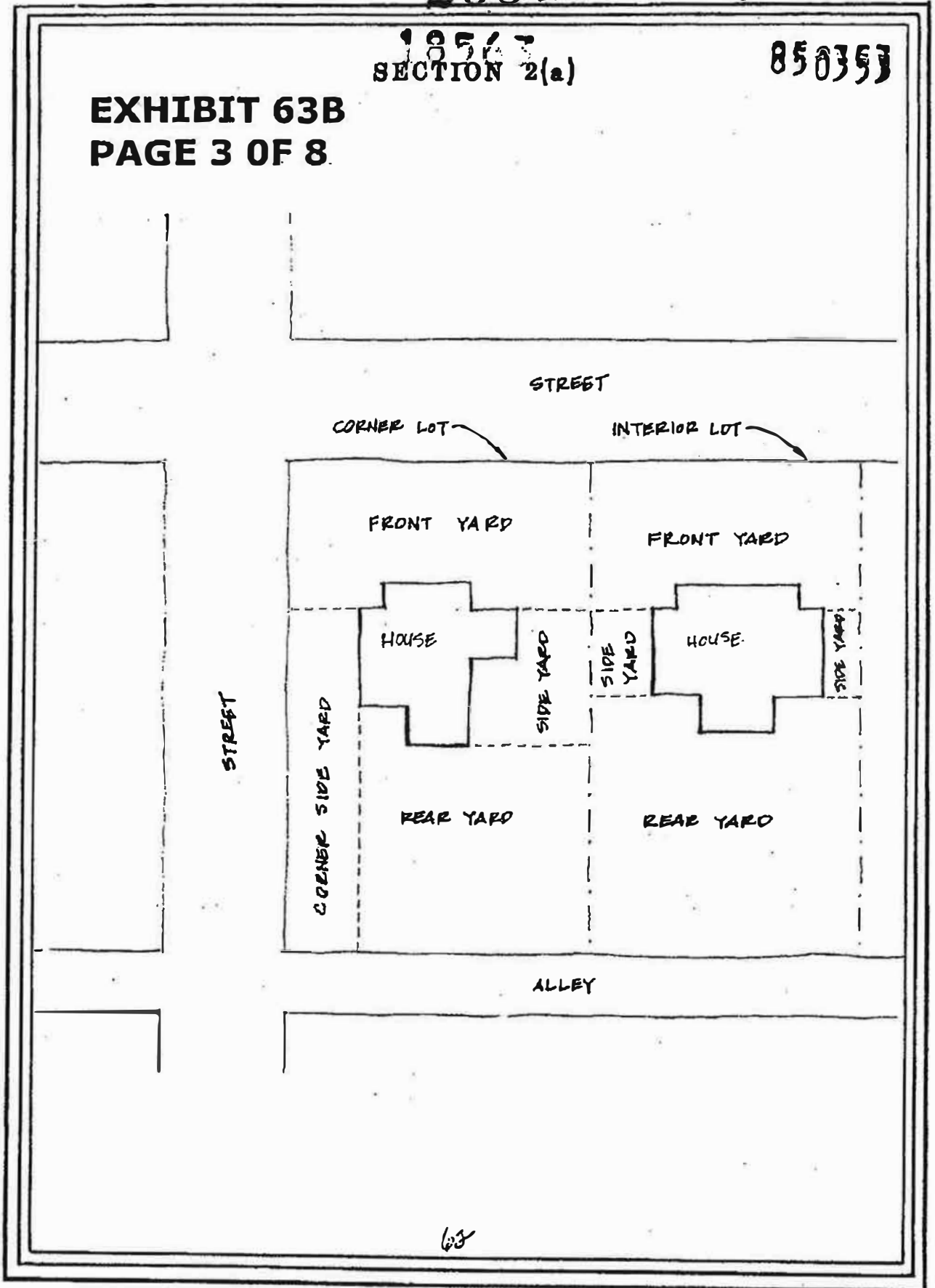
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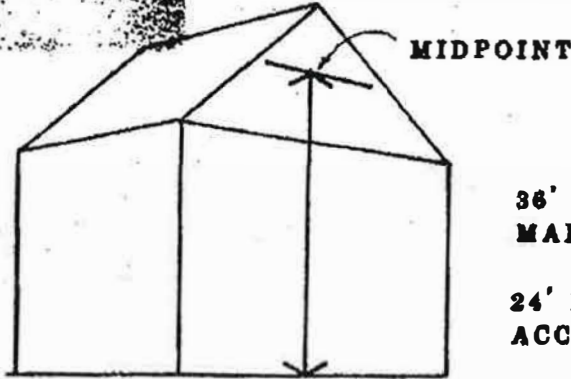
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EXHIBIT 63B
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SECTIONS 13(b), 19(b), 22(b), 28(b)

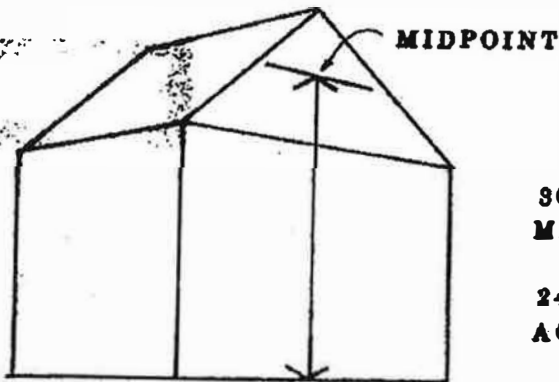


**36' MAXIMUM FOR A
MAIN BUILDING**

**24' MAXIMUM FOR AN
ACCESSORY BUILDING**

**BUILDING HEIGHT
AS DEFINED IN THE DEVELOPMENT CODE**

SECTION 16(b)



