

Planning and Zoning Commission
AGENDA REPORT

Meeting Date: January 7, 2025	Budgeted Amount: N/A
Department: Planning and Zoning	Prepared By: Corinne Tilley

Subject

Consideration and possible action on the unapproved demolition of a structure located at 900 Caroline Street in the Historic Preservation District.

Recommendation

Staff recommends applying the penalties pursuant to Section 98-357 outlined in the City of Montgomery Code of Ordinances.

Discussion

900 Caroline Street is located in the Residential Zoning District and Historic Preservation District.

According to Montgomery County Appraisal District records, in 2005, the residential structure was constructed with a total gross building area of 988 square feet. This includes a main area of 442 square feet and an attached brick garage of 546 square feet.


In February 2008, the Historic Preservation District was established.

In December 2024, the structure was demolished without Planning and Zoning Commission approval.

Approved By

Interim City Administrator	Anthony Solomon	Date: January 7, 2025
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 Street View

STAFF REPORT

900 Caroline Street

PIN and Legal Description: 244279 - MONTGOMERY TOWNSITE 07, LOT 8A-1, ACRES 0.718

For discussion, consideration and possible action regarding the unapproved demolition of a residential structure in the Historic Preservation District.

A. HISTORY

According to Montgomery County Appraisal District records, in 2004-2005, a residential structure was constructed with a total gross building area of 988 square feet. This includes a main area of 442 square feet and an attached brick garage of 546 square feet.

In February 2008, the City of Montgomery established the Historic Preservation District.

A water utility account was opened on October 25, 2007 and closed December 2, 2024.

In December 2024, the residential structure was demolished without Planning and Zoning Commission approval.

I was unable to locate any plans or permits associated with this property.

B. FINDINGS

Sec. 98-346 (b) Criteria for designation of historic districts.

Historic preservation districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic preservation district may be designated if the proposed district exhibits a density of properties with the following characteristics:

- (1) Represents an established and familiar visual feature of the city;
- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or
- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

FINDINGS: The residential structure at 900 Caroline Street was constructed in 2004/2005. The surrounding, neighboring residential structures were built, (west) in 1909; (north west) in 1900; (north east) in 1980; (east) in 1995; (south east) in 2008, photos attached for reference; and Cedar Brake Park to the south in 2004.

Sec. 98-347. Approval for alteration or new construction within historic preservation districts or affecting historic landmarks.

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission. New construction within an historic preservation district or on property designated as an historic landmark, or buildings or structures moved onto a property within an historic preservation district or onto property designated as an historic landmark will be subject to and in accordance with the design guidelines for the city.

FINDINGS: This finding is not met. Approval was not obtained from the planning and zoning commission.

Sec. 98-348. Nonconforming structures.

Commercial, institutional, and residential structures existing within the historic preservation district, or on property designated as an historic landmark, prior to the effective date of the ordinance from which this article is derived shall not be required to be altered, repaired or modified to meet existing design criteria unless major façade or structural renovations are planned by the property owner. Major façade or structural renovations are defined as changes or renovations to 25 percent or more of any façade of the structure or improvements facing a street.

FINDINGS: This finding is not met. Although the structure is nonconforming, more than 25% of the structure was changed due to 100% demolition.

Sec. 98-349. Historic preservation district/landmark building permit application procedures.

(a) Prior to the commencement of any work requiring planning and zoning commission approval in accordance with this article, the owner shall follow standard procedures for a building permit application and provide the following information for review:

- (1) Name, address, email address and telephone number of the applicant and property owner;
- (2) A detailed description of proposed work;
- (3) Location and photograph of the property and adjacent properties;
- (4) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
- (5) Elevation drawings of the proposed changes;
- (6) Description of materials and colors to be used; and
- (7) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the city, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.

(b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.

(c) The planning and zoning commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The planning and zoning commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the planning and zoning commission after required adjustments are made.

(d) All decisions of the planning and zoning commission shall be in writing. The commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the city secretary as part of the public record.

(e) An applicant dissatisfied with the action of the planning and zoning commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the city within 30 days after receipt of notification of such action.

FINDINGS: This finding is not met; specifically, (b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.

