

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 P.M., Wednesday, September 5, 2018
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

1. Call Meeting To Order
2. Attendance
3. Election Of Chair And Vice-Chair
4. Conflict Of Interest
5. Approval Of Minutes: August 8, 2018

Documents:

[080818 ZBA MINUTES.PDF](#)

6. Request To Address Commission On Agenda Items And Non-Agenda Items (Three Minutes Maximum Per Speaker)
7. New Business And Associated Public Hearings
 - A. 18Z-013 (1602 Market Street/Avenue D) Request For A Variance From The Galveston Land Development Regulations, Article 3, District Yard, Lot And Setback Addendum, For The Residential, Single Family With Historic Overlay (R-3-H) Zoning District, To Reduce The Lot Area. Property Is Legally Described As Lot 8 And The East Part Of Lot 9, Block 556, In The City And County Of Galveston, Texas. Applicant: Brene Addison
Property Owners: Noble Capitol Servicing, LLC., Kim Trigo

Documents:

[18Z-013 STF PKT.PDF](#)

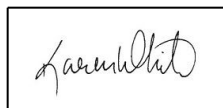
- B. 18Z-014 (1426 Market / Avenue D) Request To Appeal The City Of Galveston Landmark Commission's Decision Regarding Case 18LC-032. Request For A Certificate Of Appropriateness Regarding Modifications To The Property Including The New Windows In The Garage Apartment. Property Is Legally Described As Lot 14 And The West 27.25 Feet Of Lot 13 Block 554, In The City And County Of Galveston, Texas. Applicant And Property Owner: Brent Baker

Documents:

[18Z-014 STF PKT.PDF](#)

8. Adjournment

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on August 30, 2018 at 1:00 P.M.



Prepared by: Karen White, Planning Technician

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT

(ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409-797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING.



City of Galveston

MINUTES OF THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF GALVESTON REGULAR MEETING – August 8, 2018

CALL MEETING TO ORDER

The meeting was called to order at 4:01 p.m.

ATTENDANCE

Members Present: James Bangle, Andrew Galletti, Robert Girndt, Lyssa Graham Reynolds, CM
David Collins

Members Absent: Dominick Sasser, Louis Fuchs, Chris Robbain

Staff Present: Janice Norman, Planning Manager; Daniel Lunsford, Planner; Karen White,
Planning Technician; Donald Glywasky, City Attorney

CONFLICT OF INTEREST

None

APPROVAL OF MINUTES

The June 20, 2018 minutes were approved as presented.

REQUEST TO ADDRESS COMMISSION ON NON-AGENDA ITEMS (THREE MINUTE MAXIMUM PER SPEAKER)

Lyssa Graham Reynolds presented Rhonda Gregg-Hirsch with a plaque in recognition of her years of service as a Zoning Board of Adjustment commissioner.

NEW BUSINESS AND ASSOCIATED PUBLIC HEARINGS

18Z-012 (1411 14th Street) Request for a variance from the Galveston Land Development Regulations, Article 3, Urban Neighborhood (UN) Addendum, regarding minimum lot area requirements in an Urban Neighborhood (UN) zoning district. Property is legally described as Lot 7, Southwest Block 22, Galveston Outlots, a subdivision in the City and County of Galveston, Texas.

Applicant: Heidi Walker

Property Owner: Kevin Van Flandern

Staff presented the Staff Report and noted that of forty-one (41) notices of public hearing sent, one (1) had been returned in favor, one (1) had been returned opposed, and one (1) had been returned no comment.

Chairperson Lyssa Graham Reynolds opened the public hearing on case 18Z-012. Applicant Heidi Walker presented to the Commission. For additional presentations to the Commission, please refer to the attached sign-in sheet. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Chairperson Lyssa Graham Reynolds made a motion to approve case 18Z-012. Robert Girndt seconded, and the following votes were cast:

In favor:	James Bangle, Andrew Galletti, Robert Girndt, Lyssa Graham Reynolds
Opposed:	None
Absent:	Dominick Sasser, Louis Fuchs, Chris Robbain
Non-voting participant:	CM David Collins

The motion passed.

ELECTION OF CHAIR AND VICE-CHAIR

Robert Girndt made a motion to defer the election of chair and vice-chair until the September 5, 2018 meeting in order to allow all of the commissioners to be present. Andrew Galletti seconded, and the following votes were cast:

In favor:	James Bangle, Andrew Galletti, Robert Girndt, Lyssa Graham Reynolds
Opposed:	None
Absent:	Dominick Sasser, Louis Fuchs, Chris Robbain
Non-voting participant:	CM David Collins

The motion passed.

THE MEETING ADJOURNED AT 4:17 PM



823 ROSENBERG, GALVESTON, TX 77550 | WWW.GALVESTONTX.GOV | FOLLOW US ON FACEBOOK, YOUTUBE, TWITTER, & INSTAGRAM!



18Z-013

STAFF REPORT

ADDRESS:

1602 Market/ Avenue D

LEGAL DESCRIPTION:

Property is legally described as Lot 8 and the east part of Lot 9, Block 556, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Brene Addison

PROPERTY OWNER:

Noble Capitol Servicing, LLC., Kim Trigo

ZONING:

Residential, Single Family with a Historic Overlay (R-3-H)

VARIANCE REQUEST:

Request to decrease the lot area requirement from 2500 square feet to 1478 square feet.

APPLICABLE ZONING LAND

USE REGULATIONS:

Article 3, District Yard, Lot and Setback Requirements for the Residential, Single-Family, with a Historic Overlay zoning district (R-3-H)

EXHIBITS:

A – Survey

STAFF:

Janice Norman, Planning Manager, CFM
 409-797-3670
jnorman@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
29				

City Department Notification:

Comment: Kyle Hockersmith, Director of Public Works: Has concerns with utilities. The applicant will be required to locate all utilities during the replating process and provide easements for utilities.

Comment: David Ewald, Building Official: New property line is less than 5-feet will have to comply with table R302.1 (1) of 2013 IRC during the replating process.



Executive Summary:

The applicant is requesting a variance from the Galveston Land Development Regulations, Article 3, District Yard, Lot and Setback Requirements for the Single-Family Residential, with a Historic Overlay zoning district (R-3-H), Addendum in order to replat the lot into two separate lots.

Applicable Standards:

Article 3, District Yard, Lot and Setback Standards, Addendum for Single-Family Residential (R-3-H), with a Historic Overlay zoning district:

Requirement: Lot Area: 2500 square feet minimum.

Variance Table:

Required Lot Area	Requested Lot Area	Proposed Setback
2500	1478	0-feet

Requested Variance:

From 2500 square feet to 1478 square feet.

Applicants Justification

"Existing lot size does not allow the 2500 square foot minimum requirement"

Please see Agenda for Appeal from Decision of Board Process.