**30' MAXIMUM FOR A
MAIN BUILDING**

**24' MAXIMUM FOR AN
ACCESSORY BUILDING**

26340

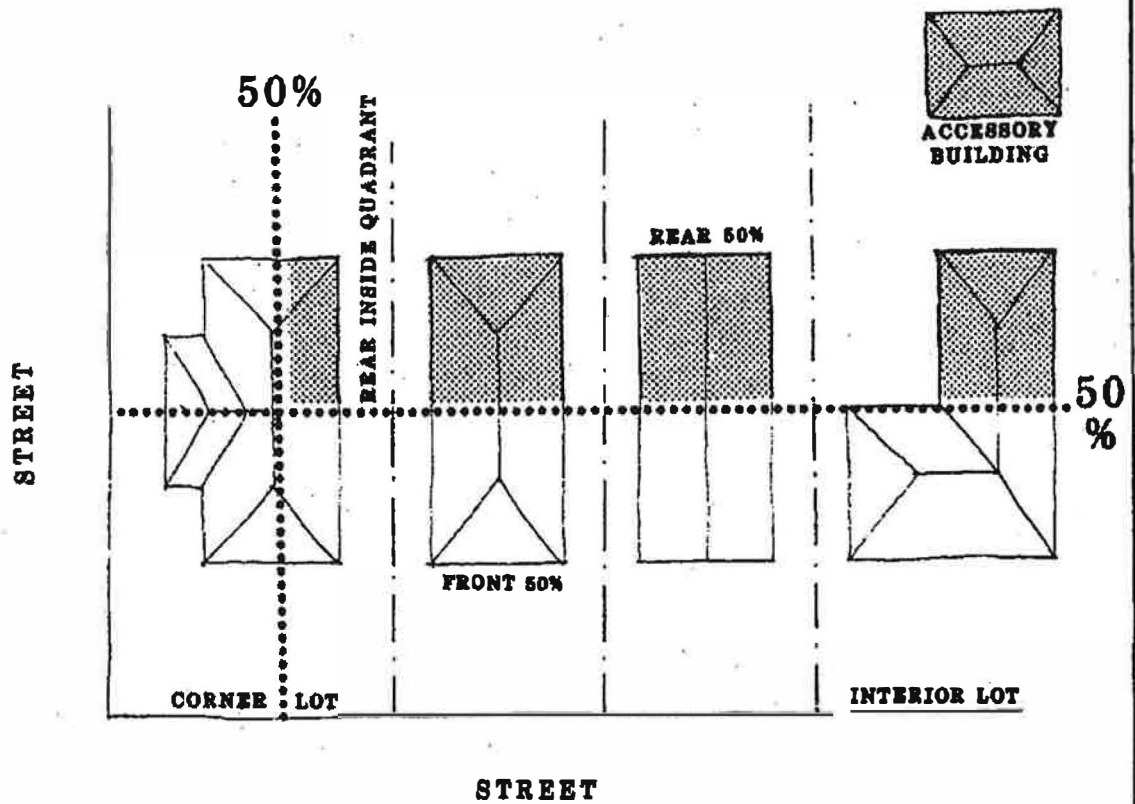
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SECTION 14(a)(7) and (14)

**EXHIBIT 63B
PAGE 5 OF 8**



64

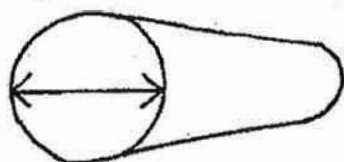
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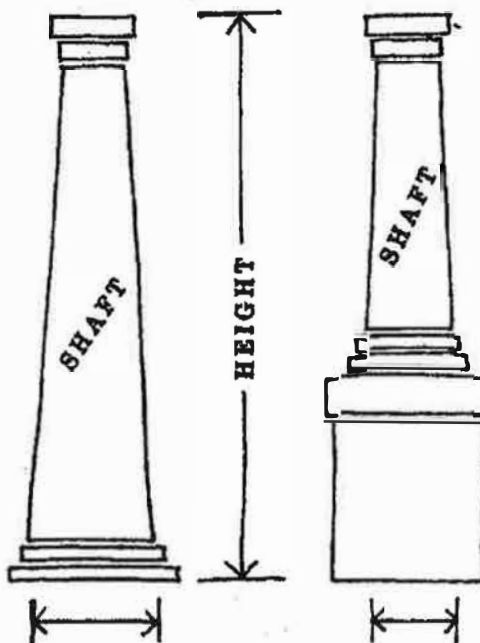
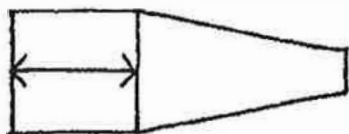
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EXHIBIT 63B

PAGE 6 OF 8



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WIDTH OF SHAFT

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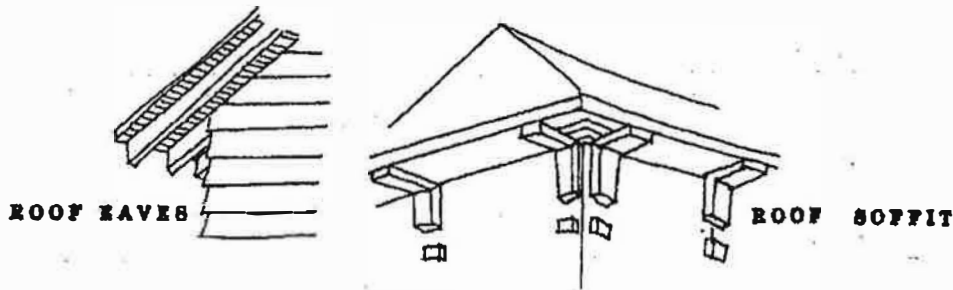
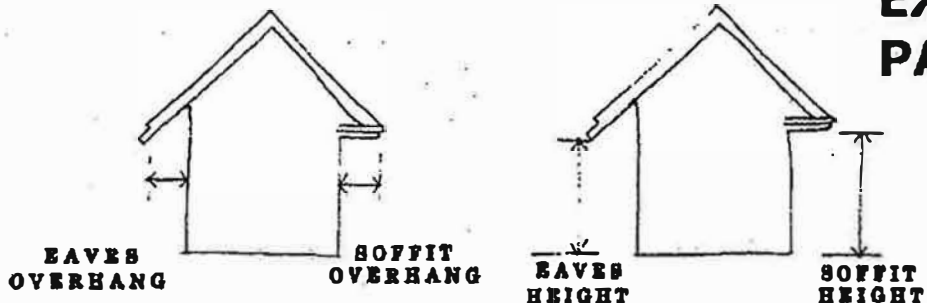
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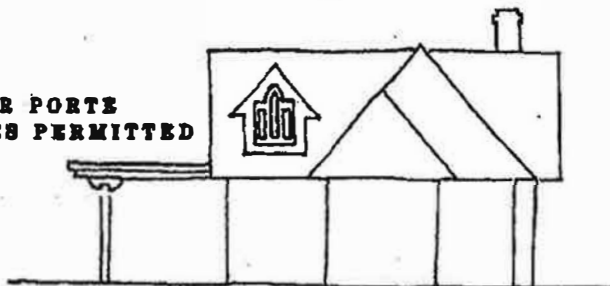
SECTION 14(a)(14)

