

ORDINANCE NO. 2016-20

Historic Preservation Overlay District

AN ORDINANCE OF THE CITY OF CANTON, TEXAS, AMENDING THE 1985 ZONING ORDINANCE FOR THE CITY OF CANTON, TEXAS, AS HERETOFORE AMENDED, AMENDING THE PROVISION FOR THE ESTABLISHMENT OF AN HISTORIC PRESERVATION OVERLAY DISTRICT; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Canton City Council at its meeting on July 15, 2003, adopted Ordinance No. 2003-08 establishing the Historic Preservation Overlay District Regulations and appointed the Main Street Board as the Historic Preservation Design Board; and

WHEREAS, the Canton Main Street Board at its meeting on August 9, 2016, voted to request an amendment to the ordinance establishing a cohesive exterior color palette for the district; and

WHEREAS, the Canton Economic Development Corporation's Board of directors supported that request by unanimous vote at its meeting on September 27, 2016; and

WHEREAS, the Planning and Zoning Commission of the City of Canton and the City Council of the City of Canton, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notice by publication; and

WHEREAS, the City Council of the City of Canton is of the opinion and finds the 1985 Zoning Ordinance should be amended;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

SECTION 1: That Article 14-1 entitled "Historic Preservation Overlay District" (HD) be added as a supplement to read as follows:

1. Purpose. The City Council of Canton, Texas, hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that the historic districts and landmarks within the City of Canton represent the unique confluence of time and place that shaped the identify of generations of citizens, collectively and individually and produced significant historic, architectural and cultural resources that constitute their heritage, and therefore, this act is intended to:
 - A. Protect and enhance the district and landmarks which represent distinctive elements of the City of Canton's historic, architectural and cultural heritage;
 - B. Foster civic pride in the accomplishments of the past;

- C. Protect and enhance the City of Canton's attractiveness to visitors and the support and stimulus to the economy thereby provided;
 - D. Ensure the harmonious, orderly and efficient growth and development of the city;
 - E. Promote the economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
 - F. Stabilize and improve the values of such properties.
2. Boundaries. The boundaries of the Historic Preservation Overlay District are delineated on the official zoning map and the official boundary map, herein (see Appendix A). Additional parcels may be added to the official zoning map as sites outside the original boundary are identified and rezoned. All regulations of the underlying zoning district shall be in effect, except as identified in the "H" overlay district regulations set forth herein.
3. Certificate of Appropriateness.
- A. No person shall construct, reconstruct, alter, change, restore, expand or demolish any exterior architectural feature of a building or structure that is visible from a public right-of-way located in the "HD" Overlay District without first obtaining a Certificate of Appropriateness from the Historic Preservation Design Board (hereafter referred to as "Board"). A certificate of appropriateness must be obtained prior to the issuance of any building permit. The term "Exterior architectural feature" shall include but not be limited to the kind, basic texture and color of all exterior building materials and such features as windows, doors, lights, signs and other exterior features.

The Board may establish guidelines to enable the Historic Preservation Design Chairman to issue a Certificate of Appropriateness for exterior restorations and renovations.

- B. Ordinary Maintenance. Nothing in this section shall be construed to prevent the ordinary maintenance, replacement or repair of any exterior architectural feature of a landmark or property within the historic district. Ordinary maintenance shall be defined as any work that does not constitute a change in design, material, or outward appearance. Ordinary maintenance includes in-kind replacement or repair.
 - (1) Any addition or deletion of landscape materials or landscape design elements need not receive a Certificate of Appropriateness from the Board. The Historic Preservation Design Chairman and the City Inspector shall provide review and comment as requested by the property owner regarding appropriate plant and landscape materials for designated historic areas.
 - (2) Any person wishing to paint a structure within the historic district must first obtain a Certificate of Appropriateness from

the Board. The Historic Preservation Design Chairman may issue the Certificate of Appropriateness when using paint selections from the color palette defined by the Board.

4. Criteria for Approval.

The following standards, guidelines and criteria should be used in a balanced evaluation of the property in question:

- A. The Board shall follow the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the Board approved color palette to assist in its consideration of all applications for Certificates of Appropriateness. These standards and guidelines shall be made available to owners of property with a historic overlay designation.
- B. The Board shall utilize a checklist of design elements to be reviewed and considered by the Board in reaching its determination. Such checklist shall be initially approved by the City Council and thereafter modified by the Historic Preservation Design Chairman or the City Council as deemed necessary.

