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Board of Adjustment
225 N. Webster Avenue
Norman, OK 73069

RE: Appeal of Administrative Decision to the Board of Adjustment

The Applicant respectfully requests that the Board of Adjustment (the “**Board**”) overturn the April 7, 2025, decision of the Historic District Commission (the “**Commission**”) denying a Certificate of Appropriateness for specific exterior improvements made to 733 Chautauqua Avenue (the “**Property**”), a structure designated as non-contributing within the Chautauqua Historic District (the “**District**”). A copy of the Commission’s denial letter is attached hereto as “**Exhibit A**”. As evidenced by the attached denial letter, the Commission based its denial of the requested improvements on their failure to strictly comply with the City of Norman Historic Preservation Guidelines (the “**Guidelines**”), instead of correctly considering only the degree necessary to ensure compatibility to the general atmosphere of the historic district.

The denied improvements include: (1) the painting of previously unpainted brick; (2) the replacement of deteriorated exterior siding, soffit, and trim with Smart material; and (3) the replacement of original metal casement windows with energy-efficient vinyl windows. The Applicant requests that each improvement be evaluated individually on its own merits, pursuant to Section 36-570(f) of the Zoning Ordinance (the “**Ordinance**”), which authorizes the Board to hear appeals alleging that an administrative official or body has made an error in the enforcement of the Ordinance or the Guidelines.

This appeal arises following a stop-work order issued after the Applicant, who purchased the Property in a deteriorated condition, began repairs and improvements to the Property without knowledge that the Property was located within the District. Upon being informed, the Applicant promptly ceased work, cooperated with staff and the Commission, and now seeks review of the Commission’s decision on the grounds that the Commission’s denial of a Certificate of Appropriateness exceeds the regulatory authority permitted under the Ordinance for non-contributing structures.

1. Standard of Review. The Property was classified as non-contributing in the 2004 Historic District Nomination Survey due to its post-war construction date (c. 1950). This status establishes a different and less stringent standard of review than that properly applied to historically significant, contributing structures. As stated in Section 36-535(g)(9)(c)(3) of the Ordinance: “*Non-contributing structures should be controlled only to the degree necessary to make them compatible with the general atmosphere of any district.*”

This is not a strict preservation standard. It is a minimal compatibility standard and a *deliberate recognition* by the City of Norman that *non-contributing structures do not hold the same historic value* and therefore should not be held to the same level of design constraint.

The restrictions on non-contributing structures are not intended to restore historic character, but to ensure that such properties do not stand out in a way that undermines the general atmosphere of a district. The phrase “general atmosphere,” as used in the Ordinance, refers to the overall visual character of the District — the look and feel of the streetscape — rather than a strict requirement to preserve or replicate original materials. For non-contributing structures, compatibility should be evaluated based on appearance and context, not historical authenticity.

2. Proposed Improvements. The Applicant’s improvements to the Property satisfy the minimal standard for non-contributing structures. The use of Smart siding, a neutral white paint color, and windows that maintain the home’s appearance is consistent with the general atmosphere of the District and does not detract from surrounding contributing properties.

a. Smart Siding. The Applicant appeals the Commission’s denial of the installed siding on the Property. The replacement of deteriorated siding, soffit, and trim with a composite Smart material that closely matches the size and profile of the original materials does not affect the Property’s compatibility with the surrounding neighborhood. While the Guidelines favor the retention of original materials, this standard is intended to apply to contributing structures. Similar composite materials have been approved for other non-contributing properties in the District, as noted in the City Staff report to the Commission, including at 606 Miller Avenue and 1320 Oklahoma Avenue. While those approvals specified a smooth finish, the texture used on the Property is not visually apparent from the right of way and does not detract from the Property’s overall compatibility with its surroundings. The Commission’s decision to deny this replacement is inconsistent with past precedent and fails to apply the Ordinance’s language limiting review of non-contributing structures.