850353

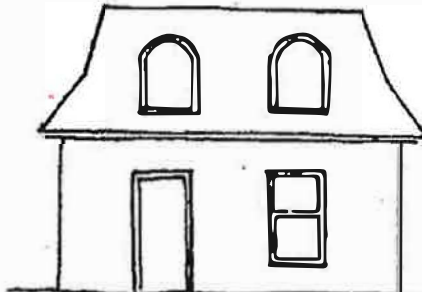
EXHIBIT 63B
PAGE 7 OF 8



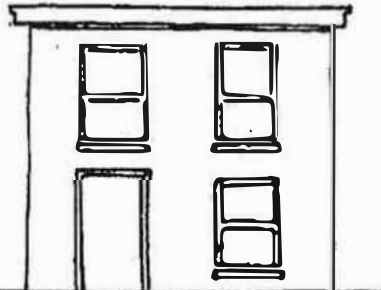
FLAT ROOFS OVER PORTE
COCHERES AND PORCHES PERMITTED



MANSARD ROOFS NOT PERMITTED
ON MAIN BUILDINGS



FLAT ROOFS NOT PERMITTED
ON MAIN BUILDINGS



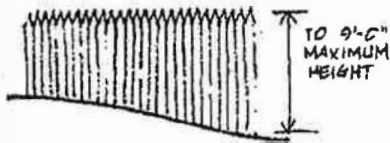
18563

061388

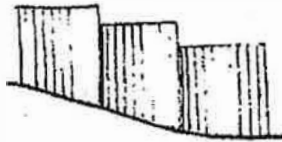
SECTION 14(b)(2)

850353

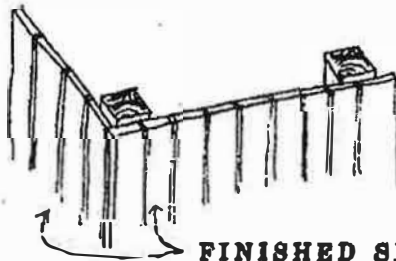
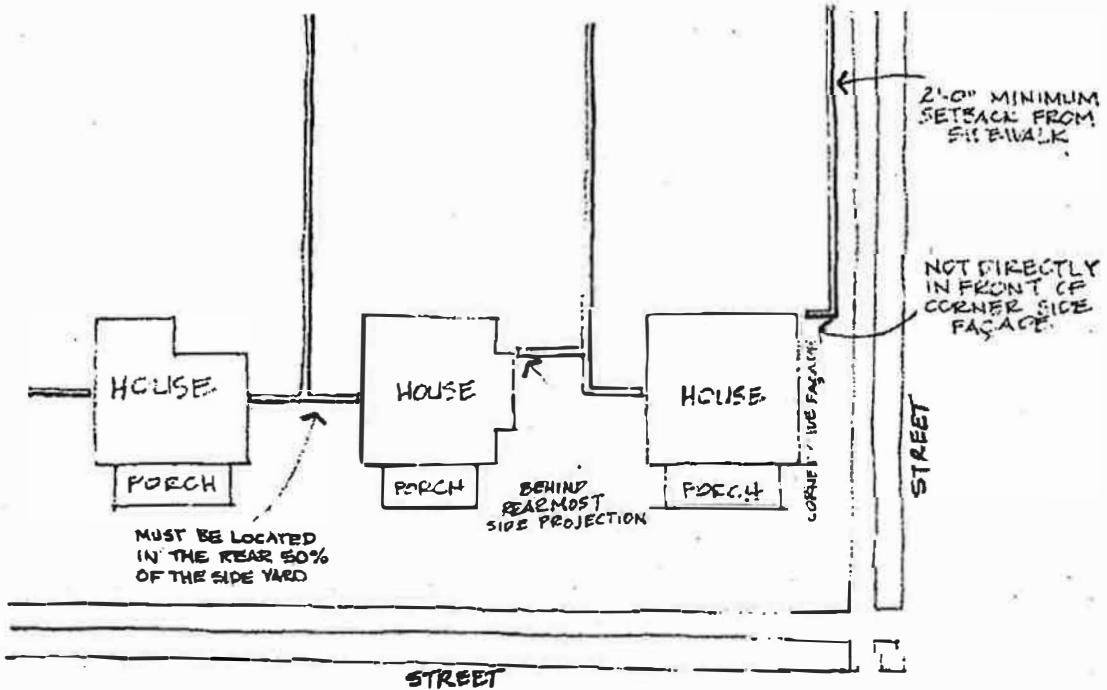
EXHIBIT 63B FENCING 208340
PAGE 8 OF 8



HORIZONTAL



PARALLEL TO GRADE



26340

061388

EXHIBIT 63C

Color and color scheme shall be evaluated according to the Munsell Book of Color Systems (Neighboring Hues Edition – 1973).

The Munsell color ranges or their equivalents in Value (V) and Chroma (C) for primary or body trim or accent on structures permitted under RMR are:

Body: 9 through 6V/1 through 4C

Body: 9 through 3V/1 through 6C

Hue symbols 2.5 - 10 for: R (Red) G (Green) B (Blue)
Y (Yellow) YR (Yellow-Red) GY (Green-Yellow)

Neutral gray and absolute white may also be permitted. Neutral gray must be equivalent in value to those ranges specified above. Any colors or color schemes that are not within the specified allowable Munsell ranges must be reviewed by the committee and commission and approved or denied based on their appropriateness to and compatibility with the structure, blockface, and this district. The commission and city council shall not approve any colors or color schemes (or their equivalents) that are specifically excluded by the text of this article.