Sec. 98-352. Approval required for demolition.

(a) A permit for the demolition of an historic landmark or property within an historic preservation district, including secondary buildings, must be reviewed and approved by the planning and zoning commission and forwarded to the city council for final approval. The commission shall consult with the city on any application submitted and shall consider and review any findings and recommendations of the city.

(b) A structure deemed as an unsafe building under the city's ordinances may be demolished only with a permit from the city after city council approval.

FINDINGS: This finding is not met. A permit application for the demolition of property within a historic preservation district was not submitted prior to demolition of the structure.

C. STAFF RECOMMENDATION

Based on the findings above, staff recommends applying the penalties outlined below.

Sec. 98-357. Penalties.

In addition to the penalties set out under this chapter, the following penalties, which are non-exclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

(1) *Restrictions on future development.* If an historic resource, either a landmark or one located within the boundaries of the historic preservation district, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the planning and zoning commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:

a. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two years after the date of such demolition or removal. The city may file a certificate evidencing a violation of this section in the city's official public records of real property.

b. No permits shall be issued by the city for any curb cuts on the site for a period of two years from and after the date of such demolition or removal.

c. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two years from and after the date of such demolition and removal.

d. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of the county and such restrictions shall then be binding on future owners of the property.

(2) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016, as the same may be amended from time to time, with injunctive remedies and the like.

(3) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney or his designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

900 Caroline St
Located in the Residential Zoning District
and Historic Preservation District





12/31/2024 16:27



12/31/2024 16:28



12/31/2024 16:28



STOP

Caroline St

12/31/2024 16:32



12/31/2024 16:28



City of Montgomery

101 Old Plantersville Rd.
Montgomery, TX 77316
936-597-6866



December 31, 2024

Christian C. Cheatham
PO Box 234
Montgomery, TX 77356-0234

Re: NOTICE OF VIOLATION – Unauthorized Demolition in Historic Preservation District
Address: 900 Caroline Street, Montgomery, Texas 77356
Legal description: 244279 - MONTGOMERY TOWNSITE 07, LOT 8A-1, ACRES 0.718

Dear Christian C. Cheatham:

It has come to our attention that a structure located at 900 Caroline Street was demolished without receiving approval from the Planning and Zoning Commission. 900 Caroline Street is located within the Historic Preservation District, which is subject to specific regulations to protect and preserve its historical significance.

Violation:

Section 98-347 – No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission.

This letter serves as a formal notice and opportunity for you, as the owner of the real property recorded in the appraisal district records, to submit a detailed explanation of the circumstances leading to the demolition and attend a meeting with the City of Montgomery Planning and Zoning Commission on Tuesday, January 7, 2025, at 6:00 p.m., to discuss the violation, penalties or potential remedies.

We appreciate your prompt attention to this matter. A copy of the Historic Preservation Ordinance is enclosed for your reference. Please contact me via email at ctilley@ci.montgomery.tx.us if you have any questions.

Respectfully,

Corinne A. Tilley #1635
Code Enforcement Officer



Saturday, December 7, 2024 at 12:51

900 Caroline St
Located in the Residential Zoning District
and Historic Preservation District



GENERAL INFO

ACCOUNT

Property ID: 244279
 Geographic ID: 7280-07-00815
 Type: R
 Zoning: 3
 Agent: AMBROSE & ASSOC
 Legal Description: MONTGOMERY TOWNSITE 07, LOT 8A-1, ACRES 0.718

OWNER

Name: CHEATHAM, CHRISTIAN C
 Secondary Name:
 Mailing Address: PO BOX 234 MONTGOMERY TX USA 77356-0234
 Owner ID: 669722
 % Ownership: 100.00
 Exemptions:

Property Use:

LOCATION

Address: 900 CAROLINE ST, MONTGOMERY TX 77356

Market Area:
 Market Area CD: 71002.0
 Map ID:
 Zoning: 3

PROTEST

Protest Status:
 Informal Date:
 Formal Date:

VALUES

CURRENT VALUES

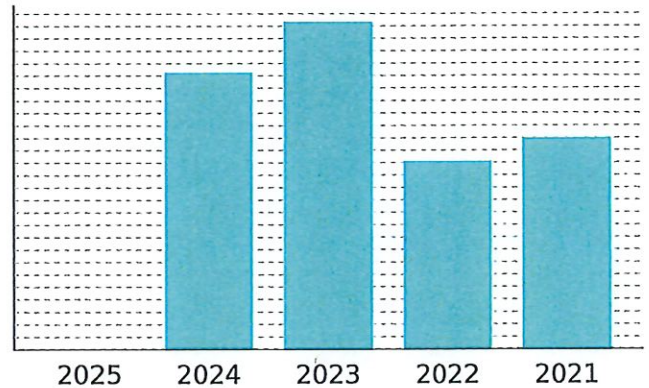
Land Homesite: N/A
 Land Non-Homesite: N/A
 Special Use Land Market: N/A
 Total Land: N/A

 Improvement Homesite: N/A
 Improvement Non-Homesite: N/A
 Total Improvement: N/A

 Market: N/A
 Special Use Exclusion (-): N/A
 Appraised: N/A
 Value Limitation Adjustment (-): N/A

 Net Appraised: N/A

VALUE HISTORY



VALUE HISTORY

Year	Land Market	Improvement	Special Use Exclusion	Appraised	Value Limitation Adj (-)	Net Appraised
2025	N/A	N/A	N/A	N/A	N/A	N/A
2024	\$31,276	\$79,742	\$0	\$111,018	\$0	\$111,018
2023	\$31,280	\$100,320	\$0	\$131,600	\$0	\$131,600
2022	\$31,280	\$44,200	\$0	\$75,480	\$0	\$75,480
2021	\$31,280	\$53,620	\$0	\$84,900	\$0	\$84,900

TAXING UNITS

Unit	Description	Tax Rate	Net Appraised	Taxable Value
CMO	City of Montgomery	N/A	N/A	N/A
F02	Emergency Ser Dist #2	N/A	N/A	N/A
GMO	Montgomery Cnty	N/A	N/A	N/A
HM1	Mont Co Hospital	N/A	N/A	N/A
SMO	Montgomery ISD	N/A	N/A	N/A

DO NOT PAY FROM THIS ESTIMATE. This is only an estimate provided for informational purposes and may not include any special assessments that may also be collected. Please contact the tax office for actual amounts.

IMPROVEMENT

Improvement #1: **Residential** Improvement Value: **N/A** Main Area: **442**
 State Code: **A1** Description: **HOUSE** Gross Building Area: **988**

Type	Description	Class CD	Exterior Wall	Number of Units	EFF Year Built	Year	SQFT
MA	Main Area	4+		1	2005	2005	442
BG	Attached Brick Garage	4+		1	2005	2005	546

Improvement Features

MA Foundation: 1, Plumbing: 5, Interior Finish: 1, Flooring: 1, HVAC: RH0, Roof: 1, Exterior Finish: R1, Plumbing: 1FB, HVAC: RC0

LAND

Land	Description	Acres	SQFT	Cost per SQFT	Market Value	Special Use Value
S1	Primary Site	0.7180	31,276	\$1.00	N/A	N/A

DEED HISTORY

Deed Date	Type	Description	Grantor/Seller	Grantee/Buyer	Book ID	Volume	Page	Instrument
6/30/22	ERD	Extrs Deed	CHEATHAM, MARY ANN	CHEATHAM, CHRISTIAN C				2022082880
8/1/11	WDV	W/d & V/In	CHEATHAM, C R & MARY ANN	CHEATHAM, MARY ANN				2011067824
3/11/96	WD	Warnty Deed	BEATHARD, HENRY W & DICKEY	CHEATHAM, C R & MARY ANN	140.00		0511	

ARTICLE VI. HISTORIC PRESERVATION¹

Sec. 98-343. Purpose.

The city council hereby declares that as a matter of public policy, the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) Protect and enhance the landmarks and districts which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (4) Ensure the harmonious, orderly, and efficient growth and development of the city;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
- (6) Encourage stabilization, preservation, restoration, and improvements of such properties and their values.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-344. Designation of historic landmarks.

