

PUBLIC NOTICE

**City of Lockhart
Historical Preservation Commission
5:30 p.m. Wednesday, February 1, 2023
Municipal Building – Glosserman Room
308 West San Antonio Street**

AGENDA

1. Call meeting to order.
2. Citizen comments not related to an agenda item.
3. Consider the minutes of the January 4, 2023 meeting.
4. CFA-23-03. Consider a request by Jim and Amelia Smith of Jack Pearce LLC for approval of a Certificate for Alteration for new construction, consisting of a proposed three-level building, on Lots 1 and 2, Jack Pearce Subdivision, zoned CCB (Commercial Central Business District) and located at 120 and 124 East Market Street.
5. Discuss the date and agenda of the next meeting, including Commission requests for agenda items.
6. Adjournment.

Posted on the bulletin board in the Municipal Building, 308 West San Antonio Street, Lockhart, Texas at 1:15 p.m. on the 24th day of January, 2023.

**City of Lockhart
Historical Preservation Commission
January 4, 2023**

MINUTES

Members Present: Christine Ohlendorf, Ronda Reagan, Michel Royal, John Lairsen, Ron Faulstich, Ray Ramsey, Kevin Thuerwaechter

Members Absent: None

Staff Present: Kevin Waller and David Fowler

Public Present: Jamie Cottage (applicant, Agenda Item 4) and Dana Garrett (applicant, Agenda Item 5)

1. Call meeting to order. Chairwoman Reagan called the meeting to order at 5:32 p.m.
2. Elect Chairman and Vice-Chair for 2023.

Commissioner Faulstich moved to nominate Vice-Chairman Lairsen for Chairman, and Chairwoman Reagan for Vice-Chairman. Commissioner Thuerwaechter seconded, and the motion passed by a vote of 6-0.

3. Citizen comments not related to an agenda item. None
4. CFA-23-01. Consider a request by Jamie Cottage of Cottage Consulting Corp. for approval of a Certificate for Alteration for a projecting wall sign on part of Lot 4, Block 19, Original Town of Lockhart, zoned CCB (Commercial Central Business District) and located at 101 South Main Street.

Planning Staff Kevin Waller provided a brief overview of the proposal via PowerPoint presentation.

There was brief discussion amongst Commissioners and Staff.

Vice-Chair Reagan moved to approve CFA-23-01 as presented. Commissioner Ohlendorf seconded, and the motion passed by a vote of 7-0.

5. CFA-23-02. Consider a request by Dana Garrett of Lockhart Post-Register for approval of a Certificate for Alteration for the replacement of an overhead door with a window, front entrance door, and cedar board siding on parts of Lots 5 and 6, Block 20, Original Town of Lockhart, zoned CCB (Commercial Central Business District) and located at 111 South Church Street.

Mr. Waller provided a summary of the proposal via PowerPoint presentation.

Vice-Chair Reagan asked if the new door would be the building's main entrance.

Applicant Dana Garrett explained that the door would be an additional entrance.

Commissioner Thuerwaechter asked if the cedar board siding would be stained.

Mr. Garrett replied that the siding would have a slight stain, but would have a mostly natural appearance.

Commissioner Faulstich moved to approve CFA-23-02 as presented. Commissioner Ramsey seconded, and the motion passed by a vote of 7-0.

6. Discuss possible amendments to Chapter 60, Article II of the Lockhart Code of Ordinances, to address the pruning and trimming of protected trees.

Mr. Waller explained that Chapter 60 – Vegetation, Article II – Trees could be amended to address the trimming and pruning of protected trees, in lieu of adopting a separate Historic Tree Preservation Ordinance. Such trimming/pruning could be limited only to that authorized by the Building Department. If the Commission is amenable to the idea, Staff will prepare text amendments to the ordinance for consideration at a future meeting, which would then require final approval by the City Council in a public hearing.

The Commission agreed that amending Chapter 60 would be the preferred solution, in lieu of establishing a separate Historic Tree Ordinance, and requested that Staff proceed accordingly.