ORDINANCE NO. ^{1/29/85}
18563

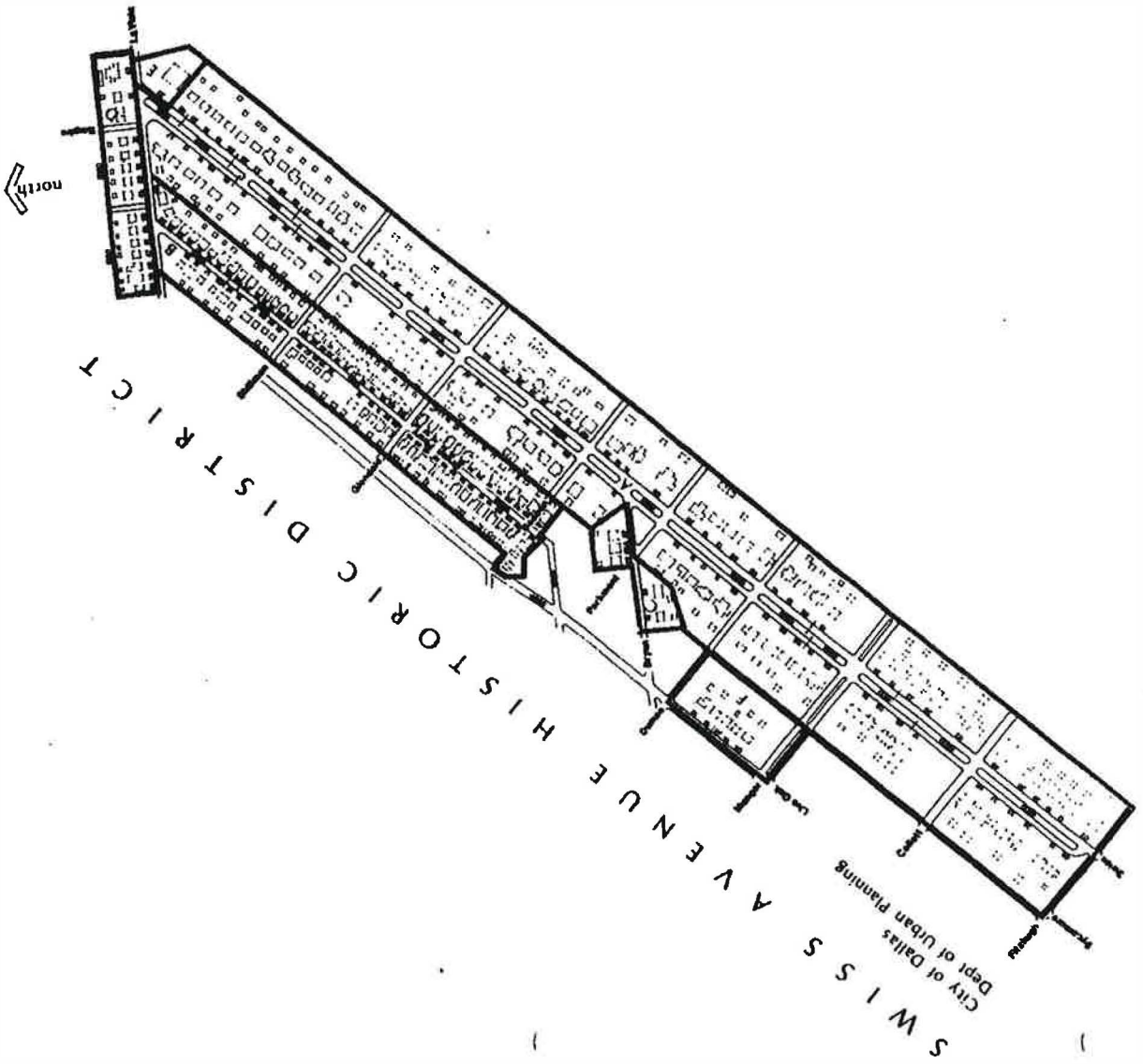
An ordinance amending Ordinance No. 17285 and CHAPTER 51, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; amending and establishing procedures and regulations pertaining to Planned Development District No. 63/Historic Subdistrict (the Swiss Avenue Historic District); repealing Sections 2, 4, and 6 of Ordinance No. 17285; providing a penalty not to exceed \$1,000; 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 provisions of the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding the rezoning of the property described in Ordinance No. 17285, known as the Swiss Avenue Historic District; and

WHEREAS, the city council finds that it is in the public interest to revise certain procedures and regulations pertaining to that district; Now, Therefore,

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

SECTION 1. Table of contents. The following table of contents is provided for use with this ordinance:



SECTION 7

Correspondence

- Notice of July 1, 2019 Landmark Hearing
- Notice of application denied without prejudice
- Request to Appeal from applicant
- Appeal Procedures

June 25, 2019

James Harrington
4902 Swiss Ave,
Dallas, TX 75214

**RE: Review of your Certificate of Appropriateness Application
4902 SWISS AVE
Item Number: CA189-579(MLP)**

Dear: James Harrington

The Landmark Commission will discuss your Certificate of Appropriateness application.

**What: Review of your Certificate of Appropriateness.
When: Monday, July 1, 2019 at: 1:00 P.M., during the public hearing.
Where: Dallas City Hall, 1500 Marilla Street, Council Chambers**

The requests and recommendations are:

- 1) Install new 8'-0" wood fence in front cornerside yard. Work completed without Certificate of Appropriateness.
TF: Deny without Prejudice
Location of fence is not consistent with ordinance, reference 64.116(2) and exhibit 8 of 8.
Staff: Deny without Prejudice
The completed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with the preservation criteria Section 51P-63.116(2)(B)(cc) that prohibits fencing in front of a cornerside facade.
 - 2) Plant five Christmas Jewel Holly trees in front cornerside yard.
TF: Deny without Prejudice
Task force did not review this request separately.
Staff: Deny without Prejudice
The proposed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(ii) on the basis that the proposed work will have an adverse effect on the historic overlay district.
- You will be given an opportunity to discuss your application during the 1:00 P.M. public hearing.
 - Prior to the 1:00 P.M. public hearing, there will be a staff briefing, which includes a description of your application that starts at 11:00 A.M., the same day,

SES

LCR0072


James Harrington
4902 Swiss Ave,
Dallas, TX 75214

JLU.

THESE RECOMMENDATIONS ARE NOT FINAL

Please do not start work until you receive a final written notice from our office.

The Landmark Commission considers these recommendations and welcomes your attendance and input. If you have any questions, please contact me by email at melissa.parent@dallascityhall.com. Thank you for your cooperation.



