



RICARDO SAMANIEGO
El Paso County Judge

February 10, 2021

The Honorable Oscar Leaser, Mayor, City of El Paso
Mr. Peter Svarzbein, City Representative, District 1
Ms. Aleksandra Anello, City Representative, District 2
Ms. Cassandra Hernandez, City Representative, District 3
Mr. Joe Molinar, City Representative, District 4
Ms. Isabel Salcido, City Representative, District 5
Ms. Claudia Lizette Rodriguez, City Representative, District 6
Mr. Henry Rivera, City Representative, District 7
Ms. Cissy Lizarraga, City Representative, District 8
300 N. Campbell
El Paso, Texas 79901

Dear Mayor Leaser and City Representatives:

First and foremost, I'd like to thank Mayor Leaser for his willingness to place an item on next week's City Council regular agenda to have an open discussion on amending El Paso City Code Section 20.20.080, please see Attachment A. On behalf of the El Paso County Commissioners Court, we are very grateful to the Mayor and the City Council for your consideration on this important item and are hopeful that you consider making the necessary amendments to remove concerns for Downtown property owners.

As you know, several years ago, the County began the important work to establish a National Historic District in Downtown El Paso, and just recently, Segundo Barrio. The County's mission in this effort has been to recognize and celebrate the historical and cultural significance of these areas. For property owners, this presents itself with the opportunity to attract visitors via heritage tourism efforts, spurring economic development for their community and taking advantage of historic tax credits.

It is critical to the success of the historic designation for property owners to understand the full scope of the designation. To that end, El Paso County has made efforts to solicit input from supporters and opponents. For several years, public meetings have been held not only by the Commissioners Court but by the County Historical Commission. These meetings have consisted of robust and substantive discussion on the scope of the project and to receive input on drafts of the survey before finalization. We understand that additional outreach to property owners is needed and we will work to improve our communication by engaging in an information campaign to educate them on why this designation is important and to provide a full picture of what it means for them.

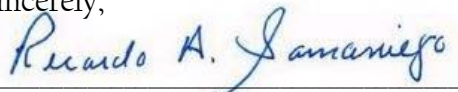
Just as critical property owner support is for the project, so is the City's. An obstacle which remains a barrier that is solely in control of the City is City Code Section 20.20.080, subsections A. - B. In brief, the current City ordinance provides that property owners in a historic designation are subject to the Historic Landmark Commission's approval process when making changes to their property. Understandably, the existence of this ordinance has contributed to many property owners opposing the establishment of a

Federal Historic District. Certain portions of the ordinance have not been used for years, which City staff asserts will not be enforced and whom many believe to be legally unenforceable.

Of course, I reiterate that the proposed Historic District would not have an impact on the City's plans for redevelopment of the site. Federally recognized historic districts are considered honorary and do not impose any additional restrictions or requirements on property owners, according to the U.S. Secretary of the Interior, see Attachment B. This includes property owners of existing buildings, demolition projects, or new construction projects. The Secretary of the Interior Standards for Historic Preservation are clear that properties come into effect at the time a private property owner submits an application for state and federal historic tax credits.

Thank you again for bringing the item for discussion at the next Council meeting. We hope El Paso City Council considers making the necessary revisions to El Paso City Code 20.20.080 and to do this as quickly as possible due to critical timelines coming up that are important to the success of the project. We do not ask for you to take a stand on the Historic District but simply ensure that all property owners are given the full and fair information that the ordinance has not been enforced, will not be enforced, and will be amended.

Sincerely,

A handwritten signature in blue ink that reads "Ricardo A. Samaniego". The signature is written in a cursive style and is positioned above a horizontal line.

Ricardo A. Samaniego
El Paso County Judge

cc: Karla Nieman, El Paso City Attorney

cc: El Paso County Commissioners Court

ATTACHMENT A

20.20.080 - Alterations and changes to landmarks and H-overlay properties.