7. Discuss the date and agenda of the next meeting, including Commission requests for agenda items.

Mr. Waller stated that the next regularly scheduled meeting would be held February 1st, since no applications had been submitted by the deadline for the January 18 meeting.

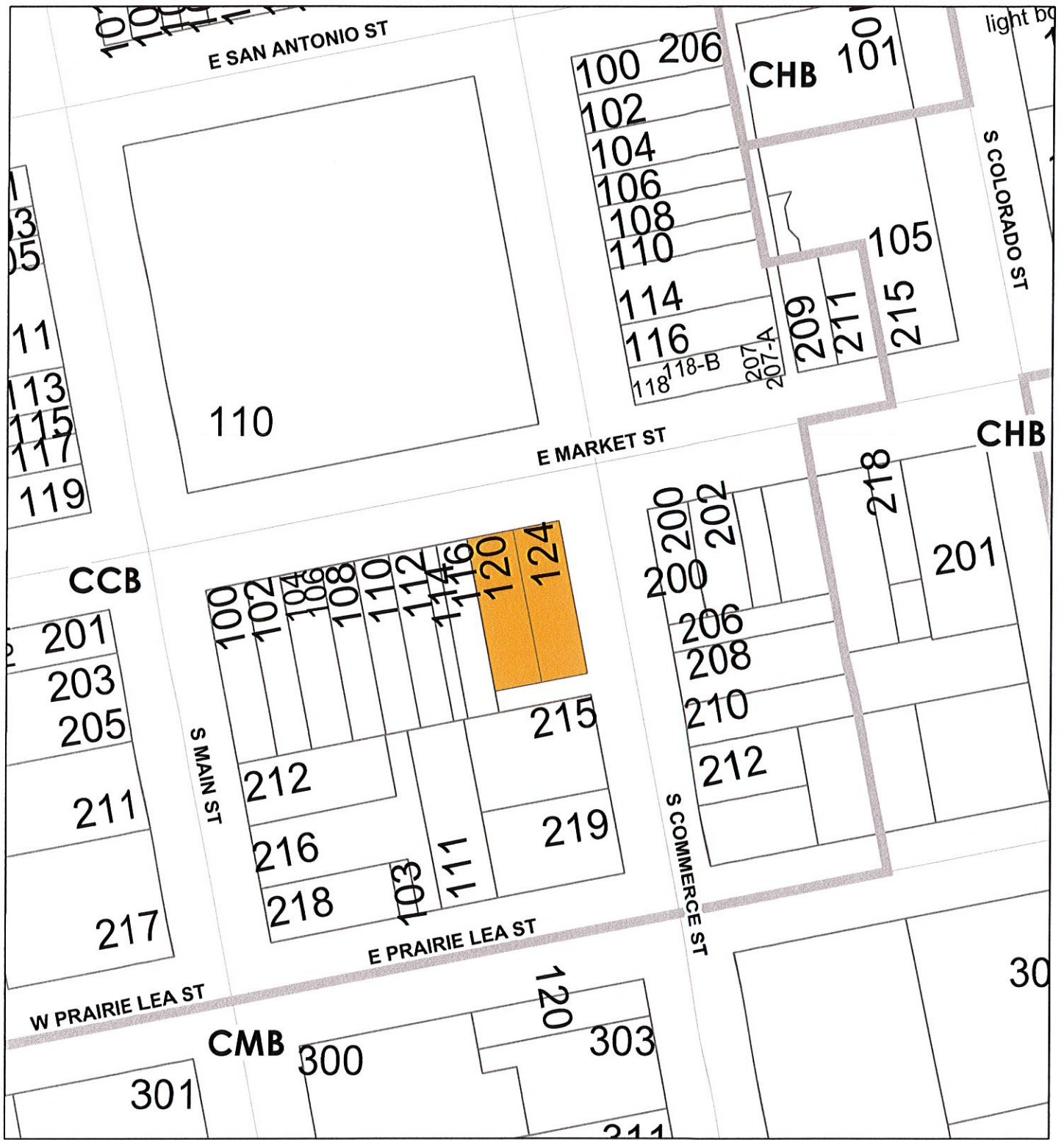
8. Adjournment.