For

Melissa Parent

July 8, 2019

James Harrington
4902 Swiss Ave,
Dallas, TX 75214

**RE: CA189-579(MLP)
REVIEW OF YOUR CERTIFICATE OF APPROPRIATENESS APPLICATION
4902 SWISS AVE**

Dear James Harrington:

Enclosed is a copy of the Certificate of Appropriateness (CA) application that you submitted for review by the Landmark Commission on July 1, 2019.

Please see the enclosed Certificate of Appropriateness for Details.

PLEASE NOTE: You have the right to appeal this decision within 30 days from the Landmar Commission review date. The enclosed ordinance lists the fee schedule for appeals. Also enclosed is an application for appeal which is due in our office by 5:00 P.M on July 31, 2019 For information regarding the appeals process, please call Elaine Hill at 214-670-4206.

Encl. Application for Appeal
Ordinance No. 19455

If you have any questions, please contact me by email at melissa.parent@dallascityhall.com.



Melissa Parent

Certificate of Appropriateness

July 1, 2019

Standard	July 1, 2019	PLANNER:	Melissa Parent
FILE NUMBER:	CA189-579(MLP)	DATE FILED:	June 6, 2019
LOCATION:	4902 SWISS AVE	DISTRICT:	Swiss Avenue Historic District
COUNCIL DISTRICT:	14	MAPSCO:	46-B
ZONING:	PD-63	CENSUS TRACT:	0014.00

APPLICANT: James Harrington
REPRESENTATIVE:
OWNER: HARRINGTON JAMES E &

The Landmark Commission decision is: Denied without Prejudice

Information regarding requests:

1) Install new 8'-0" wood fence in front cornerside yard. Work completed without Certificate of Appropriateness.
 Deny without Prejudice
 Conditions: The completed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(i) because it is inconsistent with the preservation criteria Section 51P-63.116(2)(B)(cc) that prohibits fencing in front of a cornerside facade.

2) Plant five Christmas Jewel Holly trees in front cornerside yard.
 Deny without Prejudice
 Conditions: The proposed work does not meet the standards in City Code Section 51A-4.501(g)(6)(C)(ii) on the basis that the proposed work will have an adverse effect on the historic overlay district.



Landmark Commission Chair

July 1, 2019

Date

Please take any signed drawings to Building Inspection for permits.

LCR0075

APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is July 31, 2019

Director, Development Services Department
Dallas City Hall
1500 Marilla St., RM 5/B/N
Dallas Texas 75201
Telephone 214-670-4209

Office Use Only
Date Received

Landmark Case/File No.: CA189-579(MLP)

Property Address: 4902 SWISS AVE

Date of Landmark Commission Action: July 1, 2019

Applicant's Name: JAMES HARRINGTON

Applicant's Mailing Address: 4902 SWISS AVE.

City: DALLAS State: TX Zip: 75214

Applicant's Phone Number: 214-824-9324 Fax: 214-824-9325

Applicant's Email: jharrington@harrington-eng.com

IF DIFFERENT FROM ABOVE, PROVIDE PROPERTY OWNER'S INFORMATION.

Owner's Name: SAME AS ABOVE

Owner's Mailing Address: _____

City: _____ State: _____ Zip: _____

Owner's Phone Number: _____ Fax: _____

Owner's Email: _____

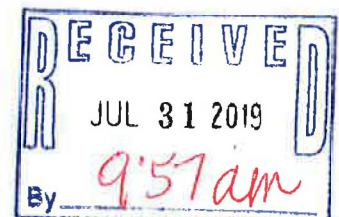
Applicant's Signature _____

Date _____

James E. Harrington 7/31/19
Owner's Signature (if individual) Date
or Letter of Authorization (from corporation/partnership)

Fee for Single Family use/structure: **\$300.00**

Fee for any other use/structure: **\$700.00**



LCR0076

**PROCEDURE FOR APPEAL OF
CERTIFICATES OF APPROPRIATENESS
TO THE CITY PLAN COMMISSION**

(Revised April 2014)

1. Postponements.

- a. The City Plan Commission may grant a postponement if it wishes.
- b. Dallas Development Code §51A-4.701(e), regarding postponement of zoning applications by the applicant, does not apply.

2. Content of the record.

- a. Copies of the complete record will be distributed by staff to the City Plan Commission two weeks before the scheduled hearing.
- b. The parties may request that the record be supplemented.

3. Additional correspondence and briefs.

- a. Additional correspondence or briefs, if any are desired to be submitted by the parties, should be provided to the planning staff for distribution to the City Plan Commission.
- b. The parties should provide each other with copies of any information they submit to the City Plan Commission.
- c. Interested parties should not make any contacts with commission members other than those submitted through the city staff.

4. Representation of the Landmark Commission.

- a. The Landmark Commission will be represented by Laura Morrison.

5. Order of the hearing.

- a. Each side will receive 20 minutes (exclusive of questions from the City Plan Commission) with 5 minutes for rebuttal by appellant.
- b. Order of the hearing.
 - (1) Preliminary matters.
 - (A) Introduction by the Chair
 - (2) Appellant's case (20 minutes). *
 - (A) Presentation by the appellant's representative.
 - (B) Questions from Commission Members.
 - (3) Landmark Commission's case (20 minutes). *
 - (A) Presentation by the Landmark Commission's representative.
 - (B) Questions from Commission Members.
 - (4) Rebuttal/closing by the appellant's representative (5 minutes).
 - (5) Decision by the City Plan Commission. **

* If a party requires additional time to present its case, including testimony and evidence concerning the previous recommendations and actions of the city staff and the Landmark Commission and its task forces, the party shall request that additional time be granted by the City Plan Commission. If the Commission grants one party additional time, the opposing party shall also be granted a similar time extension.

** In considering the appeal, the City Plan Commission shall hear and consider testimony and evidence concerning the previous recommendations and actions of the city staff and the Landmark Commission and its task forces.

6. Introduction of new evidence at the hearing.

- a. The City Plan Commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the Landmark Commission to determine whether that testimony or evidence was available at the Landmark Commission hearing.
- b. If the City Plan Commission determines that new testimony or evidence exists that was not available at the Landmark Commission hearing, the City Plan Commission shall remand the case back to the Landmark Commission.
- c. The party attempting to introduce new evidence bears the burden of showing that the evidence was not available at the time of the Landmark Commission's hearing.
- d. Newly presented evidence is subject to objection and cross examination by the opposing party.