- A. No person or entity shall construct, reconstruct, alter, change, remove, demolish or fail to maintain, any of the following, unless a certificate of appropriateness or a certificate of demolition has been approved by the HLC or approval granted through administrative review:
1. Any permanent feature on a property listed as a Texas Antiquities Landmark or on the National Register of Historic Places;
 2. Any building, object, site, landscape architectural feature, or group of such designated with an H-overlay or as a historic landmark as defined by this chapter and designate by the city council.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the historic landmark commission or approval granted through administrative review. The certificate of appropriateness or administrative review approval shall be in addition to and not in lieu of any building permit that may otherwise be required.
- C. Certificates of appropriateness, certificates of demolition and applications for administrative review shall be granted, granted with modifications, or denied based on the following criteria:
1. When city council has adopted architectural and design guidelines for a particular district, those guidelines shall control provided they are not in conflict with other requirements of the city code, except that the HLC may approve exceptions to the guidelines in an effort to maintain the historic integrity of an H-overlay property, in which case the exception shall control in that particular case;
 2. When no guidelines have been adopted for a particular district, the guidelines from the district most similar in character, design, materials, workmanship, time of construction shall apply; or as identified in the "Guide to the Identification and Preservation of El Paso's Cultural, Historic and Architectural Resources";
 3. When the preceding does not provide guidelines applicable to the project, then the secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings shall apply (36 CFR Part 68) (U.S. Department of the Interior, National Park Service, Preservation Assistance Division. U.S. Government Printing Office Document Number: 19940 - 160-280 QL 3, Washington, D.C., or most current revision).
 4. The guidelines and use thereof by the HPO for use in granting an administratively issued certificate of appropriateness for a site located in an area of potential effect shall be as provided by the resolution of the City Council adopting such guidelines.
- D. Application Content.
1. For the exterior of a designated historic landmark, a site located in an area of potential effect, or a designated historic interior, the applicant shall submit the following:
 - a. One copy of completed application for administrative review, certificate of appropriateness or certificate of demolition form. Applications must be typewritten, printed in ink, or electronically submitted in legible form. Completed applications shall be accepted and reviewed administratively or scheduled for HLC hearing, as applicable, on a first-come, first-serve basis. Incomplete applications shall not be processed and shall be returned to the applicant;
 - b. One copy of a detailed site development plan and construction documents drawn to scale, as applicable, showing the following:

- i. Legal description of the property,
- ii. Lots lines with dimensions of the areas,
- iii. Location and arrangement of structures and fencing,
- iv. Location, type, and arrangement of windows, doors, and other openings where applicable; (Include sample of each type of window or door from brochure, catalog or manufacturer),
- v. Square footage of structure(s), including number of dwelling units,
- vi. Required yards and setbacks,
- vii. Proposed building materials (i.e., concrete, stucco, wood, metal),
- viii. Sample of proposed color(s) and texture (i.e., color swatch with name, manufacturer, and number),
- ix. Material and product samples from brochure, catalog or manufacturer,
- x. Open spaces, where applicable,
- xi. Landscaped planted areas including square footage,
- xii. Architectural design of buildings, modification, addition, or new construction (floor plan(s) and elevations),
- xiii. Construction details for roof, walls, floor and foundation;
- c. Photographs showing current conditions of the site and/or structures;
- d. One copy of a proof of ownership or other legal document demonstrating that the individual(s) or corporation submitting the application is the current property owner such as a certificate from a title company or warranty deed. An individual or entity who has a contract to purchase property may also submit an application with the owner's written authorization. This requirement shall not apply to administrative review applications;
- e. A copy of any deed restrictions, existing or proposed, on the property shall also be submitted. This requirement shall not apply to administrative review applications;
- f. One eight and one-half inch by eleven inch copy of the detailed site development plan and scaled construction drawings. The copy must contain the address and legal description of the property. This requirement shall not apply to administrative review applications;
- g. A plan showing restoration or rehabilitation of the interior and the exterior unless the applicant provides an inspection report that shows that the interior fully complies with all applicable code requirements and is not in need of restoration or rehabilitation, in which case the plans need only address the exterior of the site.

E. Administrative Review and Approval.

- 1. The historic preservation officer shall review and approve, approve with modifications or deny all administrative review applications in accordance with the administrative review design guidelines, for the following types of requests:
 - a. Landscape materials including vegetation, irrigation, and xeriscaping, in the front, rear, side yards and parkways; to include the following:
 - i. Open spaces, where applicable, including square footage,
 - ii. Landscaped planted areas, where applicable, including square footage,

- iii. Type of landscape or surface material to be replaced; to include a sample of the proposed surface material;
- b. New fencing on the front, rear and side yards; to include the following:
 - i. Location and type of proposed fencing,
 - ii. Type of proposed fencing including material and color,
 - iii. Chain-link fence is not an acceptable material for approval under administrative review;
- c. Wrought iron security coverings for windows and doors; to include photographs and showing the following:
 - i. Location of proposed security grills,
 - ii. Type of proposed security grill including material and color;
- d. Exterior accessibility ramps when placed in non-character-defining facades; to include the following:
 - i. Location of proposed accessibility ramp,
 - ii. List of materials and colors;
- e. Skylights and air-conditioner units when placed in non-character-defining facades or visible from the front facade; to include the following:
 - i. Location of proposed skylight or air-conditioner unit,
 - ii. List of materials and colors,
 - iii. Sample of skylight or air-conditioner unit. (Include sample from brochure, catalog or manufacturer);
- f. Off-premises and on-premises commercial and residential signs within historic districts in accordance with Chapter 20.18 as applicable; to include the following:
 - i. Location of proposed signage,
 - ii. List of materials and colors,
 - iii. Sketch of signage including total square footage;
- g. Replacement of garage or household exterior doors that match the original doors; to include sample of door from brochure, catalog or manufacturer;
- h. Walkways, driveways, and aprons; include location and materials;
- i. Swimming pools and tennis courts where permitted by sufficient area in the side and rear yard;
- j. Routine maintenance, including but not be limited to: painting, re-roofing, repair of walks, driveways, fences;
- k. Placement of fire escapes when placed in non-character-defining facades and where allowed by other city ordinances;
- l. Installation of windows similar to the original in appearance and purpose, regardless of construction materials include sample of window from brochure, catalog or manufacturer;
- m. Installation of an accessory structure when placed in non-character-defining facades, not in the front or side yards, and when no other accessory buildings exist on the site. Accessory structure shall not exceed one hundred twenty square feet in size. Colors shall complement the existing historic structure;