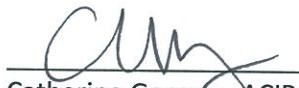
Respectfully Submitted,



Janice Norman, Planning Manager

8/29/18

Date

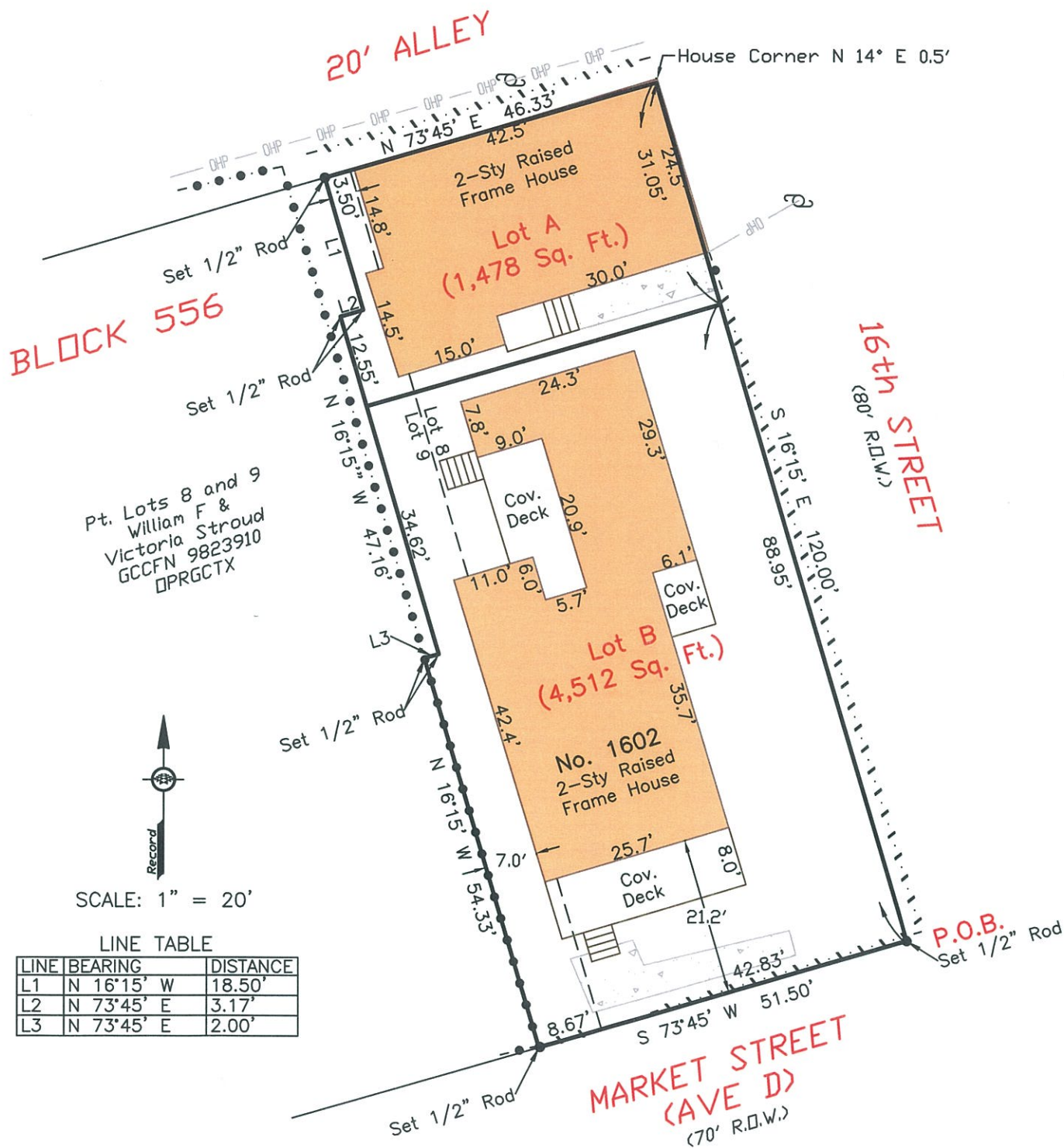


Catherine Gorman, ACIP
Assistant Director/HPO

8-30-18

Date

PROPOSED REPLAT







18Z-014

MEMORANDUM

TO: Lyssa Graham Reynolds, Chair and Commissioners
Galveston Zoning Board of Adjustment

FROM: Daniel Lunsford
Development Services Department
dlunsford@galvestontx.gov, 409-797-3659

DATE: August 28, 2018

RE: (1426 Market / Avenue D) Request to appeal the City of Galveston Landmark Commission's decision regarding case 18LC-032. Request for a Certificate of Appropriateness regarding modifications to the property including the installation of new windows in the garage apartment. Property is legally described as Lot 14 and the West 27.25 Feet of Lot 13 Block 554, in the City and County of Galveston, Texas.
Applicant and Property Owner: Brent Baker

The applicant submitted an application to the Landmark Commission for the following scope of work:

- Retain planter boxes in the right-of-way,
- Retain arbor in the right-of-way,
- Retain pergola on the side yard of the west side of the house, and
- Retain windows installed in the garage apartment

On July 16, 2018, the Landmark Commission approved the request with the following conditions:

Specific Conditions:

1. The planter boxes and arbor shall be removed from the right of way;
2. Faux mutins [*sic*] with adhesive be applied to the exterior panes of the windows on the garage apartment to replicate traditional mutins [*sic*];

Standard Conditions:

3. Any significant alteration from the design approved by the Landmark Commission, shall require the request to be returned to the Commission for review;
4. The applicant shall obtain a building permit prior to beginning construction;
5. Any additional work will require a separate building permit from the Building Department, and may require review by the Landmark Commission and/or the City's Historic Preservation Officer prior to construction;
6. The Landmark Commission approval shall expire after 2 years if no progress has been made toward completion of a project unless the applicant files a request for an extension or can show progress toward completion of a project; and,



7. In accordance with Section 10.110 of the Land Development Regulations, should the applicant be aggrieved by the decision of the Landmark Commission, a letter requesting an appeal must be submitted to the Historic Preservation Officer within 10 days of the Commission decision. Additionally, a Zoning Board of Adjustment application must be submitted to the Planning Department by the next respective deadline date.

The applicant requests an appeal of Landmark Commission's decision regarding Specific Condition #2, above. Note that the planter boxes, pergola, and arbor are not under consideration.

Please reference Attachment "A" for the original staff report and related exhibits, and Attachment "B" for the action letter sent to the applicant. A transcript of the consideration of case 18LC-032 held at the Landmark Commission regular meeting of July 16, 2018 is included as Attachment "C".

The Design Standards for Historic Properties are the set of guidelines the Landmark Commission must use to base its decisions on requests before the body. The attached staff report references sections of the Design Standards that are applicable to the subject case and includes a section on conformance with the Design Standards.

The Landmark Commission review the application in accordance with the following portion of Article 10, Section 10.106, of the Galveston Land Development Regulations:

Article 10, Section 10.106 (F) Decision by Landmark Commission.

The Commission shall, in an open meeting, approve, approve with conditions or deny the certificate of appropriateness. If the Commission denies an application, the Commission shall state the reasons for the denial.