7. Remedies of the City Plan Commission.

- a. The City Plan Commission may reverse or affirm, in whole or in part, or modify the decision of the Landmark Commission.
- b. The City Plan Commission shall give deference to the Landmark Commission decision and may not substitute its judgment for the Landmark Commission's judgment. The City Plan Commission shall affirm the Landmark Commission decision unless it finds that it:
 - (1) violates a statutory or ordinance provision;
 - (2) exceeds the Landmark Commission's authority; or
 - (3) was not reasonably supported by substantial evidence considering the evidence in the record.
- c. The City Plan Commission may remand a case back to the Landmark Commission for further proceedings.

TRANSCRIPTION OF EXCERPT OF AUDIO RECORDING

LANDMARK COMMISSION PUBLIC HEARING

CITY OF DALLAS, TEXAS

CASE CA189-579 (MLP)

4902 SWISS AVENUE

SWISS AVENUE HISTORIC DISTRICT

DATE OF HEARING: JULY 1, 2019

DATE OF TRANSCRIPTION: AUGUST 27, 2019

1 T R A N S C R I P T I O N

2 UNKNOWN SPEAKER: D-7.

3 UNKNOWN SPEAKER: Discussion Item No. 7,
4 4902 Swiss Avenue, CA189-579 (MLP), request No. 1,
5 install new eight-foot wood fence in front corner side
6 yard were completed without certificate of
7 appropriateness.

8 Request No. 2, plant five Christmas jewel
9 holly trees in front corner side yard.

10 Staff recommendation, item No. 1, deny
11 without prejudice. The completed work does not meet the
12 standards in City Code section 51A-4.501(g) 60, romanette
13 i, because it is inconsistent with the preservation
14 criteria, section 51P-63.116-2(b) 4cc that prohibits
15 fencing in front of a corner side facade.

16 Item No. 2, deny without prejudice. The
17 proposed work does not meet the standards in City Code
18 51A-4.501(g) 60, romanette ii, on the basis that the
19 proposed work will have an adverse effect on the
20 historical overlay district.

21 Task force recommendation, item No. 1, deny
22 without prejudice. Location of fence is not consistent
23 with ordinance, reference 64.116 (2) and Exhibit 8 of 8.

24 No. 2, deny without prejudice, task force
25 did not review this request separately.

1 UNKNOWN SPEAKER: Thank you.

2 Mr. Harrington, your name and address, please.

3 MR. HARRINGTON: James Harrington, 4902
4 Swiss Avenue in Dallas, 75214. Can we restart the
5 clock, please, it's at 13-something. Thank you.

6 UNKNOWN SPEAKER: Do you have a presentation
7 for us or are you just open for questions?

8 MR. HARRINGTON: Yes, ma'am. My wife,
9 Jeannie, my wife of 35 years this September, she and I
10 are coming before you today to make this request. And
11 what we're requesting of you is that you grant an
12 exception to the -- where the fence is allowed to be on
13 the side yard, the return fence on the side yard.

14 And we're asking that you do this based on
15 security and privacy reasons. Now, I believe you have
16 the discretionary authority to grant this exception,
17 which is very reasonable, based on section
18 51P-63.116(2)B44, cc, paragraphs 1 and 1.

19 Those are lists -- that section is actually
20 listed on D7-12 at the top. And it says that the
21 Commission may allow a fence that is directly in front
22 of all or any portion of the rear 50 percent of the
23 corner facade, if; one, more screening is necessary to
24 ensure privacy due to unusually high pedestrian or
25 vehicular traffic; and, two, the fence does not screen

1 any -- all or any portion of the significant -- of a
2 significant architectural feature of the main building.

3 I would suggest to you that this property
4 has very unique pedestrian traffic, which I'll explain
5 in a minute, and a very high volume of vehicular
6 traffic.

7 Now, one of the reasons I believe this is a
8 very reasonable request is because our lot sides onto
9 Fitzhugh. The lot across the street sides on Fitzhugh.
10 These two properties, I'm of the opinion, need to have a
11 little bit of an understanding that we face a unique
12 situation that the other members of Swiss Avenue do not.

13 They don't side on Fitzhugh. They don't
14 have to deal with all the pedestrian traffic and all the
15 vehicular traffic.

16 Basically, to give you an idea of some of
17 the pedestrian traffic, I'd like to share some of our
18 experiences over the last 18 years. Those two windows
19 that we're enclosing, we've had rocks thrown through
20 those windows.

21 Those windows go to our dining room, our
22 main dining room is inside those two windows. And we've
23 never been able to open those blinds or open even the
24 windows when we're having dinner or guests over or
25 family over because of the people that are on Fitzhugh.

1 There's just no privacy there whatsoever
2 without the fence being in place. Several years ago,
3 there was a shooting right there on Fitzhugh outside
4 those two windows, five people involved. Witnessed it
5 myself, I was upstairs, looked out the window, saw some
6 of the guys running across our front yard.

7 The street was shut down for most of the
8 next day where they were collecting the bullet casings
9 and evidence from the shooting. Someone was shot. An
10 ambulance showed up, took him away.

11 I've had to run very aggressive people out
12 of my backyard before from -- that had entered from the
13 driveway or was about to enter from the driveway off of
14 Fitzhugh. Now, I have a concealed carry license and
15 both times I had to use my weapon basically to scare
16 them off.

17 The first time I didn't have to pull my
18 weapon. The first week of April after I told the guy to
19 stop and let him see that I was holding my weapon, he
20 kept coming. I pulled my weapon, told him you need to
21 stop. He didn't stop.

22 I held it up to make sure the flood light
23 was on it and real aggressively told him he needed to
24 stop and finally he stopped. Now, that was not a fun
25 experience for me. I'm really glad it didn't happen to

1 my wife because she doesn't have a weapon.

2 The other guy that I had to run off I didn't
3 have to pull my weapon, but he was all the way in the
4 yard looking at the items that we have between our
5 garage and our fence. I came out the back door and just
6 told him, you need to leave.

7 He turned around, gave me a go-to-hell look,
8 stuck his chest out at me, didn't say anything. I
9 interpreted that as (indiscernible). So I moved around
10 to where he could see my hand on my weapon. At that
11 point he decided he would leave.