5. Procedures for Approval.

- A. Prior to the commencement of any work requiring a Certificate of Appropriateness, the applicant shall file an application for such Certificate with the Historic Preservation Design Board at the Canton Main Street office. The applicant should consult with the Historic Preservation Design Chairman prior to submission of the application regarding applicable standards and guidelines for the property.
- B. The application shall contain:
 - (1) The name, address, and telephone number of the applicant.
 - (2) The location and photographs of the property and adjacent properties (historical photographs may also be helpful.)
 - (3) Letter of intent describing in detail the work proposed.
 - (4) Elevation drawings of the proposed changes.
 - (5) Samples of materials to be used if requested by the Historic Preservation Design Chairman.
 - (6) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, the method of illumination (if any) and a plan showing the sign's location on the property.
- 7. Any other information which the Historic Preservation Design Chairman may deem necessary in order to visualize the proposed work.

C. Procedures for Approval

The Board shall approve, approve with modifications, or deny an application within 70 days from receipt of the completed application. The Board shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Should the Board not take action within the 70-day period, the Certification of Appropriateness shall be automatically approved.

D. All decisions of the Board shall be in writing. A copy of the Board's decision shall be sent to the applicant and kept on file in the Planning Department along with the Certificate of Appropriateness. The Board's decision shall state the reasons for denying or modifying any application.

E. No building permit shall be issued for such proposed work until a Certificate of Appropriateness has been issued by the Board or, upon appeal, to the City Council pursuant to subparagraph (10) herein. The Certificate of Appropriateness required by this section shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the City.

6. Demolition. A permit for the demolition of a historic landmark or property within the historic district, including secondary buildings, shall not be granted by the Chief Building Inspector without the review of a completed application and issuance of a Certificate of Appropriateness for demolition by the Board or the Historic Preservation Design Chairman. The Board grants authority to the Historic Preservation Design Chairman to approve demolition requests made by the City of Canton for structures in imminent danger of collapse or otherwise posing an immediate peril to the public health and safety. The Board shall hold a public hearing on applications not approved by the Historic Preservation Design Chairman within 60 days from the date the application is received. Following the hearing, the Board has 30 days in which to prepare a written recommendation to the Chief Building Inspector. The Board shall approve, deny, or approve with a 90-day delay all demolitions in the historic district. The recommendation of the Board shall be forwarded to the Building Inspector for final consideration. If demolition has been delayed for 90 days by the Board, a demolition permit shall not be issued during that 90 days unless the Chief Building Inspector determines that the property poses a threat to the life and safety of the citizens of Canton. In the event that the Board does not act within 90 days of the receipt of the application, a permit for demolition may be granted.

7. Economic Hardship.

A. For Deviations: If the Board refuses to issue the Certificate of Appropriateness on the ground that the proposed work will not comply with the criteria set forth in subparagraph (4) above, and any design guidelines for the property, the applicant shall have the right to seek deviations from the criteria design guidelines from the Board on the basis guidelines, the applicant must prove by a preponderance of the evidence that he will have no reasonable opportunity to recover the cost of the proposed work if he is required to perform the work in accordance with the criteria and design

guidelines. If the Board finds that the applicant would have no reasonable opportunity to recover the cost of the proposed work if performance in accordance with the criteria and the design guidelines, the Board shall grant a deviation from the criteria and any applicable design guidelines and may issue a Certificate of Appropriateness for the required work, with or without conditions. The Board may consider the following factors in determining the extent of the deviation granted:

- (1) The cost to perform the work in compliance with the criteria and design guidelines;
- (2) The value of the property;
- (3) The extent to which a deviation is necessary to allow the owner a reasonable opportunity to recover the cost of the work;
- (4) Whether granting the deviation will harm an existing or proposed historic or landmark district or structure of property designated with a high priority rating; and/or
- (5) Whether the proposed work is in harmony with the spirit and purposes of this section.