Commissioner Faulstich moved to adjourn the meeting, and Vice-Chair Reagan seconded. The motion passed by a vote of 7-0, and the meeting adjourned at 6:14 p.m.

Approved: _____
(date)

Kevin Waller, Acting Recording Secretary

John Lairsen, Chairman



CFA-23-03

120 and 124 E MARKET ST

NEW CONSTRUCTION
3 LEVEL BUILDING



 Subject Property

 Zoning Boundary

scale 1" = 100'

CASE SUMMARY

STAFF: Kevin Waller, Senior Planner *kw*

CASE NUMBER: CFA-23-03

REPORT DATE: January 25, 2023

MEETING DATE: February 1, 2023

APPLICANT'S REQUEST: New construction of a three-level buildingSTAFF RECOMMENDATION: **Approval**

CONDITIONS: (1) Add an architectural focal point at the top of the building, or other building feature(s) in locations and of a type(s) deemed appropriate by the Commission; and (2) Obtain approval of a Specific Use Permit for a mixed-use building from the Planning and Zoning Commission (see Project Description below).

BACKGROUND DATA

APPLICANT AND OWNER: Jack Pearce, LLC, c/o Jim and Amelia Smith

LEGAL DESCRIPTION AND SITE LOCATION: Lots 1 and 2, Jack Pearce Subdivision (120 and 124 East Market Streets, respectively)

EXISTING USE OF PROPERTY: Temporary outdoor gathering area leased by the City

PROPOSED USE OF PROPERTY: Mixed-use building

ZONING CLASSIFICATION: CCB (Commercial Central Business) Zoning District

ANALYSIS OF ISSUES

PROJECT DESCRIPTION: The applicant proposes to construct a new, 15,600 square-foot, three-level building containing both commercial and residential uses on the only two vacant lots in the Courthouse Square. It should be noted that the mixed-use element of the building will require approval of a Specific Use Permit from the Planning and Zoning Commission, which is a condition of approval. The first story will include four commercial lease spaces, an internal courtyard, and a single-car garage for one of the two third-floor residential units. Three office spaces are proposed on the second story, along with a shared roof patio at the building's southeast corner. Two separate residential units are proposed on the third story with a "sawtooth"-style roof, as well as a roof patio above the second story for the living units and located primarily along the north and east edges of the building. A Zoning Variance was approved by the Zoning Board of Adjustment in June 2021 which allowed for the waiving of the 10-foot minimum required rear-yard setback for the proposed building. According to the applicant, the building will not exceed the 90% lot coverage maximum set forth in Zoning Ordinance Appendix II, which will be verified during the plan review process as part of the Building Permit submission. In addition, the applicant explains in a recent email to Staff that when the property was originally subdivided, a 15-foot-wide alley was dedicated to the City along the south edge of the property. The alley is utilized for trash, access, and deliveries for all buildings along the same block, and also allows for additional parking opportunities for Henry's Restaurant. A memorandum from the City Attorney is enclosed with your packet materials, which outlines the process for approval of the construction of a new building in the City's Historic District. Also enclosed is a pamphlet prepared by the applicant's architect, which provides floor plans, building elevations, exterior siding details, examples of brick and roof shingle patterns typically found in historic districts, and other pertinent information.

