

## Legislation Text

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**File #:** 21-1293, **Version:** 1

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**PRESENTER:**

Jean Drew, AICP, CNU-A, Planning & Development Services Assistant Director

**SUBJECT:**

Public hearing and consideration of an appeal for the denial of a Certification of Alteration by the Historic Landmark Commission to construct a new single-family dwelling located on the property currently addressed as 456 Magazine Ave., located within the Sophienburg Hill Historic District.

**DEPARTMENT:** Planning & Development Services

**COUNCIL DISTRICTS IMPACTED:** District 6

**STAFF CONTACT:** Caleb Chance Gasparek

Historic Preservation Officer & Assistant Planner

(830) 221-4086

cgasparek@nbtexas.org

**BACKGROUND INFORMATION:**

The subject property lies on the southwest side of Magazine Avenue between West Coll Street and Butcher Street within the Sophienburg Hill Historic District, adopted by City Council in 2009. The lot is on the southwestern edge of the historic district and backs up to Carl Schurz Elementary school, soon to be remodeled by NBISD and converted into a facility for student academic programs.

In August of 2020, a stop work order was placed on the subject property after the owner demolished an accessory structure on site without obtaining a demolition permit. The applicant later submitted a demolition permit application for the main structure (house) to the city for review. The application to demolish the house, built in 1948, was reviewed and forwarded for consideration by the HLC who denied it at their regular January 2021 meeting. The applicant chose to resubmit, rather than appeal the decision, and the case was again denied by the HLC in February 2021. The applicant then submitted an application for Economic Hardship, which was approved by the HLC at their regular August 2021 meeting, thereby approving the demolition permit of the residence.

The applicant's intent with the demolition is to build a new house on the subject property. Per Chapter 66 of the City's Code of Ordinances, a Certificate of Alteration is required to be approved by the HLC for any alteration to a landmarked property or a property within a local historic district, including new construction. Staff recommended that before the applicant bring their proposed new structure to the HLC for review, that they and their architect meet with the HLC's Design Review Subcommittee as an option to preliminarily review the drawings and provide helpful guidance. The applicant, their architect, and 2 members of the Design Review Subcommittee met on November 1<sup>st</sup> to review the applicants' proposed drawings.

The Sophienburg Hill Historic District consists of an eclectic mix of styles - ranging from Folk Victorian, Craftsman, Queen Anne, Tudor, and Minimal Traditional. The subject block in particular mirrors this eclectic mix with some mid-century (minimal traditional), Craftsman, and Folk Victorian homes. Modern residential styles similar to what the applicant has proposed are not found within the district but are found in a few places

in New Braunfels as a whole.

Staff and the Subcommittee shared this data with the applicant at the Design Review Subcommittee meeting. The Subcommittee provided mixed feedback regarding the design. While one member expressed concern that the designs may not meet Criteria 9 of Chapter 66-58 “Criteria for Approval of an Alteration Certificate.”, by the end of the meeting the Subcommittee was more favorable to what the applicant proposed. The applicant chose to move forward and pursue the Certificate of Alteration with their design.

At the regular meeting of the HLC on November 9, 2021, a motion was made to approve the applicant’s request for the new single-family dwelling. However that motion failed due to lack of a second. No other motion was forthcoming, therefore the Commission denied the applicant’s requested Certificate. The applicant has opted to appeal the HLC’s decision to City Council.

**ISSUE AND ANALYSIS:**

As noted above, Certificates of Alteration are required to be approved by the HLC for all new construction within local historic districts. Chapter 66-59(e) of the City’s Code of Ordinances states that an applicant, dissatisfied with the action of the Commission, has the right to appeal the decision to City Council within 30 days. (The appeal procedure shall follow the same manner as provided in the zoning ordinance of the city found in Chapter 144-2.1-3 “Procedure Before City Council.”) Approval of the applicant’s appeal by City Council would overturn the HLC’s decision, thereby granting the Certificate of Alteration for new construction.