12 So that gives you a little bit of an idea,
13 but let me continue. There's prostitutes that work that
14 street on a regular basis. When we first moved on to
15 Swiss, there was a prostitute stabbed in the alley. But
16 most recently, back in April, when I took my trash cans
17 out one night, there was a prostitute working the
18 sidewalk where it intersects with the alley behind our
19 house.

20 UNKNOWN SPEAKER: Technically, your time is
21 up, but if you have anything you want to say here at the
22 end.

23 MR. HARRINGTON: I don't think there's
24 anyone else speaking. May I have the next five minutes,
25 please? I'll be through within the next five minutes.

1 Thank you.

2 We've had several of the windows shot out on
3 that side of the house. The two -- as you're looking at
4 that picture -- the two on the top front have been shot
5 out and right now there's a bullet hole in the top
6 window on the left. You can drive by there this evening
7 and look at it if you'd like to.

8 Last summer had a man come off of Fitzhugh,
9 come on to our porch, crawl into our bushes. When I
10 confronted him, he ran across the street and tried to
11 get into our neighbor's house. The door was locked. He
12 went to the next house and tried to get in.

13 I called 911. I followed him for the next
14 45 minutes on the phone with 911 in my car. He tried to
15 get in almost every house on Griggsby. Finally, after
16 45 minutes, the police got there and arrested him, but
17 it took 45 minutes.

18 As far as the suggestions about the
19 landscaping and the cameras, the cameras also do
20 nothing. I've had to run people out of my yard with my
21 weapon. I don't think a camera is going to stop anyone
22 of that nature.

23 And the landscaping, well, there used to be
24 some large bushes in that area. And basically the
25 homeless people would sleep under them. I can't tell

1 you how many sleeping bags and blankets and beer cans
2 and beer bottles and wine bottles and whiskey bottles
3 we've cleaned out from underneath those bushes.

4 And they would lean up against the house
5 right underneath those two windows. So I ask that you
6 please remember that the City of Dallas is a thousand
7 police officers short right now.

8 Mrs. Harrington wasn't feeling well today so
9 she wasn't able to come today, but she did ask me to let
10 you-all know that over the past couple of months as
11 we've been dealing with this with those two windows
12 secure, that her degree of stress that she experiences
13 being concerned about those windows being exposed to
14 Fitzhugh has gone way down. There's a noticeable
15 difference. So she asked me to express that to you.

16 So in summary, we're respectfully requesting
17 that this Landmark Commission grant this very reasonable
18 exception based upon the serious security and privacy
19 concerns my wife and I have to deal with.

20 I personally am asking this Commission to
21 place my wife and my six-year-old grandson who stays
22 with us the majority of the time, their health, safety,
23 and welfare ahead of a couple of words written on a
24 piece of paper.

25 I please ask you to exercise your

1 discretionary authority that you have to grant this
2 exception because there is more screen that is necessary
3 to ensure privacy and I would add security due to the
4 unusually high pedestrian and vehicular traffic on
5 Fitzhugh.

6 The fence does not screen all or any portion
7 of a significant architectural feature of the main
8 building and a reasonable sense of safety and privacy
9 should be the right of every tax paying homeowner in the
10 City of Dallas.

11 And a home should be a safe haven and you
12 can help me make our home a safe haven by granting this
13 exception. Thank you for your time today. I'd be glad
14 to try and answer any questions.

15 UNKNOWN SPEAKER: Thank you, Mr. Harrington.
16 Commissioner Montgomery.

17 COMMISSIONER MONTGOMERY: Hello,
18 Mr. Harrington. I actually live only about four blocks
19 down from you in the Peaks part of Swiss. I've lived
20 there 21 years and I fully understand that you're
21 telling the truth about the many exciting interventions
22 you've had with some of the traffic around our
23 neighborhood though I have noticed it to be getting much
24 better in the most recent time and perhaps that's
25 because I don't live on such a busy cross street. I

1 live in a tiny cross street.

2 But I do have a question for you about the
3 process by which we got to this point and I just have to
4 know because I did see them working on your fence as I
5 was walking past your house and pulled up the
6 certificate of appropriateness for which you had applied
7 on that day.

8 And it did show that you were just going to
9 replace the fence you had in the place it was. And tell
10 me if I'm wrong about this, but you had applied to
11 replace the fence you had and then you just decided to
12 put the fence forward.

13 Did staff hear about your preference for
14 doing that? Did they give you permission to do that?

15 MR. HARRINGTON: The contractor that we
16 hired to do the fence handled the permitting and I
17 clearly let him know where we wanted to put the fence.
18 I didn't check the permit when he came back and
19 literally the posts in that portion of the fence went up
20 the day we got the permit.

21 So I had asked him to include in the
22 application placing the fence up at the front of the
23 house and that didn't happen.

24 COMMISSIONER MONTGOMERY: May I ask staff if
25 that is what the applicant --

1 UNKNOWN SPEAKER: He asked specifically for
2 just a replacement and the site plan that he gave me was
3 showing just the outline of where the previous fence was
4 located. That was all that was going to be replaced,
5 which is why it was allowed to give it as a routine CA
6 because it was just a replacement of what was already
7 there and what had already been approved.

8 Otherwise, I would have had to bring it to
9 the Landmark Commission if I had known that you had
10 requested all the way to the front. But I think that
11 your contractor, I don't know if it was a
12 miscommunication between you or between me, but that is
13 not what he stated to me when he submitted the CA.

14 MR. HARRINGTON: I understand and after the
15 issue came up, I looked at the permit and I agree, you
16 granted where the fence is. So the fence where it is
17 now is in violation, that's very obvious. But we're
18 asking you to grant an exception to keep it where it is.

19 COMMISSIONER MONTGOMERY: I felt it was very
20 important because people sometimes get themselves into
21 this position where they've done something without
22 permission and then we're never quite sure what to do
23 about that because it seems wrong to impose upon them
24 the burden of removing something they've already built
25 even though they kind of weren't following the law when

1 they did that because it's not just words on a paper.

2 It's an actual law that was passed and it
3 governs our lives and I live within an historic district
4 so I live with it too. But the good news is I would
5 argue that in your case there is not a character
6 defining feature on that corner that you wanted to cover
7 up, but it's just so far forward right there on the
8 corner where the entry gate to the famous Swiss Avenue
9 Historic District is.