- (a) These provisions pertaining to the designation of historic landmarks both inside and outside of the historic preservation district constitutes a part of the comprehensive zoning plan of the city.
- (b) The city council may, from time to time, following recommendations either for or against such designation by the planning and zoning commission, designate certain sites and/or structures in the city as historic landmarks, and define, amend, or eliminate the boundaries of designation. Such sites shall bear the words "historic landmark" in their zoning designation. Such designation and the requirement thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the historic landmark by the letters "HL" as a suffix to the use designated.
- (c) Property owners of proposed historic landmarks shall be notified by certified mail no less than 15 calendar days prior to the planning and zoning commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.

¹State law reference(s)—Antiquities Code of Texas, V.T.C.A., Natural Resources Code ch. 191.

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- (d) The proposed historic landmark shall be submitted to the planning and zoning commission at the earliest available meeting and no later than 30 days from the date of the designation request. The commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within 45 days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
 - (e) The city council shall schedule a hearing of the planning and zoning commission's recommendation to be held within 45 days of receipt of the recommendation of the commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.
 - (f) Upon designation of an historic landmark, the city council shall cause the designated sites/structures to be recorded on the official zoning map.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-345. Designation of historic preservation districts.

- (a) These provisions pertaining to the designation of historic preservation districts constitute a part of the comprehensive zoning plan of the city.
- (b) The city council may, from time to time, following recommendations either for or against such designation by the planning and zoning commission, designate certain areas in the city as historic preservation districts, and define, amend, or eliminate the boundaries of designation. Such districts shall bear the words "Historic Overlay" in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the historic preservation district by the letters "HO" as a suffix to the use designated. Changes to the same may be initiated by any person by request submitted to the planning and zoning commission.
- (c) Property owners within a proposed historic preservation district shall be notified by certified mail no less than 15 days prior to the planning and zoning commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation district.
- (d) The proposed addition of or modification to an historic preservation district shall be submitted to the planning and zoning commission at the earliest available meeting and no later than 30 days from the date of the designation request. The commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within 45 days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
- (e) The city council shall schedule a hearing of the planning and zoning commission's recommendation to be held within 45 days of receipt of the recommendation of the commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.
- (f) Upon designation of an historic preservation district, the city council shall cause the designated district to be recorded on the official zoning map.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-346. Criteria for designation of historic landmarks and districts.

- (a) Historic landmarks are sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic landmark may be designated if it exhibits two or more of the following characteristics:
- (1) Represents an established and familiar visual feature of the city;
 - (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
 - (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
 - (4) Is associated with events that are significant to our past;
 - (5) Is associated with an individual or group having a profound influence on the history of the city; or
 - (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.
- (b) Historic preservation districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic preservation district may be designated if the proposed district exhibits a density of properties with the following characteristics:
- (1) Represents an established and familiar visual feature of the city;
 - (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
 - (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
 - (4) Is associated with events that are significant to our past;
 - (5) Is associated with an individual or group having a profound influence on the history of the city; or
 - (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-347. Approval for alteration or new construction within historic preservation districts or affecting historic landmarks.

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission. New construction within an historic preservation district or on property designated as an historic landmark, or buildings or structures moved onto a property within an historic preservation district or onto property designated as an historic landmark will be subject to and in accordance with the design guidelines for the city.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-348. Nonconforming structures.

Commercial, institutional, and residential structures existing within the historic preservation district, or on property designated as an historic landmark, prior to the effective date of the ordinance from which this article is derived shall not be required to be altered, repaired or modified to meet existing design criteria unless major façade or structural renovations are planned by the property owner. Major façade or structural renovations are defined as changes or renovations to 25 percent or more of any façade of the structure or improvements facing a street.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-349. Historic preservation district/landmark building permit application procedures.

- (a) Prior to the commencement of any work requiring planning and zoning commission approval in accordance with this article, the owner shall follow standard procedures for a building permit application and provide the following information for review:
- (1) Name, address, email address and telephone number of the applicant and property owner;
 - (2) A detailed description of proposed work;
 - (3) Location and photograph of the property and adjacent properties;
 - (4) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
 - (5) Elevation drawings of the proposed changes;
 - (6) Description of materials and colors to be used; and
 - (7) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the city, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
- (b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.
- (c) The planning and zoning commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The planning and zoning commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the planning and zoning commission after required adjustments are made.
- (d) All decisions of the planning and zoning commission shall be in writing. The commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the city secretary as part of the public record.
- (e) An applicant dissatisfied with the action of the planning and zoning commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the city within 30 days after receipt of notification of such action.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-350. Criteria for approval by the planning and zoning commission.