COMPATIBILITY: The proposed building will be a substantial addition to the Courthouse Square and Historic District, second in height only to the Brock Building at 101 East San Antonio Street. It will feature three stories and five different siding materials for a multi-textural effect, as detailed in the enclosed pamphlet. The first two stories feature primarily brick exterior siding materials, with cast-stone, painted wood, and aluminum siding as accent materials. Metal panel siding is proposed for the third story. The front and side-street (South Commerce Street) wall facades of the first two stories will be located on the property lines, with the front façade flush with the front facades of the other buildings along the same block. The third story will be set back 13 feet from the first and second stories at the front wall, and set back 9 feet along the side-street wall, as shown on Pages 11, 14, and 15 of the pamphlet. This horizontal relief places the brick portion of the building “front and center”, with the north wall façade more consistent with the architectural style of the other buildings along this block, and the east façade complimentary to the Henry’s Restaurant and Edward Jones building facades. The third story is of a contemporary design, especially considering the sawtooth-style roofline and metal panel siding. However, when considering the overall building, it is Staff’s opinion that the third story design element does not detract from the historical character of the adjacent buildings or downtown Square as a whole. An example of metal siding found downtown includes that at the Simply True Nutrition business, located at 212 South Main Street. In addition, the Ascension-Seton Lockhart Health Center located at 209 South Church Street, although one block west of the Historic District boundary, features multiple siding materials and a recessed second story with rooftop patio, similar to the proposed building on a smaller scale.

COMPLIANCE WITH STANDARDS: Although there are “pre-approved” design guidelines for windows and doors in the Historic Districts and Landmarks Ordinance, none of those guidelines apply to this project. The proposal is subject to approval of this Certificate for Alteration, a Specific Use Permit as discussed above, and the issuance of building permits. It should be noted that although the applicant proposes off-street parking in the form of one parking space for one of the residential units, off-street parking is not required in the CCB Zoning District, according to Appendix II of the Zoning Ordinance.

ALTERNATIVES: The addition of an architectural focal point to the building is recommended as a condition of approval. One example could include arched-shaped features, which are seen throughout the Historic District, including along the same block as the subject property at the Chaparral Coffee and Firewheel Trading Company businesses (106 and 104 East Market Streets, respectively). Another example is creating a peak-type feature at the top center of the second story brickwork along the front façade of the building, similar to those found on the Link Realty building at 110 East Market Street and the former Market Street Deli at 102 East Market Street, both on the same block as the proposed building. Staff is also open to suggestions from the Commission.

NEW CONSTRUCTION

CERTIFICATE FOR ALTERATION APPLICATION

DATE RECEIVED: 1/18/23 DATE APPROVED: _____ CERTIFICATE NUMBER: CFA-23-03

NOTE: An approved Certificate For Alteration (CFA) is required by City Code for all signage, construction, alteration, or modification of property designated as Historic. If such activities will change the architecture, design, finishes or outward appearance of a building, structure, object, site, or area as viewed from the exterior. (Ord.93-19, Sec. 11 and 12). A City Sign Permit and/or City Building Permit may also be required by the City Code.

ONLY FULLY COMPLETED APPLICATIONS WILL BE ACCEPTED

Applicant Jim and Amelia Smith

Property Owner same

Mailing Address 300. S. Commerce Suite A
Lockhart, Texas 78644

Mailing Address 300 S. Commerce Suite A
Lockhart, Texas 78644 ^{LOT 1 & 2} Jack Pearce Subdivision

Telephone 512-787-7907

Telephone 512-787-7907 512-787-5180

Person Doing Work Countywide Builders

Estimated Cost TBD

Property Legal Description 120/124 E Market street

- Lots 1 & 2, Jack Pearce Subdivision

Property Street Address 120/124 E. Market street Lockhart, Texas 78644

Property City Zoning Designations CCB Location Map Attached _____

PHOTOS ARE REQUIRED SHOWING ALL THE AREAS TO BE AFFECTED BY THE WORK DESCRIBED:

include photos of: Area of Work _____ Full Elevation Showing Area Affected and/or Site _____

Description of Proposed Work
Construction of Three level mixed use building
<u>Square Footage = 15,600 (approx.)</u>
<u>1st & 2nd stories - commercial</u>
<u>3rd story - residential</u>
Please - Attach Scope of Work Questionnaire <input type="checkbox"/> Attach Sketches/Illustrations <input type="checkbox"/> Are Detailed Plans Available? <input type="checkbox"/>

REQUIRED SIGNATURES: Before me the undersigned authority, on this day appeared and solemnly swears, that the statements above and attached concerning the above-described property are true and that (s)he is authorized to act as an agent in procuring the certificate requested.