1. **Consistency with Historic Design Standards for Approval:** To approve an application, the Commission must find that the proposed activity is in compliance with the *Historic Design Standards*.
2. **Approval with Conditions:** The Commission may impose conditions of approval that are necessary to meet the intent of the *Historic Design Standards*.
3. **Required Denial:** The Commission shall deny the application if it finds that the proposed work will have an adverse effect on:
 - a. The external architectural features of the Galveston Landmark (GL);
 - b. The external architectural features of the properties in the block or in the historic overlay district as a whole; or
 - c. The future preservation, maintenance or use of the GL or of the properties within the Historic Overlay District.

Per Article 10.110, the applicant or any person aggrieved by a decision made by the Commission may appeal the Commission's decision to the Zoning Board of Adjustment. The applicant submitted a letter and application to the Historic Preservation Officer within ten (10) days of the Landmark Commission decision stating intention to appeal. Please note that judicial review of the decision of the Zoning Board of Adjustment shall be in accordance with the Texas Local Government Code.

The applicant stated the following on the appeal application:

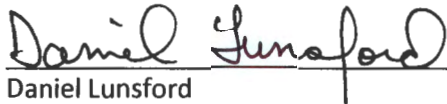


"During the July 16, 2018 Landmark Commission meeting an inordinate amount of time was spent on other items involving 1426 Market. There was no discussion on the subject of windows. Applicant challenges Landmark Commission findings based on bias from previously adjudicated hearing, violations of Open Meeting Act, collision with various city departments, ultra vires acts of previous Landmark commissioners. Applicant seeks exoneration due to prosecutorial misconduct."

Exhibits

- A- Staff Report for 18LC-032, including exhibits
- B- Action letter for 18LC-032
- C- Transcribed minutes for the July 16, 2018 Landmark Commission meeting for 18LC-032.

Respectfully Submitted,



Daniel Lunsford

Planner



Catherine Gorman, AICP

Assistant Planning Director / HPO

08/30/18
Date

6-30-18
Date



18LC-032

STAFF REPORT

ADDRESS:

1426 Market/Avenue D

LEGAL DESCRIPTION:

Property is legally described as Lot 14 and the West 27.25 Feet of Lot 13 Block 554, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Brent Baker

PROPERTY OWNER:

Brent Baker

ZONING DISTRICT:

Historic Zoning District – Historic Overlay, Galveston Landmark (HZD-H)

HISTORIC DISTRICT:

East End

REQUEST:

Request for a Certificate of Appropriateness to install wood landscape beds and an arbor in the City right-of-way.

STAFF RECOMMENDATION:

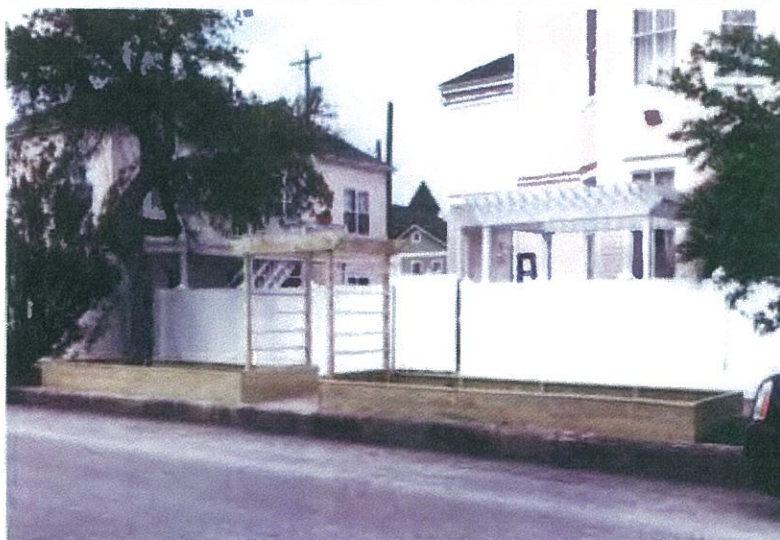
Approval with conditions

EXHIBITS:

- A – Site Plan
- B – Narrative
- C - Applicants Photos

STAFF:

Janice Norman, Planning Manager
409-797-3670
jnorman@galvestontx.gov



Background

A red tag was issued on March 26, 2018, for the construction of planter boxes and an arbor built into the City right of way and a pergola built in the side yard all without a permit.

Additionally, there was an open compliance case regarding the windows that were replaced on the rear garage apartment without Landmark Commission review.

Executive Summary

The applicant is requesting a Certificate of Appropriateness in order to retain the planter boxes and arbor in the right of way, windows in the garage apartment and the pergola in the side yard on the west side of the house.

Zoning and Land Use

Location	Zoning	Land Use
Subject Site	Historic Zoning District - Historic District Overlay, Galveston Landmark (HZD-H)	Residential
North	Historic Zoning District - Historic District Overlay (HZD-H)	Residential
South	Historic Zoning District - Historic District Overlay (HZD-H)	Residential
East	Historic Zoning District - Historic District Overlay (HZD-H)	Residential
West	Historic Zoning District - Historic District Overlay (HZD-H)	Residential

Historical and/or Architectural Significance

Date	1885
Style	Italianate
Conditions	Excellent
Evaluation	"Contributing" – contributes to the historical significance of the district through location, design, setting, materials, workmanship, feeling, and/or association.
Note	

Design Standards

DESIGN STANDARDS FOR ALL RESIDENTIAL PROPERTIES

Maintaining the compatibility of historic residential sites and buildings is an important objective. The standards in this section apply to all residential projects. This includes work on a locally-designated individual historic residential landmark and work on a contributing historic structure or new construction in a locally-designated historic district. Note that standards for specific "historic" considerations such as the treatment of historic porches, do not apply to new construction or additions.

Residential Site Standards

The site layout of individual residential properties is an important characteristic of Galveston's historic residential areas. Important site considerations include walkways, yards, fences, parking and planting.

Sidewalks and Walkways

Historically, a variety of paving materials on Galveston's residential properties. Paths or walkways were gravel or oyster shell. Brick, unglazed tiles, slate, concrete, and packed earth were also used.

Sidewalks placed in City right-of-way must adhere to City Code requirements, with proper permits obtained from the Department of Public Works.

Standards for New Secondary Buildings on Residential Properties

3.37 Design a secondary structure to be subordinate in scale to that of the primary building.

Appropriate

- If a proposed secondary building is to be wider than one lot, break up the mass into smaller modules that reflect traditional secondary structures.

3.38 Locate a new secondary structure to be line with others in the district.

- Traditionally, these are located along an alley edge.

3.39 Use materials that appear similar in character to those of the primary structure.

Inappropriate

- Metal buildings are not permitted.

Windows

2.17 Use materials that appear similar to the original when replacing a window.

Appropriate

- Use the same material as the original window, especially on character-defining walls (preferred approach).
- Consider an alternative material only if the appearance of the window components will match those of the original in dimension, profile and finish.
- Use clear window glazing that conveys the visual appearance of historic glazing (transparent low-e glass is preferred).