While the proposed design may be in conflict with Standard 9 of the Secretary of the Interior’s Standards for Rehabilitation, staff recognizes Criteria 9 of Chapter 66-58 of the City’s Code of Ordinances, “Criteria for Approval of an Alteration Certificate”, provides limited alternatives to property owners in this unique circumstance: requesting a Certificate of Alteration to replace a non-contributing home within a historic district. Both standards are very similar. Each takes into account 3 different, yet important review criteria:

- differentiation from the new and old,
- characteristics of the property, and
- the compatibility and cohesiveness of the new construction in terms of materials, features, size, scale, and architectural details as it relates to the neighborhood.

Chapter 66 includes two separate criteria or standards that address additions or new construction, Criteria 3 and 9. Criteria 3 reads:

*3) “All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.”*

Criteria 9 reads:

*9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.*

Chapter 66 is clear that “contemporary designs” shall not be discouraged as long as those designs do not conflict with the character of the neighborhood, in this case the Sophienburg Hill Historic District. An argument

could be made that the size, material, and scale of the proposed construction is consistent with the neighborhood; 1-story, single-family homes constructed of brick are found throughout the neighborhood and reflective of the historic period in which the Sophienburg developed. An additional argument could be made that the proposed design seeks to fit into the immediate area by honoring the same time period as the home it replaced (era 1948), with a reference to a mid-century modern style. Additionally, this style could arguably contribute to the eclectic nature and character of the district.

An alternative argument could also be made that the character and style of the building is inconsistent with what is found in the Historic District. New builds should be compatible with the surrounding neighborhood, in order to create a sense of cohesion. The relationship between the proposed build and its neighboring homes, both historic and new, creates a contrast and may arguably detract from this cohesion. Architectural features such as the flat roof, white brick, full length casement windows, horizontal casement windows, glass doors, and “ribbon” style windows are found on more modern styles such as the mid-century modern and international schools of architecture which are not found within the District, other than in the Sophienburg Museum building itself. While differentiation from classic styles is encouraged, the differentiation shouldn’t be so abrupt that it breaks the cohesive historic feeling of the neighborhood.

Chapter 66 also references guidance by the Secretary of the Interior’s Standards for the rehabilitation of historic buildings, and provides the following guidance in its administration:

“The standards are to be applied to specific rehabilitation projects in a reasonable manner taking into consideration economic and technical feasibility.”

Standard 9 of the Secretary of the Interior’s Standards for Rehabilitation reads:

*9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*

This standard addresses the need to separate the old from the new, but also provides the basis for Chapter 66 in its reference to protection of the historic integrity of the property and its environment, wording similar to Chapter 66 Standard 9 regarding the need to have the new construction reflect the size, scale, style, and character of homes within the neighborhood/district.

#### **FISCAL IMPACT:**

N/A

#### *Mailed Notification Pursuant to State statute:*

Public hearing notices were sent to 18 owners of property within 200 feet of the request. To date, the City has received 1 response in objection.

#### *Resource Links:*

- Chapter 144, Sec. 2.1-3 “Procedure Before City Council” [Sec. 144-2.1. - Changes and zoning amendments. | Code of Ordinances | New Braunfels, TX | Municode Library](#)  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)
- Chapter 66, Sec. 58 “Criteria for Approval of an Alteration Certificate” [Sec. 66-58. - Criteria for approval of an](#)

[alteration certificate. | Code of Ordinances | New Braunfels, TX | Municode Library](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?alteration_certificate_|_Code_of_Ordinances_|_New_Braunfels,_TX_|_Municode_Library)  
<[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

- Chapter 66, Sec. 59 “Alteration Certificate Application Procedure” [Sec. 66-59. - Alteration certificate application procedure. | Code of Ordinances | New Braunfels, TX | Municode Library](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?sec_66-59_-_Alteration_certificate_application_procedure_|_Code_of_Ordinances_|_New_Braunfels,_TX_|_Municode_Library)  
<[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

**ATTACHMENTS:**

- A. Location Map
- B. Submittal Documents
- C. Supplemental Documents
- D. HLC Minutes
- E. Public Notification Map