- n. Installation of outdoor playground equipment when placed in non-character-defining facades and not in the front or side yards;
 - o. Painting of previously painted surfaces other than brick or any type of stone with colors compatible with the historic district;
 - p. Installation of outdoor lighting fixtures and security fixtures when such elements complement the design context of the structure;
 - q. Minor alterations in a non-character-defining facade and not visible from the street. Any alteration found to have a detrimental impact on the historic character of the structure or historic district shall be subject to the requirements for approval for a certificate of appropriateness as outlined in Section 20.20.130(C).
3. Photographs showing current conditions of the property may be required to be furnished by the applicant for all administrative review requests.
 4. The applicant may appeal decisions of the HPO to the HLC, through the application process.
- F. Certificate of Appropriateness and Certificate of Demolition. Any and all changes or alterations to landmarks and H-overlay properties, as described in Section 20.20.140(A), that are not eligible for administrative review shall require an application for certificate of appropriateness or certificate of demolition to be reviewed and approved by the HLC.
- G. Historic Landmark Commission Review.
1. The historic landmark commission, upon ten days' written notice to the applicant, shall hold a hearing on the application. Upon review, if the HLC finds the proposed work of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark, and is appropriate and consistent with the spirit and purposes of this section, it shall forward a certificate of appropriateness to the applicant within ten days after the public hearing.
 2. If the historic landmark commission finds that the proposed work will adversely affect or destroy any significant architectural or historical feature of the designated historic landmark or historic interior, or is inappropriate or inconsistent with the spirit and purposes of this section, it shall render a denial of the request and forward the disapproved application to the applicant within ten days after the public hearing. The HLC shall state the reason(s) for its disapproval.
 3. If no action has been taken by the historic landmark commission within forty-five days of the receipt of a completed application, the application shall be approved as submitted, and a certificate of appropriateness shall be issued by the HLC. However, a certificate of demolition shall never be issued before the expiration of sixty days of receipt of a completed application.
 4. No change shall be made in the application, issuance, or execution of any building permit after the issuance of a certificate of appropriateness, without submittal of a request for minor modification as provided for in Section 20.20.150, otherwise, a new application to the historic landmark commission and approval thereof in the same manner as previously provided shall be submitted.
 5. After a decision is reached by the historic landmark commission denying an application for certificate of appropriateness, no application for a certificate of appropriateness for a given property may be resubmitted within twelve months from date of action by the HLC unless the HLC finds that a substantial change in conditions has occurred, or that applicant has resubmitted in conformance with subsection 3.
 6. Applicants aggrieved by a decision of the historic landmark commission may appeal to city council, using the procedure identified in Section 20.20.190.

H. Area of Potential Effect. A certificate of appropriateness may also be issued administratively by the HPO using the same criteria and standards as the HLC under subsection G of this section, or administrative approval may be granted under this chapter for the construction, reconstruction, alteration or changes proposed to be made to a site located in an area of potential effect as designated by the city council, upon the request of a person or entity intending to make application for the ad valorem tax incentive program provided in Section 3.04.035 of this Code. In making a decision to administratively issue a certificate of appropriateness under this section, the HPO shall perform every duty and undertake every obligation imposed on the HLC in this section for the situations when the HLC is authorized to issue a certificate of appropriateness.

(Ord. 16879 (part), 2008; Ord. 16653 § 2(part), 2007)

(Ord. No. 17233, §§ 1, 2, 11-3-2009)

ATTACHMENT B

INFORMATION ABOUT NATIONAL REGISTER OF HISTORIC PLACES

AS COMPILED BY COUNTY'S ECONOMIC DEVELOPMENT DEPARTMENT

National Register of Historic Places (NRHP): No administrative review or permitting requirements in building alterations, restoration, new developments or construction, or demolition. Secretary of the Interior Standards activate upon submission of an application for historic tax credits by a private property owner to the state and federal government.

- The establishment of the district would not impose any additional restrictions or requirements on any City-owned properties nor affect the development and construction of the City's proposed multipurpose center.
- See accompanying spreadsheets noting both local and federal historic districts
- Individual buildings and those located within a district listed on the National Register are eligible for federal tax credits for rehabilitation work