Inappropriate

- Do not use vinyl and unfinished metals as window materials.
- Do not use metallic or reflective window glazing.

Match the profile of the sash and its components to that of the original window.

Appropriate

- Maintain the profile depth of the sash, which steps back to the plane of the glass in several increments.

Inappropriate

- Do not use strips of material located between panes of glass to simulate muntins.

Conformance

Planter boxes and Arbor

The Design Standards state that it is important to consider the site layout of individual residential properties in a Historic District and to include walkways, yards, fences,

parking and planting. The Design Standards encourage any new construction to maintain the compatibility of residential sites and buildings in a Historic District. The planter boxes and arbor are not compatible with the site or the scale of the side yard right of way. The planter boxes and arbor are not consistent with the right of way planting pattern in the East End Historic District. Staff finds the planter boxes and arbor not to be in conformance with the Design Standards.

Pergola

The above Design Standards encourage designing a new secondary structure to be subordinate and to use materials that are similar in character to the primary structure. Staff finds the wood pergola in the side yard to generally be in conformance with the Design Standards.

Windows

The windows that were removed from the garage apartment were aluminum and were not original. The replacement windows are fiberglass with faux mutins in-between the glass panes. As stated above these types of mutins are not appropriate. Staff recommends that faux mutins with adhesive be applied to the exterior of the windows to mimic the appearance of traditional mutins.

Staff Recommendation

Staff recommends Case 18LC-032, request regarding a Certificate of Appropriateness be approved with the following conditions:

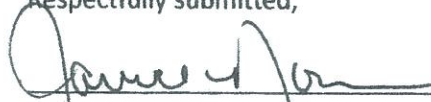
Specific Conditions:

1. The planter boxes and arbor shall be removed from the right of way;
2. Faux mutins with adhesive be applied to the exterior panes of the windows on the garage apartment to replicate traditional mutins;

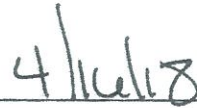
Standard Conditions:

3. Any significant alteration from the design approved by the Landmark Commission, shall require the request to be returned to the Commission for review;
4. The applicant shall obtain a building permit prior to beginning construction;
5. Any additional work will require a separate building permit from the Building Department, and may require review by the Landmark Commission and/or the City's Historic Preservation Officer prior to construction;
6. The Landmark Commission approval shall expire after 2 years if no progress has been made toward completion of a project unless the applicant files a request for an extension or can show progress toward completion of a project; and,
7. In accordance with Section 10.110 of the Land Development Regulations, should the applicant be aggrieved by the decision of the Landmark Commission, a letter requesting an appeal must be submitted to the Historic Preservation Officer within 10 days of the Commission decision. Additionally, a Zoning Board of Adjustment application must be submitted to the Planning Department by the next respective deadline date.

Respectfully submitted,



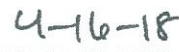
Janice Norman, Planning Manager



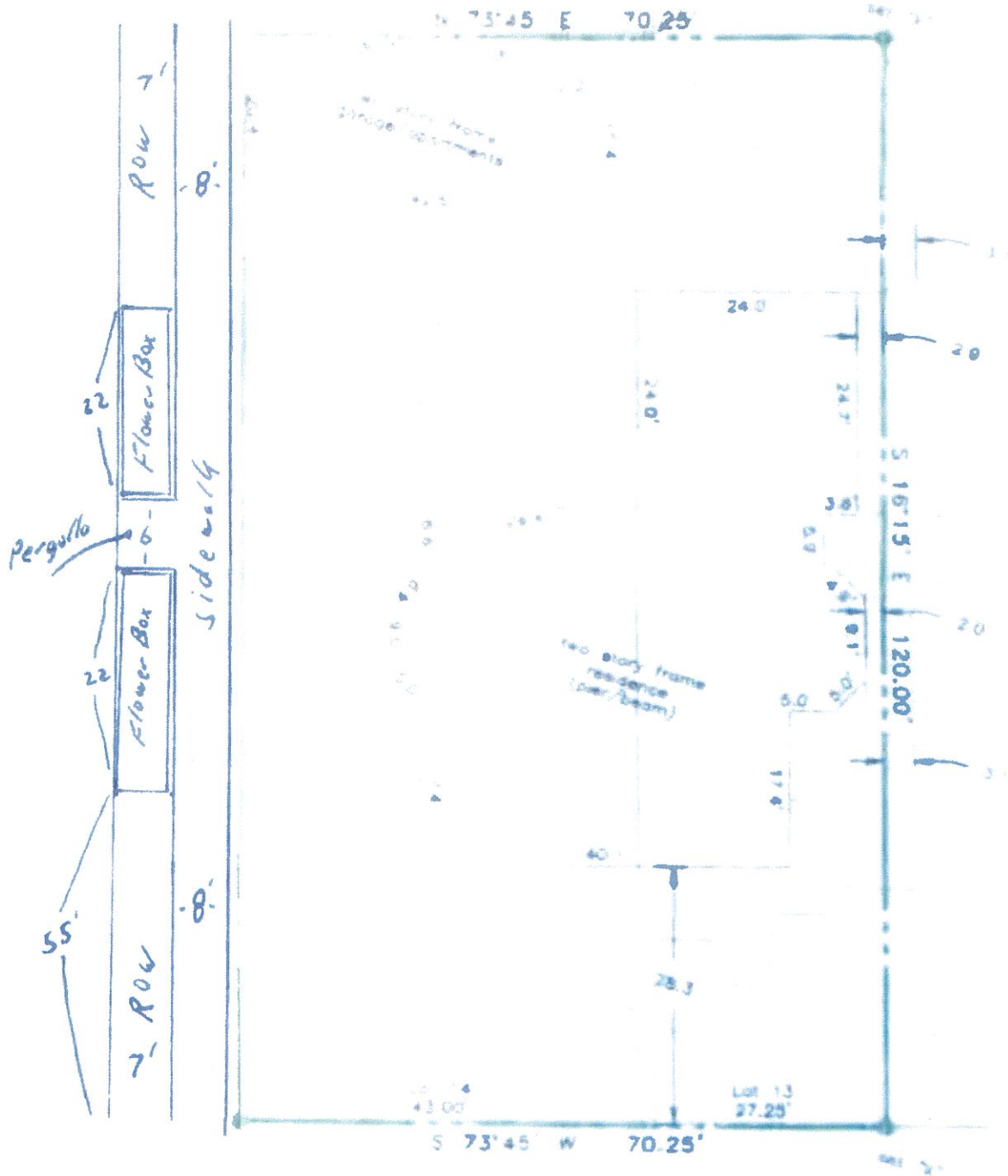
Date



Catherine Gorman, Assistant Director,
HPO, AICP



Date



Mark
(Old Avenue D)
(70' R.O.W.)

Location:

West side of residence located at 1426 market Street.
Sidewalk is 8 feet wide in this area. Right of way width 7 feet.
One 6 foot wide non handicap landing to 15th street.