Applicant Signature: [Signature] Date: 1/14/23

Property Owner Signature: [Signature] Date: 1/14/23

Historical Preservation Officer Approval: _____ Date: _____

Historical Preservation Commission: _____ Date: _____

A Certificate For Alteration is valid for a period concurrent with the Building Permit granted for the proposed work, or a period not to exceed 18 months.


CERTIFICATE FOR ALTERATION
SCOPE OF WORK QUESTIONNAIRE

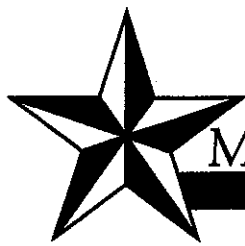
Certificate No. CFA-23-03
Page 2 of ___ Reviewed: KW

The following questions must be answered and the form completed by the applicant for a Certificate For Alteration. This questionnaire shall be attached to any application for Certificate For Alteration. The Lockhart Historical Preservation Officer shall independently verify all information provided on the application and the attached questionnaires. The Lockhart Historical Preservation Officer shall review the application and this questionnaire in an expedient manner and notify the applicant of the outcome of the review. The Lockhart Historical Preservation Officer may approve the Certificate For Alteration prior to a commission hearing, based upon adequacy of the information provided and verification of the scope of work. Additional information may be needed to complete the application and review process. Final review and action on the application for Certificate For Alteration by the Lockhart Historical Preservation Commission at a properly scheduled public hearing may be required. Any required explanations to answers given shall be in writing and attached.

Yes	No	Verified	Scope Of Work Questions
X		KW	Section One 1. Is this application for construction or alteration on or at a property which is in a Historic District or a designated Historic Landmark? What is its zoning designation? <u>CCB HL?</u> <u>H?</u> <input checked="" type="checkbox"/>
X		KW	2. Is this application for any construction or alteration work that is <u>NOT</u> described or defined as ordinary maintenance of a historic property? Is it more than limited "Ordinary Maintenance"?
X		KW	3. Will the construction or alteration covered by this application include any work visible from the exterior of the property?
	X	KW	4. Will the construction or alteration covered by this application remove or, physically change any structural elements of the property? (i.e. Interior or exterior: load bearing walls, columns, posts, foundations, footings, etc.)
	X	KW	Section Two 1. Is the construction or alteration covered by this application considered an emergency repair of sudden, accidental or unforeseen property damage? When did damage occur? _____
	X	KW	2. Is the construction or alteration covered by this application considered necessary to correct a circumstance that endangers a building, business, owner, or the public?
X		KW	3. Is the construction or alteration covered by this application considered permanent, to be in place more than 90 days? (A temporary construction or alteration is required to be removed within 90 days and the property is to be returned to the original or agreed upon condition.)
	X	KW	4. Has a permit been issued for any of the proposed work? Date: _____ Permit No. _____ Has any work actually started? _____ Describe: _____
X		KW	Section Three 1. Will the construction or alteration covered by this application make a physical change to any design elements, features or finishes visible from the exterior of the property?
	<u>N/A</u> X	KW	2. Will the construction or alteration covered by this application repair or replace an element of the building or property with a material different from the original material of that element?
	<u>N/A</u> X	KW	3. Will the construction or alteration covered by this application include painting exterior surfaces that have not been previously painted?
	<u>N/A</u> X	KW	4. Does the construction or alteration covered by this application include demolition or removal of any part or element of the property visible from the exterior of the property?
X		KW	5. Will the construction or alteration covered by this application make any change in the appearance of the property as viewed from the exterior of the property?