B. For Demolition: An application whose Certificate of Appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to provide the existence of a hardship, the application must prove by a preponderance of the evidence 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;
- (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or
- (4) The structure or property is in such a condition as to be irreparably damaged and, as such, poses a nuisance to the surrounding area and is a threat to the health, safety and general welfare of the community.

8. Economic Hardship Application Procedure.

A. After receiving written notification from the Board of the denial of a Certificate of Appropriateness, an applicant may, within ten working days, commence the hardship process, unless the hardship application is filed simultaneously with the application for a Certificate of Appropriateness. No consideration or action may be taken on the hardship application unless a denial of the Certificate of Appropriateness has been issued. No building permit or

demolition permit shall be issued unless the Board makes a finding that a hardship exists.

- B. The Board shall hold a public hearing on the hardship application at which an opportunity will be provided for proponents/opponents of the application to present their views.
 - C. The Board and the Historic Overlay Design Chairman, in consultation with local preservation groups and other interested parties, shall explore with the applicant, or his designated representative, alternatives for the performance of the proposed work that will preserve the structure or property to the greatest extent possible, while being economically feasible.
 - D. If a deviation is granted, the Certificate of Appropriateness for the proposed work shall state the terms and conditions of the deviation.
 - E. All deviations shall be in compliance with other City codes and ordinances.
 - F. All decisions of the Board shall be in writing. A copy of the Board's decision shall be sent to the applicant and kept on file in the Planning Department along with the hardship application. The Board's decision shall state the reasons for granting or denying the hardship application.
 - G. The hardship determination may be appealed in accordance with subparagraph 10(d) herein.
9. Demolition by Neglect. No owner or person with an interest in real property designated as a landmark or included within the historic 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 judgement of the Board, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include but are not limited to:
- A. Deterioration of exterior walls or other vertical supports.
 - B. Deterioration of roofs or other horizontal members.
 - C. Deterioration of exterior chimneys.
 - D. Deterioration of crumbling of exterior stucco or mortar.
 - E. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 - F. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for public safety.

10. Administration.

- A. Penalties. Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable for a misdemeanor charge and be subject to a fine not to exceed \$200.00; and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. These penal provisions shall not prevent an action on behalf of the city to enjoin any violation of the terms of this section or an action for mandatory injunction to remove any previous violation hereof.
- B. Enforcement. All work performed pursuant to a Certificate of Appropriateness issued under this section shall conform to any requirements included herein. It shall be the duty of the Code Enforcement Department to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, the Code Enforcement Department 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. The Certificate of Appropriateness may be reinstated, however, upon assurance that compliance will henceforth exist.
- C. Appeals. Any applicant or property owner aggrieved by a decision of the Board relating to economic hardship or a Certificate of Appropriateness may, within 15 days of receipt of the written decision, file a written application with the City Council, through the Historic Preservation Design Chairman, for review of the decision and the approval, denial, modification of, or deviation from, the Board's decision. The appeal application shall be set before the City Council at the first available City Council meeting. The City Council's decision shall be final.
- D. No Vested Interest. No developer or property owner shall acquire any vested interest in this section or specific regulations contained herein. This section and regulations may be amended or repealed by the City Council in the manner provided by law.

SECTION 2: VIOLATION AND PENALTY

Any violation of this Ordinance shall be a misdemeanor and each day that said violation occurs shall be a separate misdemeanor and the penalty for violating the provisions of this Ordinance shall be a fine not to exceed Two Hundred and No/100 (\$200.00) Dollars.

SECTION 3. REPEAL OF CONFLICTING ORDINANCE

That all ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY CLAUSE

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgement of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this

ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

SECTION 5. EFFECTIVE DATE

The City Manager of the City of Canton is hereby authorized and directed to cause a true and corrected copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Canton, Texas prior to its effective date. Following the publication, this ordinance shall be in full force and effect.