b. Paint. Similarly, the Applicant appeals the Commission’s denial of approval to paint the previously unpainted brick. While the Guidelines discourage painting unpainted masonry, the Property’s brick is not historically significant, was never identified as such, and had already been coated in primer before the stop-work order. The white paint selected by the Applicant mirrors the treatment of the Theta House located just one block away, which features painted brick in a nearly identical tone. Additionally, as further noted in the prior City Staff report, there are existing homes within the District that feature painted brick as an exterior finish. This fact alone should suffice to establish that painted brick is in compliance with the general atmosphere of the District. To reiterate, the Historic District Ordinance requires that non-contributing structures be reviewed only to the degree necessary to maintain compatibility with the general atmosphere for the District, and the painted brick is clearly compatible with nearby homes. Strict application of this guideline serves no preservation purpose in this context and results in an excessive, and improper, burden for a non-contributing structure. Furthermore, the Guidelines seek to preserve original materials. Evidence was presented to the Commission that the preferred method to remove the existing coat of primer would result in damage to the original brick and would not be successful in removing 100% of the primer and paint. Despite the evidence, the Commission denied the proposed painted brick on a non-contributing structure located within the District that contains multiple homes with painted brick.

c. Windows. Finally, the Applicant appeals the Commission’s denial of the window replacement. The original metal casement windows were deteriorated and beyond repair. The

Applicant replaced them with vinyl windows that closely match the original size, shape, and configuration. The Guidelines prohibit vinyl-clad windows for both contributing and non-contributing structures, but in this case, strict enforcement results in a disproportionate outcome with no preservation benefit. These windows blend in with the overall appearance of the home and are not visible in a way that disrupts the District's character. The Commission's denial applies the guideline in a rigid, blanket fashion rather than evaluating compatibility in the context of a non-contributing home — as required by the Ordinance. Additionally, the Applicant sought a floor amendment in front of the Commission. The proposed floor amendment would have resulted in replacement of gable vents and the windows visible from the right-of-way. The Applicant believed that replacing those elements visible from the right-of-way would be the degree necessary to enforce the Guidelines to this non-contributing structure to ensure the Property remained compatible with the general atmosphere of the District. The Committee refused to vote on the proposed amendment and instead denied the Applicant's original request for full replacement. We contend that the vinyl-clad windows do not undermine the general atmosphere of the District as it is not apparent from the right-of-way that the windows are vinyl. However, it is certainly true that the proposed amendment, replacement of like-kind windows for all windows visible from the right-of-way, is the greatest degree necessary to ensure the Property is compatible with the general atmosphere of the District as no other windows affixed to the Property would ever be visible to the general public traversing the District.

3. Request of the Board. The Board is authorized under Section 36-570(f) to overturn decisions where an administrative body has made an error in the interpretation or enforcement of the Ordinance. In this case, the Commission misapplied the Guidelines and applied preservation-based standards to a structure that is not historically contributing and did so in a way that contradicts the language and intent of Section 36-535(g)(9)(c)(3) of the Ordinance.

Importantly, this appeal does not seek to undermine the authority of the Historic District Commission or set a precedent affecting contributing properties. The Property is one of a very limited number of non-contributing primary residences within the District. Granting this appeal would affect only a narrow class of structures and will clarify the Ordinance's intent for the Commission to apply a lighter regulatory touch to non-contributing properties like this one. The Ordinance permits the Commission to review improvements to non-contributing structures to ensure they are compatible with the surrounding neighborhood. In this case, the Commission's denial of the Certificate of Appropriateness clearly exceeds the limited authority the Ordinance grants to the Commission for the review of improvements to non-contributing structures.

The Applicant respectfully requests that the Board of Adjustment overturn the Commission's denial of the Certificate of Appropriateness and find that each of the proposed improvements are consistent with the compatibility standard outlined in the Ordinance for non-contributing structures.

Sincerely,
RIEGER SADLER JOYCE, LLC



Gunner Joyce
Attorney at Law