Purpose:

1. During heavy rain this portion of right of way experiences continual soil loss due to lack of plant life attributed to numerous stumps. Dirt accumulates along street curb/storm drain. The site enjoyed mature oak trees which were lost during hurricane Ike. The trees were cut to ground level. Stumps and roots remain.
2. Raise soil height to adequate level above stumps and create planting beds.

Design:

Double row, horizontally stacked wood. Street side exposure ranges from 16" – 20", difference due to rise in street. Sidewalk exposure ranges from 9" – 16", difference due to uneven nature of pavement from old tree roots. Planter box is secured by stakes driven into ground. Box does not rest on curb but is placed several inch's below grade to prevent escape of soil. Pergola footings are dug to a depth of approx. two feet. No concrete was used for attachment. Pergola spans width of non handicap ramp. Clear span height approx. 8'. Intent is to prime and paint wood.

Material:

Construction material – 2 x 12 treated lumber for flower boxes with 2x4 top rail. Pergola is 4x4 treated post, two 2 x 10 treated rafters with two 2x10 beams. Lattice trellis of 1.5" treated wood attached to 4x4 post using single notch method and stainless steel screws. Flashing tape will seal seams between the two rows of wood. Cost of material \$700.

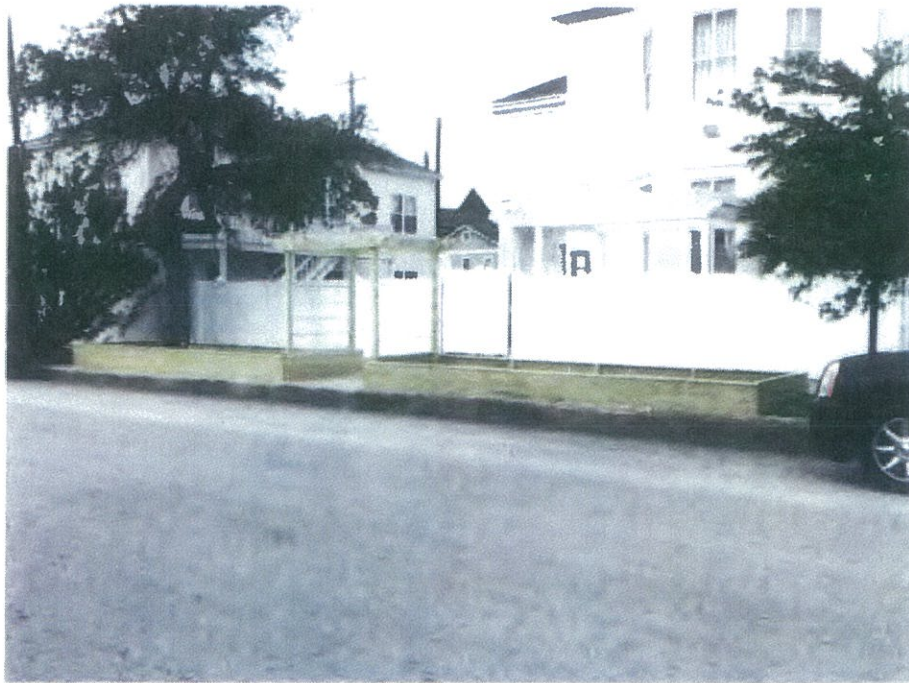
Plant material – Iceberg pink and white shrub roses, Sun Flare shrub roses, climbing ever-blooming pink New Dawn rose or Lady Banks climbing rose and various perennials.

Height: compared to road crown - Survey shot from several points along the crown of 15th street reveals the average difference in height from the crown to the top of the wood rail is 1'7". The measurement from the crown to the anticipated soil level is approx 10-12".

Maintenance: Each bed has 3 sprinkler heads. Gardener can sit on top rail of planter box to weed and access plants. Plants material is locally grown and heat tolerant. Shrub roses are self-cleaning meaning when the flower dies the petals fall off and plant will then repeat flower.

Utilities: One utility provider in ROW. Texas Gas has a branch line from Market St that services guest house of subject property. Line has been marked.

View from 15st looking east toward 1426 Market Street home.



View looking north from Market Street. (Sun Flare rose on fence)







Planning and Development Division

823 Rosenberg, Room 401
Galveston, Texas 77550

Phone: (409) 797-3660
Fax: (409) 797-3604

planningcounter@cityofgalveston.org



June 7, 2016

VIA CERTIFIED MAIL: 7012 3460 0001 7634 2112
VIA US POSTAL SERVICE FIRST CLASS

Brent Baker
6 Adler Circle
Galveston, Texas 77551-5828

Re: 16ZC-0007 (1426 Market/Avenue D) Historic District Vinyl Window Violation

Dear Mr. Baker,

The City of Galveston, Development Services Department has received complaints regarding the above stated property. The complaints allege that vinyl windows have been installed on the rear house without Landmark Commission approval. Any change in material must have Landmark Commission approval and a building permit prior to installation.

Design Standards for Historic Properties State the following regarding window replacement:

2.17 Use materials that appear similar to the original when replacing a window.

Appropriate

Use the same material as the original window, especially on character-defining walls (preferred approach).

Consider an alternative material only if the appearance of the window components will match those of the original in dimension, profile and finish.

Use clear window glazing that conveys the visual appearance of historic glazing (transparent low-e glass is preferred).

Inappropriate

Do not use vinyl and unfinished metals as window materials.

Do not use metallic or reflective window glazing.

According to our records no building permit was applied for or obtained for the installation of new vinyl windows.

Please be advised an application for a Certificate of Appropriateness must be applied for and approved by the Landmark Commission and then a building permit must be obtained for the installation of the vinyl windows. Failure to comply will result in the filing of charges through Municipal Court. Thank you in advance for your cooperation in this matter. If you have any questions feel free to contact me at 409-797-3686.

Sincerely,

Maria Olvera
Code Enforcement Officer
Development Services Department

ATTACHMENT C : MINUTES FOR 18LC-032

JANICE NORMAN: And this is 18LC-032, 1426 Market. The applicant is requesting a Certificate of Appropriateness in order to retain the planter boxes and arbor in the right-of-way, windows on the garage apartment, and the pergola in the side yard on the west side of the house. Please note the background on page one of the staff report. Please note the Design Standards on page two of the staff report. Uh, conformance. Planter boxes. The Design Standards state that it is important to consider the site layout of individual residential properties in a historic district and to include walkways, yards, fences, parking, and planting. The Design Standards encourage any new construction to maintain the compatibility of residential sites and buildings in a historic district. The planter boxes and arbor are not in con-are not compatible with the site or the scale of the side yard right-of-way. The planter boxes and arbor are not consistent with the right-of-way planting pattern in the East End Historic District. Staff find that-finds the arbor and planter boxes not to be in conformance with the Design Standards. The pergola... The above standards encourage designing a new secondary structure to be subordinate and to use materials that are similar in character to the primary structure. Staff finds that the pergola in the side yard are gen-generally be in conformance with the Design Standards. And then the windows. The windows that were removed from the garage apartment were aluminum and were not original. The replacement windows are fiberglass with faux muntins in between the glass panes. As stated above, these types of muntins are not appropriate and staff recommends the faux muntins with adhesive be applied to the exterior of the windows to mimic the appearance of traditional muntins. Staff recommends case 18LC-032 Request-request regarding a Certificate of Appropriateness be approved with the following conditions. Specific, um, the planter boxes and arbor shall be removed from the right-of-way and two faux muntins with adhesive be applied to the exterior panes of the windows on the garage apartment to replace traditional muntins. Uh, standard conditions are three through seven and we have photos. This is the subject property. This is the planter boxes and pergola, and, I'm sorry, the arbor and the pergola is right there in the side yard. You can see... This is the right-of-way facing north. This is facing south. These are the surrounding right-of-ways on the 15th Street and, uh, west. And this is facing south and southwest. And that concludes staff's report.