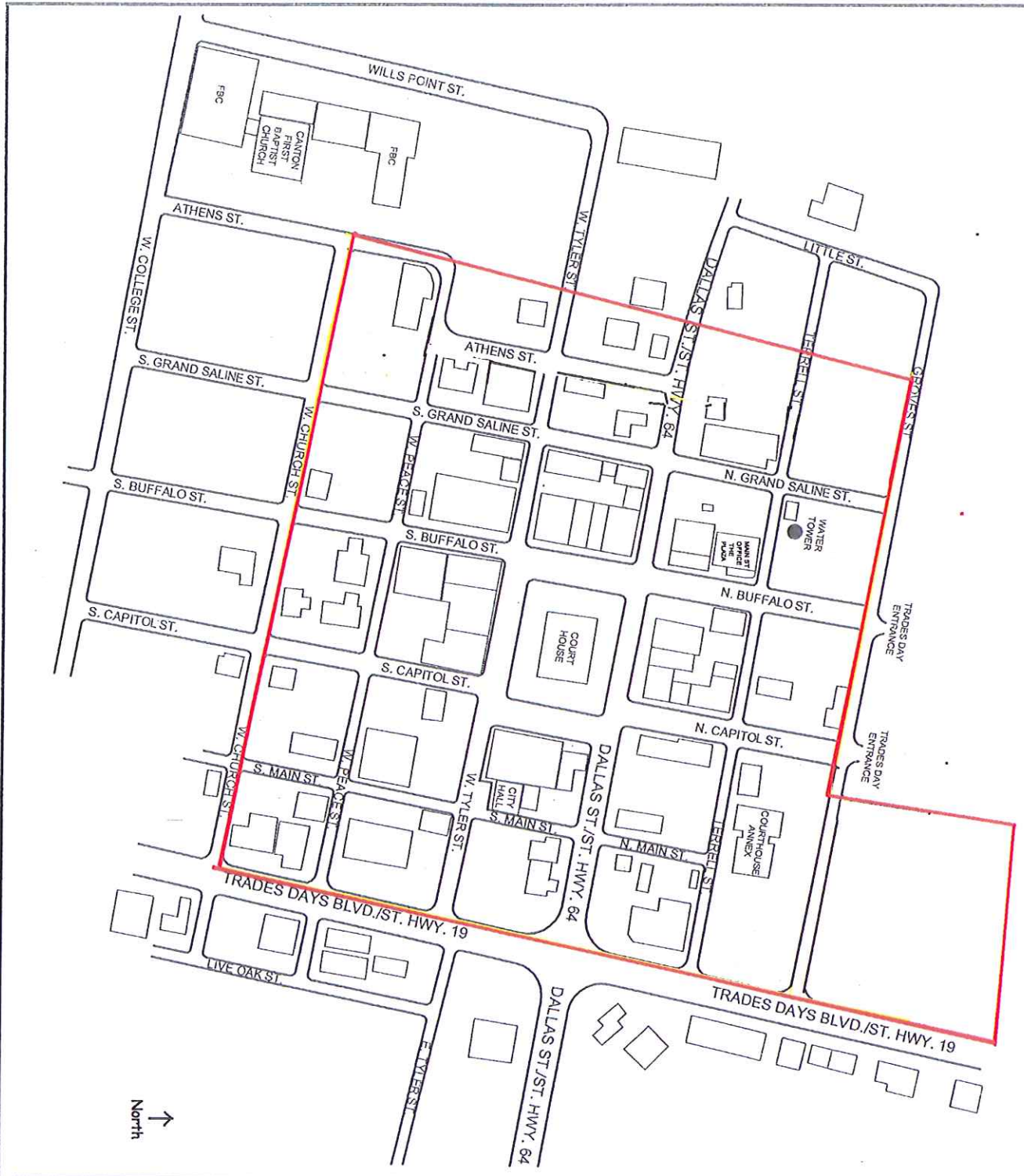
PASSED by a majority vote of the City Council of Canton, Texas, on this the 18th day of October, 2016, to attest which we hereunto set our hands and seal.


LOU ANN EVERETT, Mayor

ATTEST:


Debra Johnson, City Secretary





SITE PLAN

C1	DRAWN BY:
	SES
	DATE: JULY 2004
	APPROVED BY:
	REVISIONS:
	DATE:
	DATE:

**MAINSTREET
EXPANSION PROJECT**
CANTON, TEXAS

SES
PROFESSIONAL
DRAFTING
SERVICES

1221-A CHURCH ST.
SULPHUR SPRINGS
TEXAS, 74482

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*WE TAKE A CAREER
LOOK AT QUALITY*