The undersigned owner or authorized agent attests that the statements made above and on any attached explanations are true and agrees that this Scope Of Work Questionnaire and any attachments shall become a part of the application and the Certificate For Alteration cited and will be the limit of construction and/or alteration work undertaken. Further, construction will not start prior to authorization by the approval of the Certificate For Alteration.

Applicant Signature:  Date: 11/14/22
Verified By: Kevin Walker Date: 1/25/23 Action: _____ Date: _____



MESSER ★ FORT ★ McDONALD

THE MUNICIPAL LAW FIRM

NORTH TEXAS | AUSTIN | ABILENE

*Confidential/Privileged
Attorney-Client Communication*

MEMORANDUM

TO: Mayor Lew White, City Manager Steve Lewis, City of Lockhart

FROM: Monte Akers, City Attorney

DATE: November 10, 2022

RE: New Construction in the Downtown Historic District

As requested by the City Manager, following is a memo about the process for approval of the construction of a new building in the City's Historic District.

Background: The owners of the vacant lot located at 120 and 124 E. Market Street are proposing to construct a new building on that site, which is within the City of Lockhart's designated downtown historic district. The lot was previously the site of a building used as department store, a community theatre, a Dollar Store, and other uses before it was razed approximately 25 years ago.

Questions about what the City's ordinances require for new construction at the site are addressed as follows:

1. Q: Must the owners obtain a "Certificate of Alteration" (hereinafter "CA") in order to be authorized to construct the building?

A: Yes. Ch. 28 of the City Code of Ordinances contains the regulations and procedures related to historic districts and landmarks in the City. Although the name of the certificate suggests that it applies only to modification of existing structures, Sec. 28-11(a) states that CA is required "to carry out construction" on property designated as historic, and Sec. 28-2 defines "construction" to "include activities related to new construction."

Q: Has the City required a CA for new construction in the historic district at any time in the past?

A: Yes, the City required and issued a CA for the construction, in 2006, of the Edward Jones building located at 219 S. Commerce.

Q: What is the procedure for obtaining a CA?

A: 1. Owner files application.

2. Preservation Officer sends application and “any other information which the commission may deem necessary in order to visualize the proposed work” to the Commission.

3. The preservation officer schedules review of the application at the next regular or a special meeting of the Commission, which must be within 45 days from the date the application was received.

4. At the meeting the applicant will have an opportunity to be heard.

5. The commission shall approve, deny, or approve with modifications, at the meeting of review if possible.

6. If the commission does not act within 75 days of the receipt of the application, a city building permit shall be granted without the certificate for alteration.

7. All decisions of the commission shall be in writing and shall state findings pertaining to the approval, denial, or modification of the application.

8. If dissatisfied with the action of the commission relating to the issuance or denial of the CA, the applicant has the right to appeal to the city council within 30 days after receipt of notification of such action. The decision of the city council is final.

Q: What criteria shall the Commission employ in deciding whether to approve issuance of a CA?

A: Sec. 28-13 identifies 11 such criteria, the first and most important of which is as follows:

The predominate criteria for approval of a certificate for alteration shall be to support proposed construction activities which will enhance an area, site, building, structure or object which is zoned historic, and thereby encourage continued maintenance and preservation of historical buildings, structures, objects and sites.

See footnote below for the other ten criteria.¹

Q: Is the action of the Commission legislative or ministerial?

A: Ministerial and advisory. Sec. 28-3 states that “The legislative functions of the city council shall in no way be delegated to the historical preservation commission,” That statement is followed by a list of 19 specific powers of the Commission² (see footnote below), all of which are subject to review by the City Council. An action of the Commission is subject to appeal to the Council.

Q: Has the Commission adopted design standards for new construction in the historic district?

A: No. There are design guidelines for window replacements, door replacements, awnings and suspended canopies, signs, and exterior fire escapes, but those were adopted to apply to changes in existing buildings.

Q: Are other property owners or citizens entitled to notice of the meeting (other than by posting of the agenda)?