FRED HUDDLESTON: Ok. Does anyone on the Commission have a question fo-for staff?

CM DAVID COLLINS: Mr. Chairman, Mr. Tietjens, or Ms. Gorman, would one of you explain the difference for me and, perhaps the audience, about the difference between L31-032. One is for the appropriateness per the guidelines and the other is a recommendation to Council or Planning on the License to Use. Am I correct in that?

CATHERINE GORMAN: That's right. So, the first, uh, case which is 32 is a request for a Certificate of Appropriateness. So that's the, um, the review of what to-what the items look like and how they, uh, conform to the Design Standards, or don't conform to the Design Standards. So the second case, which we'll be hearing in a minute, um, is a recommendation to the Planning Commission regarding the License to Use. License to Use is like a lease agreement with the City, um, for the use of the public right-of-way for personal use. So the Landmark Commission is not the deciding-decider on the License to Use. That's the Planning Commission.

FRED HUDDLESTON: Very well. Thank you. Alright, let's open the, uh, the public hearing on case 18LC-032. And is the applicant present, would like to come forward? For the record, please state your name one more time.

BRENT BAKER: Brent Baker. 1426 Market Street.

FRED HUDDLESTON: Alright.

BRENT BAKER: Can I elaborate...? The original purpose of this project was to-let me get to the slide. This is a good picture. We've got an-an issue with post-like stumps in the right-of-way. Uh, you can barely see one right here, but there are several in this area. Previously this-this bed, both these beds, had railroad ties and we lost a lot of soil and mulch during storms, so we thought it'd be a good idea to raise the beds to contain the mulch and the dirt. So... How do I get back here?

FRED HUDDLESTON: [Inaudible] any louder?

BRENT BAKER: Uh, if you look at this, this-I want to draw your attention to the-let me see if I can find this-the planting pattern along 15th Street. I would argue that there is no planting pattern along 15th Street, so I really wonder what the issue is and debating that. I think you ca-I think you can see there is no planting pattern. Now how do I get out of this thing? Ok. Let me start with the Comprehensive Plan, uh, in the staff report. The City has a duty to balance the power, balance the-the City has a duty to balance these desires of private individuals with the protection of public land, uh, if you take that back to T4.2, Planning Commission serves as a review body for requests for the public to purchase called abandonment or use the right-of-way. Period. The City Council has final decision-making authority over abandonment requests. Often these requests are driven by desire to use the right-of-way for personal gain. The way Development Services has this guised-it is not relevant at all to our flower boxes. The idea the planter boxes could hinder vehic-vehicular traffic-let's see planter boxes could hinder vehicular access from cars parked adjacent to the planter box. The curb is 16 inches high. How do I exit this thing? Top right? Uh-oh. Ok. So, let me go to Design Standards, Design Standards for all residential properties. **This piece of Development Services' work is copied directly from the Design Guidelines. Page 71. The more relevant piece of this on page three, standards for new secondary buildings on residential properties is this piece starting on page 85. Let me read this-these first two sentences. "This section presents design standards for the construction of new residential structures. They apply to the design of new infill in a residential historic district. These guidelines also apply when alterations are to be considered for non-contributing properties."** So, I would ask, which am I? Am I non-contributing, or am I infill? I'm neither. Let me go to the section that they reference. Page 95, standards for new secondary construction. 3.37, design of secondary structures to be subordinate in scale to the primary building. **That is a garage on a new home.** It has nothing to do with a flower bed. 3.38, locate a new secondary structure to be-this should have "in"-to be in line with others in the district. Picture a garage and the-and page 95 says, "On-along an alley edge." Again, there's no relevance to a flower bed. 3.39, I'll give that to you. "Use material that appears similar in character as to-" I'm using wood, so I would ask that you totally disregard this section of staff's report. It is not relevant.

CONSTANCE PATTERSON: [Inaudible]

CATHERINE GORMAN: Yeah, the applicant should complete his presentation then you can ask questions.

BRENT BAKER: What else can we say about this? On page two of this other document, I wanna stress again: The Comprehensive Plan states, "The City has a duty to balance the desires of private individuals with the protection of the public land." If you read that, solo, it is totally out of context. And, again, "Often these requests are driven by the desire to use the right-of-way for personal gain." That is in the case of abandonment. Again, nothing to do with a flower bed. We're trying to keep dirt in. And mulch. And grow, grow roses. So you've got a picture of our flowers from our garden. Jiminy Christmas you'd think we'd had a three-headed dragon. I'm sure you've all been to the Sunflower. Right across the street from there you can see the size of those stumps. That's what we're dealing with. Somewhere in here it discusses hindering access from the sidewalk to the street. You're not going to be walking across that area anyway. I've got stumps in it. And then the-the balance-Mr. Huddleston, I think in the last meeting, in the recording, somebody voiced a concern about the grass area beside the beds. Three say-gos, a day

palm with three-inch daggers, two oak trees, a telephone boat-pole, a guy-wire, and a street sign. So no one will be walking through that area, either. So, give me a break, give me my planter barrier and you have, or at least the Planning Commission, has a 60 day notice ability to kick me out. I'm happy to pay the fee per linear foot. And I bet you I'm the only one in town that has to pay for a flower bed in the right-of-way. Let's see. And I'll even make a compromise offer. If the arbor is-is too much for you, I'll take the arbor out of the deal. Let me have the beds to deal with the stumps and the issue of the incline in that area of my lawn. We're going to put roses in there, and bushes that'll probably never get over 24 inches in height. And I have unsolicited support from my neighbors. I think that ought to speak volumes. So let's-as Forrest Gump says, that's all I got to say about that.

JAN GRIZZLE: [Inaudible]

FRED HUDDLESTON: [To member of audience] Ma'am. No, ma'am. I'm so sorry.

BRENT BAKER: Alright.

FRED HUDDLESTON: Well, thank you very much. Um...