Approval by the planning and zoning commission shall be guided by the adopted design guidelines for the city. The design guidelines for the city shall be made available at the office of the city secretary.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-351. Special setback provisions.

New commercial structures or improvements being built in the historic downtown commercial area (i.e., any building with front and/or rear façades facing Liberty, Caroline, Prairie, Maiden, McCown, John Butler, or College Streets, and which are located between State Highway 105 on the south and Clepper Street on the north) will be required to adhere to front (main entrance) setbacks that match immediately adjacent buildings or structures facing the same street. If new commercial structures or improvements are being constructed between existing buildings or structures whose setback lines do not match, the new building or structure's front (main entrance) setback line must match the adjacent building or structure whose front (main entrance) setback line is closest to the street which the adjacent structure or building faces.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-352. Approval required for demolition.

- (a) A permit for the demolition of an historic landmark or property within an historic preservation district, including secondary buildings, must be reviewed and approved by the planning and zoning commission and forwarded to the city council for final approval. The commission shall consult with the city on any application submitted, and shall consider and review any findings and recommendations of the city.
- (b) A structure deemed as an unsafe building under the city's ordinances may be demolished only with a permit from the city after city council approval.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-353. Economic hardship application procedure.

- (a) After receiving written notification from the planning and zoning commission of the denial of a permit request, an applicant may commence the hardship process. No building permit or demolition permit may be issued unless the commission makes a finding that an economic hardship exists.
- (b) When a claim of economic hardship is made due to the effect of this article, the owner must prove that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (c) The applicant shall consult in good faith with the planning and zoning commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the commission.

(Supp. No. 9)

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- (d) The planning and zoning commission shall hold a public hearing on the application within 60 days from the date the application is received by the city secretary. Following the hearing, the commission has 30 days in which to prepare a written response to the applicant. In the event that the commission does not act within 90 days of the receipt of the application, a permit may be granted.
 - (e) All decisions of the planning and zoning commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the city secretary's office for public inspection. The commission's decision shall state the reasons for granting or denying the hardship application.
 - (f) If an applicant is dissatisfied with the action of the planning and zoning commission, he shall have the right to appeal to the city council within 30 days after receipt of notification of such action. The city council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-354. Enforcement.

All work performed pursuant to a building permit issued under this article shall conform to any requirements included therein. It shall be the duty of the city building official (or other designated official) to inspect periodically any such work to ensure compliance. In the event work is not being performed in accordance with the approved scope of work, or upon notification of such fact by the planning and zoning commission and verification by the designated official, the official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-355. Ordinary maintenance.

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic preservation district which does not involve a change in design or outward appearance.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-356. Demolition by neglect.

No owner or person with an interest in real property designated as a landmark or included within an historic preservation district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the planning and zoning commission, produce a detrimental effect upon the character of the historic preservation district as a whole or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roof or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior stucco or mortar;
- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;

(Supp. No. 9)

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- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-357. Penalties.

In addition to the penalties set out under this chapter, the following penalties, which are non-exclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

- (1) *Restrictions on future development.* If an historic resource, either a landmark or one located within the boundaries of the historic preservation district, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the planning and zoning commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:
 - a. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two years after the date of such demolition or removal. The city may file a certificate evidencing a violation of this section in the city's official public records of real property.
 - b. No permits shall be issued by the city for any curb cuts on the site for a period of two years from and after the date of such demolition or removal.
 - c. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two years from and after the date of such demolition and removal.
 - d. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of the county and such restrictions shall then be binding on future owners of the property.
- (2) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016, as the same may be amended from time to time, with injunctive remedies and the like.
- (3) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney or his designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

(Ord. No. 2014-03, § 1, 5-20-2014)

Secs. 98-358—98-387. Reserved.