10 So since I've asked someone else this once
11 already today, would you be amenable to a more open
12 fence in that forward portion which would not prevent
13 the bullets, but this fence won't prevent bullets
14 either. It might kind of skew them or something. But
15 it would keep people out from there.

16 MR. HARRINGTON: No. I wanted to move ahead
17 with the request the way it is.

18 COMMISSIONER MONTGOMERY: Okay. Thank you.

19 UNKNOWN SPEAKER: Commissioner Sherman.

20 COMMISSIONER SHERMAN: I'm not trying to
21 shift the conversation. I understand everything you've
22 said about the fence and I don't think I need more
23 information there.

24 I had a quick question about the landscaping
25 materials, the hollies, I can't tell where they are.

1 I've looked at all the pictures. I don't know. They're
2 in question 2 so I'm trying to understand where they
3 are.

4 MR. HARRINGTON: If you look on sheet D7-8
5 where we were proposing to put them was in front of the
6 fence where it is right now, the five circles, and it
7 points to it, five 15-gallon Christmas jewel holly
8 trees. They haven't been planted yet.

9 COMMISSIONER SHERMAN: Oh, I see it now,
10 thank you.

11 UNKNOWN SPEAKER: Mr. Harrington, I have a
12 question. On the landscape material that you're
13 proposing in front of the fence, it does seem that five
14 might be a little excessive and that the growth might
15 overcome the area in which they're supposed to be, which
16 would be up against the fence. So I'm wondering if you
17 might consider fewer than five.

18 And then my second part of the question is
19 did you choose this because you wanted something that
20 would grow all the way to the ground to keep people from
21 sleeping under it? Is that your choice?

22 MR. HARRINGTON: The purpose, first of all,
23 yes, we would consider fewer. We were thinking five
24 would help screen the fence, make it more aesthetically
25 pleasing. And what was the second part of the question?

1 UNKNOWN SPEAKER: Well, you mentioned that
2 you had interlopers sleeping underneath so I was
3 wondering if that was the reason you chose Christmas
4 jewel holly because it grows to the ground.

5 MR. HARRINGTON: They are prickly and we
6 don't want people sleeping under them.

7 UNKNOWN SPEAKER: So it's an added
8 deterrent. Thank you. Commissioner Hinojosa.

9 COMMISSIONER HINOJOSA: I have a concern,
10 while you made a very credible argument for your
11 fencing, my concern is that we just rejected another
12 applicant with a request to also do similar things with
13 their fence. I'm mixed up on that.

14 MR. HARRINGTON: May I say something?

15 UNKNOWN SPEAKER: Yes, you may.

16 MR. HARRINGTON: I believe that was an
17 interior lot. They weren't dealing with the pedestrian
18 traffic right next to their house and those windows.
19 And it's also a different historic district that had
20 slightly different wordings. The regulations over this
21 gives you-all the specific authority to grant this if
22 more screening is necessary because of a unique
23 situation.

24 And I would submit to you this is a unique
25 situation because of the criminal traffic, pedestrian

1 traffic that's on the sidewalk.

2 UNKNOWN SPEAKER: Thank you, Mr. Harrington.
3 Commissioner Montgomery.

4 COMMISSIONER MONTGOMERY: I believe that
5 earlier incident was also on a corner. That was part of
6 their reason for wanting it and part of our reason for
7 not wanting it. So it was a similar corner situation
8 that Commissioner Hinojosa is referring.

9 If there are no other questions, I'm ready
10 to make a motion.

11 UNKNOWN SPEAKER: Thank you, Commissioner.

12 COMMISSIONER MONTGOMERY: No other
13 questions? In the matter of 4902 Swiss Avenue, Swiss
14 Avenue Historic District, CA189-579 (MLP), I move that we
15 deny without prejudice on both requests according to
16 staff recommendations and for the reasons enumerated in
17 the staff recommendations.

18 I encourage the applicant to work with staff
19 for a compromise possibility that might be brought
20 before us at a future time which could involve prickly
21 hollies and see-through fencing. But right now I move
22 this way.

23 UNKNOWN SPEAKER: Do we have a second?
24 Thank you, Commissioner De Le Harpe and Commissioner
25 Montgomery.

1 Do we have any discussion? Well, I -- oh,
2 Commissioner Hinojosa.

3 COMMISSIONER HINOJOSA: Can I ask him a
4 question? Can I ask the applicant a question?

5 UNKNOWN SPEAKER: Yes.

6 COMMISSIONER HINOJOSA: Okay. The fence
7 that you had before, did it go all the way up like this
8 one does?

9 MR. HARRINGTON: No, ma'am. If you look on
10 sheet D7-9, it shows where it was before, behind the two
11 windows.

12 COMMISSIONER HINOJOSA: And the contractor
13 that you hired, you were going to go up to the --

14 MR. HARRINGTON: I let him know we wanted to
15 go up in the front window and that was not added to the
16 application that he made.

17 COMMISSIONER HINOJOSA: So the contractor
18 erred and he or she could be brought back, since it was
19 their fault, to fix it the way it was before. Oh, you
20 told them to go to the very front, the way it is now?

21 MR. HARRINGTON: I asked him to apply for
22 the permit with the fence up at the front. I didn't
23 follow up to make sure that he did that. They just,
24 here's the permit and they put that section of the fence
25 in.

1 UNKNOWN SPEAKER: Do we have any other
2 discussion? If not, we'll call for a vote. And as a
3 reminder the motion is to deny without prejudice,
4 according to staff recommendations.

5 All those in favor? Opposed? Commissioner
6 Payton opposed, and the motion carries.

7 So Mr. Harrington, you have -- if you would
8 like to return with a new application since you were
9 denied without prejudice, you need to do that if you
10 want to make it on the next docket by Wednesday at noon,
11 July 3rd, because of the July 4th holiday.

12 And then also you have the option to appeal
13 our decision to the City Planning Commission within
14 30 days for a fee if you believe our vote was in error.

15 MR. HARRINGTON: Thank you for your time.

16 (End of audio file.)

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1 STATE OF TEXAS)

2 COUNTY OF DALLAS)

3 I, Leslie McDonald Wilkins, Registered Professional
4 Reporter No. 029319, certify that the foregoing
5 proceeding was transcribed from an audio recording and
6 that it was transcribed to the best of my ability.

7 GIVEN UNDER MY HAND on this the 27th day of August,
8 2019.

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