DOUGLAS MCLEAN: I'd like to open the discussion by sugg-making a few suggestions. Um, first of all, I own a property on the East End that had 65 trees in it before Ike, so I know about stumps and I also know about stump grinding and removing stumps. They're not a permanent decision. They can be removed. I live on a property that has grass, sidewalks... People cross the grass and the sidewalks, regardless of where the trees are or guy-wires. It makes no difference. They're going to walk across wherever there is the shortest path to where they're going. Um, the problem is not, you know, you're offering here to plant beautiful roses. It's a wonderful thing, it really is. The problem is what happens if three months from now you have to sell the property for some reason. We now have a planter box that will cost the City 5, 10,000 dollars to reproduce that, to tear it all out, to replant everything, and that's not something-that's the City's property. And-and if you had noticed in the videotape, there was a planting. If you look down 15th Street, if you looked, I saw several blocks where the plantings were on a- I think it's a 20-foot center line -they came in, they marked 'em out, they spray painted the grass, the trees were planted at exactly those locations. 15th Street was not as heavily tree-laden as the n-numbered streets, or the Church, um, because we didn't have the funds and we didn't have the money but the overall plan for plantings is-is not a very specific planting diagram. So it's not as if we don't have a plan, it's just that it has not been completely fulfilled yet. I'm worried about maintenance. I'm worried about people getting-it's... You can open your door just barely but then you have to snuggle around the curb to the end of your car. You can't stand on the curb to get out of your car. There are a lot of reasons for this and, so, I believe that our objections are based on the rules that we have, and although we don't have a specific picture in our-in our booklet about your particular situation, we-we are carefully studied this document to make the decisions that we made previously. And, uh, it's unfortunate that this went forth before we got the permits to do this. That's an unfortunate part. Um, that's all I have to say.

GONZALO GONZALEZ: I would like to say I may be the person that you quoted about using the green area. Uh, as I said earlier in the mee-in-in the previous meeting, I walk dogs a lot, and sometimes you encounter a situation where a group of people comes in front of you and the courteous thing to do is just step aside and let those people pass, and I can do that in a little triangle between a saygo and a yucca that are prickly in that. I can do that, assuming there's not something extremely delicate there, and there is no definition as to the right-of-way, what part of that right-of-way is available to pedestrians. From my point of view, from the curb to the property line is available to-to pedestrians, but when you do something like that, and you-if you could go to the picture where it's a direct line down the sidewalk, a direct shot down. Right there. If-I think there's one that's maybe even from the other end. It creates a gulch. Ri-right there. It creates a gulch that limits people's ability to use that. I can't really step over that and get my dogs into it, you know, and that's one of the main objections I have. Uh, Ms. Norman

had said that this planter box did not obstruct the sidewalk. I do not agree with that. I think it does obstruct the right-of-way. And that's one of the main-that's a personal reason-that as far as the Design Guidelines, I also do not believe that they, um, are acceptable under them. So that was one of the reasons that I voted against this and will do so again today. Uh, you talked about a bargain. Um, personally, the arbor is not a problem to me. I'd be willing to make th-if they could make-if a compromise came to that, but the planter boxes are the problem for me, and there's no-and you showed the tour of 15. There's not a single example of that having been done, and as Doug suggested, if you have problems with the stumps, you can probably way more less expensively, have those ground down and have a professional bed installed with some sort of border that does not create that gulch, so...that's... [To Mr. Baker] Do you have a copy for everybody?

BRENT BAKER: [Inaudible]

GONZALO GONZALEZ: Ok. [Inaudible] Right, but these are surmountable. These you can step over. That is nearly two feet tall. You can't-it's not that easy. That's my objection to it. And there are examples that have gotten away. We can't address that. We're addressing this particular example, and that's, ultimately, what I have to say. I don't approve of many of these, but they're not coming in front of us, they're not in the historic district, many of these.

FRED HUDDLESTON: Um, let...

GONZALO GONZALEZ: [Inaudible]

CONSTANCE PATTERSON: We've closed the public hearing.

FRED HUDDLESTON: I'd like to close up the public hearing, um...

CONSTANCE PATTERSON: We've already closed the public hearing.

FRED HUDDLESTON: We did.

DOUGLAS MCLEAN: It's been there for 30 years.

FRED HUDDLESTON: Anyone else up here...

CONSTANCE PATTERSON: I have...

FRED HUDDLESTON: Ok.

CONSTANCE PATTERSON: Um, Mr. Baker, you have a beautiful home. Gorgeous. It is obvious to anybody that walks by that home that you have taken a lot of tender loving care of that property. I remember what the property looked like before you got it. Um, and it is historically significant to Galveston both in its architecture and design and it is highly contributing to the City, so no one questions that at all. And it's obvious that you have very good taste, but that's not the problem. The problem is it's still city property. It's not personal property and, unfortunately, we can't always have a de-standard design that everybody would follow, so while you would do something beautiful and tasteful, as we can see here, uh, there are complications that it may not always be under your care or that other people would not decide to go off and do that as well. Again, it's still city right-of-way. Um, there are a couple of other points you brought up that I think is confusing. Infill is private property. It's private property that doesn't have a property on it, doesn't have a house on it anymore, so that's different than a historic house that's existing. And then when you do see, um, historic buildings, the lot lines were very different in the 1870s, '80s, and '90s, and a lot of those historic properties sit right on the edge of that lot line. New construction does not-does not have those allowances. They have to go by current building codes, so I don't know if some of

that doesn't help you a little bit, but that would be my comment. Not that what you haven't done what is lovely and pretty and the attempt is incredible, but is that something that other people would try to recreate? I mean, it's just-it is public property. It's not private. It's public property and it's not abandoned. It is-

BRENT BAKER: I understand that.

FRED HUDDLESTON: [Inaudible]

CONSTANCE PATTERSON: And then you did cite one other case. I don't know if you realize this is-Sunflower Café is in an urban part of the neighborhood, it's not in the historic part. So there are special allowances for properties that are along 14th that are considered urban, so... You know, other than that, if-if everybody in the historic districts, all four of them, had that kind of taste and produced that kind of stuff and we knew that it would always be taken care of forever and it did have a little more subtleness to the Design Guidelines, it-that would eliminate a lot of the concern, but in sadly that's not what we see time and time and time again. So that-that was part of the factor. That-I just wanted to share with you. It wasn't a bias against what you did, specifically, um, so, thank you.

DOUGLAS MCLEAN: Connie? Would you-

CONSTANCE PATTERSON: Yeah.

DOUGLAS MCLEAN: If I could say something. Your own paperwork that you provided me is my justification for the way I feel. These are two of the images you just handed me.

BRENT BAKER: Agreed. I put in both good and bad.

DOUGLAS MCLEAN: This is why we have concerns about what you're doing because there's no guarantee that these will not be the conditions. This what [inaudible] looks like after two years. This is what your lumber will look like in two years. This is why, and this to me is about-is poor-looking planter boxes. I could imagine, and I'm not talking about taste, I'm talking about weathering and why this is something we're concerned about. This is beautiful. What you plan to do is beautiful, but there's no guarantee that who might be in that home six months from now will do that and then it's the City's responsibility to deal with a very costly eyesore.

CONSTANCE PATTERSON: It's a precedent.

DOUGLAS MCLEAN: It's not a personal. It's in no way is it personal. It just has to do with our ability to maintain, um, some quality level here. Anyway, that's all I have to say. I won't speak.