A: No. Although the process for designating a property as historical requires the Commission to hold a public hearing and give notice and an opportunity to be heard to owners, interested parties and technical experts, there is not a similar requirement for an application for a CA. The action of the Commission on the CA application occurs at a meeting rather than a public hearing. The Commission may allow public comment at the meeting but doing so will not confer party status on the speakers.

Q: May anyone other than the applicant appeal the decision of the Commission to the Council?

A: No, the provision for appeal is furnished only to the applicant.

Q: What legal risk, if any, could follow denial of the application for a CA to construct the new building?

A: The owners might claim that there has been a taking of private property without adequate compensation.

(2) Contemporary design for alterations and new additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material; or such design is compatible with the size, scale, color, material, finishes and character of the property, neighborhood, or environment.

(3) Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the original building, structure, object, or site would be unimpaired.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object or site and its environment. These changes may or may not have acquired significance in their own right. If these changes have acquired significance in their own right, this significance shall be recognized and respected.

(5) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the basic building, structure, object or site and its environment.

(6) The distinguishing original qualities or character of a building, structure, object or site and its environment should not be destroyed. The removal or alteration of any historic material, finish or distinctive architectural features should be avoided when possible.

(7) Distinctive stylistic features, finishes and construction techniques or examples of craftsmanship that characterize a building, structure, object or site should be kept and preserved, where possible.

(8) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, finish, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(9) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken. Painting of original unfinished masonry surfaces shall be discouraged.

(10) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

(11) The owner of property for which a city building permit is issued shall be responsible for maintaining a safe construction and/or demolition site at all times by providing proper barricades,

signage, walkways, erosion control, etc., and following all structural and safety recommendations and requirements of city, state, and federal governmental agencies.

² The commission, with review and approval by the city council, shall be empowered to:

- (1) Assist in applying for preservation and rehabilitation grants and by making recommendations to the city government concerning the utilization of state, federal, or private funds to promote the preservation of historic landmarks and historic districts within the city.
- (2) Prepare rules and procedures as necessary to carry out the business of the commission which shall be reviewed and ratified by the council.
- (3) Adopt detailed criteria forthwith for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts which shall be reviewed and ratified by the council.
- (4) Assist individual property owners to preserve and enhance historic landmark and historic district property by review of applications for alteration and demolition pursuant to this chapter.
- (5) Recommend the designation of resources as historic landmarks and historic districts.
- (6) Create committees from among its membership and delegate to these committees responsibilities to carry out the purposes of this chapter.
- (7) Maintain written minutes which record all actions taken by the commission and the reasons for taking such actions.
- (8) Establish a formal process of commendation and recommend conferral of recognition upon the owners of historic landmarks or properties within the historic districts by means of certificates, plaques, or markers.
- (9) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- (10) Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the city.
- (11) Prepare and submit annually to the council a report summarizing the work completed during the previous year.
- (12) Prepare an historic preservation plan which shall be reviewed and adopted by the city council forthwith as part of the comprehensive master plan.
- (13) Recommend the acquisition of a landmark structure by the city government or other organization where its preservation is essential to the purpose of this chapter and where private preservation is not feasible.
- (14) Review and propose tax abatement for qualified historic landmarks or historic districts.
- (15) Recommend action to the city government regarding the donation of preservation easements and development rights as well as any other gift of value for the purpose of historical preservation, subject to the approval of the city council.
- (16) Formulate detailed design review guidelines and procedures addressing alterations of designated properties which shall be reviewed and ratified by the city council forthwith. The design guidelines shall be formulated such that the historic preservation officer may approve certain routine certificate for alteration and certificate for demolition applications prior to review by the commission to reduce delays in obtaining a building permit.
- (17) Prepare a detailed tax abatement program following the guidelines and criteria set by the city council to be reviewed and ratified by the council forthwith.
- (18) Prepare a detailed list of activities which qualify as ordinary maintenance and do not require prior review by the commission.
- (19) Review proposed public streetscape elements in historic districts and recommend appropriate action to the city government.