BRENT BAKER: Can I respond?

FRED HUDDLESTON: Well let me open the public hearing and let Mr. Baker speak.

BRENT BAKER: Mr. McLean. I went to some effort to-the arbor is not concreted in. I did that on purpose. There are stakes that hold those-that two-by material in place. 700 dollars in material that two teens could take out. You're in the hardscape business, or-or metal works. You could have that out in an afternoon. And, through the incidence of ownership, I have the ability, or some rights to use the right-of-way. You're set up to grant me that authority and certainly planning and zoning is. I mean, how about this? That's Mod Coffee Shop.

DOUGLAS MCLEAN: It's a different location, sir. That's a commercial property-

BRENT BAKER: But the City-

CONSTANCE PATTERSON: It's not a historic district.

BRENT BAKER: I know but I want to make a point here. The City put so much emphasis on this it's in their comprehensive guideline.

CONSTANCE PATTERSON: It's not in a historic district.

BRENT BAKER: Ok, but would you agree that I have the ability to lease the right-of-way?

CONSTANCE PATTERSON: That's not my call. That's the City's call. I will tell you that we had another case that came up in the historic Strand where they wanted to do a similar application, and it was declined. You're not the first. It's not personal is what I'm trying to tell you. It's not personal. It is city right-of-way, so we can't all assume as homeowners that we can create what we'd like to on city right-of-way. There is a process by which you pull a permit, grab an application, see if it's ok, start the proceedings, and follow the process.

BRENT BAKER: And I'm guilty of that. I'm probably the-

CONSTANCE PATTERSON: And that's fine. There's-

BRENT BAKER: I'm the dumbest person in the room to think that I would have to get a permit, or permission, to put a flower bed in the right-of-way.

CONSTANCE PATTERSON: It's not the flower bed.

GONZALO GONZALEZ: I agree.

CONSTANCE PATTERSON: It's not the flower bed.

BRENT BAKER: So is there a solution that you might have if the arbor's ok? What can I do to the two-by material to make it-

CONSTANCE PATTERSON: I think that that's something you would need to take back to Catherine and to the planning because we can't recommend from this bench alternatives. We can only look at the case as it's presented to us, as it applies to the Design Guidelines, and determine those facts, so may-there may be other options for what you want. We can't recommend them here. That's not our job because we're not designers. We're just people, trades, professionals, and property owners like yourself that follow the-the process, the Design Guidelines, and what's specifically in front of us. We don't like to hear the words "Well I feel" or "I think" because that's subjective. The rules that apply to you are the rules that apply to everyone. It applies to the business owner on the Strand that wanted to do the same thing and it was declined, um, and it applies to every property owner in the historic district. Fortunately, I can tell you that I have a property right down the street from you and there are all kinds of grandiose things I wanted to do with that property and I couldn't. I figured out a different one, but I think that if you re-um, could contact Catherine and ask "What are my options?" and then you would re-present to the Landmark Commission those options, but we can't-we can't give you those options from here. That's outside of our wheelhouse so to speak.

DOUGLAS MCLEAN: I think you set out as, at least, as a good steward.

CONSTANCE PATTERSON: Mm-hmm, no question. No question.

GONZALO GONZALEZ: It's not even a matter of the maintenance. It is an obstruction right now regardless of who owns the property. If the city ever has to come and do-there's lines running under that, I imagine. Hydrants, things like that. It is an obstruction. It's-I really don't think that the way of whether it's you or somebody in three years maintaining it, it is a legitimate track. I'm sorry, out of respect, but I'm sorry. It is, right now, an obstruction. You can make a flower bed there without obstructing the potential use for other people, for people crossing across to get to their cars. You may not agree, but someone else may decide that that's a good thing to do, that they don't want to ...whatever. I just, you know, I can't tell you. Maybe a Homes Tour day or something when they're people that are not even coming to your house will park there and they will want to cross the sidewalk there. There are people-dogwalkers-there are all kinds of things, there's people in, you know, carrying babies and strollers that might want to edge over into that side to make way for other people. That is the thing that I object. It is an obstruction and there's no way around that. You can make a lower wall. You can grind those stumps out and have a professional landscaper come in and take care of that, and I can't, as-as Connie has said, we can't dictate what to do, but there are options, and I do not agree that this is a legitimate option.

BRENT BAKER: Thanks.

FRED HUDDLESTON: Ok, does anyone else in the public want to speak? Uh, seeing no one I will bring it back to, uh, to the Commission. May I entertain a motion?

CM DAVID COLLINS: Uh, mister Chairman, just, uh, Mr. Tietjens, did you have a comment on this?

TIM TIETJENS: I just wanted to point out that, uh, with a License to Use, uh, there's never a right to obtain an LTU unless you go through the process. And that process is a process that goes through the Planning Commission and subsequently to City Council. Uh, the License to Use process is a component of the public right-of-way that a property owner has maintenance responsibility for and can, in essence, use as part of their lawn, but it is not their lawn as Commissioner Patterson pointed out. It is public right-of-way, uh, and it's-it's particularly, um, I guess important that when someone just-just builds something without any permit or authorization or-or even a visit that those-those things be dealt with. Um, the License to Use is the way to do that if you deem it appropriate. But I just want to point out there-there is never a right as such for anyone to have an LTU. It is an approved process.

GONZALO GONZALEZ: And this particular app-um, application is not about a License to Use, it's about-

CONSTANCE PATTERSON: Construction.

GONZALO GONZALEZ: The appropriateness of routing the modifications. Right, that's next.

TIM TIETJENS: Right, I hit the-

GONZALO GONZALEZ: I know, I know. I'm just pointing that out. Yeah, yes.

FRED HUDDLESTON: Again, uh, a motion?

GONZALO GONZALEZ: Um...I would like to make a motion that we, as we have done before, maybe I shouldn't say that, but that we approve the application with staff recommendations to require that the bed be removed, um, I think that's it. And, let's see, what are staff recommendations?

CONSTANCE PATTERSON: Planter boxes. Arbor.

GONZALO GONZALEZ: Planter boxes be removed. Arbor, I guess. You know, yes, arbor be removed. The windows be-the window in the garage apartment have the-I can't find that.

[Inaudible]

GONZALO GONZALEZ: Planter boxes and arbor shall be removed from the right-of-way, faux muntins-muntins with adhesive be applied to the exterior panes of the windows on the garage apartment to replicate traditional muntins.

FRED HUDDLESTON: Can I have a second? I'll second.

MINDY LAKIN: We have lots of seconds.

CONSTANCE PATTERSON: That's three seconds. I think Doug was first. Doug...so...Gonzo Gonzalez made the motion. Doug seconded it.

FRED HUDDLESTON: Any discussion?

MINDY LAKIN: Discussion?

DOUGLAS MCLEAN: Only to say that I do appreciate that the owners are trying to improve the neighborhood, I do want to make sure we get that clear. We're not-we're not objecting to that. We do appreciate it.

FRED HUDDLESTON: Ok. Um, all in favor? It's unanimous. Going on to, uh, next, uh, 18LC-031.