

Section 23.5-4. Historic Preservation.

a) *Public policy.* The City Commission declares as a matter of public policy that the preservation, protection, perpetuation, enhancement and use of landmarks and historic districts is a public necessity because they have a special historic, architectural, archaeological, aesthetic or cultural interest and value and thus serve as visible reminders of the history and heritage of this City, state and nation. The City Commission finds that this section benefits the residents and property owners of Lake Worth and declares as a matter of public policy that this section is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people.

The City Commission further declares that this section specifically implements the comprehensive plan, and further, embodies the City's commitment to conserving its historical, cultural, archeological and architectural resources, not only to preserve its unique character, but also to meet the stated goals, objectives, and policies of land use, housing and conservation, as mandated by chapter 163, Florida Statutes, and its comprehensive plan.

b) *National Register nominations.*

(1) The HRPB shall review all nominations of property within the City to the National Register of Historic Places following the regulations of the state historic preservation office. The HRPB shall also ask the City Commission and the Board of County Commissioners for their written opinions as to whether or not a property or district should be nominated to the national register. Following a public hearing, the HRPB shall consider the nomination. When necessary, the HRPB shall also seek expert advice before evaluating the nomination. The HRPB shall forward to the state historic preservation officer its action on the nomination and the recommendations of the local officials.

(2) If a property owner objects to having his property nominated to the national register, he shall submit a notarized written statement to the HRPB before the nomination is considered. The HRPB may then either continue its review and forward its recommendation to the state historic preservation officer and note the owner's objection or, it may cease any further review process and notify the state historic preservation officer of the property owner's objection to the proposed listing.

(3) Any property placed on the national register shall simultaneously be nominated for addition to the City's Local Register of Historic Places (the "local register"), as provided in this section. The HRPB's recommendation to the state historic preservation officer regarding a national register listing may be transmitted prior to disposition of the nomination to the City local register.

c) *Certified local government program.* In the development of the certified local government program, the City Commission may ask the HRPB to perform other responsibilities that may be delegated to the City under the National Historic Preservation Act.

d) *Surveys and research.* The HRPB shall undertake and maintain an on-going comprehensive survey and inventory of historic resources in the City (the "survey"). The purpose of the survey shall be to identify areas, sites, structures and districts within the City that have historic, archeological, architectural or aesthetic importance, interest or value. As part of the

survey, the HRPB shall review and evaluate any prior surveys and studies conducted by the City, by any unit of government or by private organizations and compile appropriate descriptions, facts and photographs. Prior to nomination for designation of a landmark or a historic district, the survey shall be carefully reviewed to determine the significance of the areas, sites or structures under consideration. If the areas, sites or structures have not yet been surveyed, the HRPB shall first develop a plan and schedule for completion of the survey. Nominations to the national register or the City register shall be based upon the survey in the manner provided herein, on forms prepared by the HRPB and shall be submitted to the City Commission for final action.

e) *Designation of landmarks and historic districts.*

1. Designation in general. Upon recommendation of the HRPB, the City Commission may, by ordinance, designate individual landmarks or historic districts. The designation of a landmark shall include a designation of a landmark site.

2. Parties eligible to apply for designation. Applications for designation shall be initiated by the City Commission, by any City Commissioner, by the owner(s) of a potential site or (in the case of a potential historic district) by petition of not less than fifteen percent (15%) of the affected land owners.

3. Application requirements. Consideration of the designation of a landmark or a historic district shall be initiated by the filing with the division of planning, zoning and historic preservation (the “division”) by an eligible party of an application for designation. The City shall charge a fee for each application which reflects processing costs for the application except that such fee shall be waived for publicly initiated applications. The applicant shall complete an application form provided by the division which shall include:

A. Street address(es) and legal description(s) of the properties to be designated as a landmark or historic district.

B. Name and address of the applicant.

C. Name and address of the property owner(s).

D. A history of the proposed site or district, including the names of the architects and for whom the properties were originally built, if known.

E. A written description of the architectural, historical or archeological significance of the proposed landmark or building in the proposed historic district, specifically addressing the criteria set forth in this subsection.

F. Date of construction of all structures on a property.

G. Photographs:

(1) For the proposed landmark, a minimum of two (2) photographs showing the main facade(s) of the property.

(2) For a proposed historic district, one (1) view along each street and a photo of at least one (1) sample structure on each street.

H. A sketch map, including scale and a north arrow, and the following additional information:

(1) For a proposed landmark, the boundaries of the property, an outline of any structures, improvements or buildings on the site and their relationship to adjacent streets.

(2) For a proposed historic district, all buildings and structures and their street addresses and all streets within the proposed district boundaries.

(3) The Applicant shall, based on the information submitted, classify each property within a proposed district as being either a "landmark," a "contributing" or "non-contributing" resource. The Applicant's classification shall be verified by the ~~planning~~ division. The HRPB may recommend to the City Commission that the Applicant's initial classifications be revised based on the review criteria established herein. The classifications of structures and sites shall be indicated on all maps submitted to the HRPB.

- I. Two (2) sets of mailing labels showing the names and addresses of all property owners abutting or contiguous to the lot line of a proposed landmark; for properties within a proposed historic district, two (2) sets of mailing labels for each property owner within the proposed district boundaries.
- J. Sufficient funds to cover mailing costs.
- K. Exceptions from the City survey pertaining to the site or district.
- L. Any proposed waiver or deviation from property development regulations.
- M. Such other information which the planning division may find to be reasonable and necessary to carry out the purposes of this article.

4. Staff review of applications. The Director for Community Sustainability shall determine when the application is complete and may request additional relevant information when the application is determined to be incomplete. The division shall review the completed application and shall promptly forward its findings and recommendations to the HRPB prior to the public hearing. Upon the filing of an application for nomination, each property, building or structure included in an application shall be considered to be a potential landmark.

5. Public hearings for designation. The HRPB shall schedule a public hearing on the proposed designation within sixty (60) days of the acceptance of a completed application, unless such time is extended by agreement of the applicant.

6. Notice. Notice shall be provided in accordance with the provisions of Section 23.2-15.

7. Criteria for designation of property. The HRPB shall recommend the designation of property as a landmark or historic district after a public hearing based upon the following criteria. The HRPB's recommendation, as well as the City Commission's final decision, may be based either on National Register designation criteria or on local designation criteria or on any combination of the criteria.

A. *Survey required.* The HRPB and the City Commission shall review the proposed designation of a landmark or a historic district in the context of the survey, which shall serve as the basis for consideration of the designation. Properties which have not been surveyed are not eligible for designation.

B. *National Register designation criteria.* The HRPB and the City Commission may evaluate nominated properties based on the criteria established for inclusion on the National Register of Historic Places, 36 C.F.R. 60.4, as it may be amended from time to time. In order to designate a landmark or historic district for inclusion on the national register, the HRPB and the City Commission shall make the following findings of fact:

(1) The designee is of the highest importance (e.g., is the only, the best or the last example of such resource within the City), and therefore its loss to the City would be irreparable; and

(2) The designee satisfies the criteria established to evaluate properties for inclusion on the National Register of Historic Places, 36 C.F.R. 60.4, as it may be amended from time to time, which currently reads substantially as follows. To be designated as a national register landmark or historic district, the designated property shall:

(a) Be associated with events that have made a significant contribution to the broad patterns of our history;

(b) Be associated with the lives of persons significant in our past;

(c) Embody the distinctive characteristics of a type, period or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant or distinguishable entity whose components may lack individual distinction; or

(d) Yield, or may be likely to yield, information important in prehistory or history.

(3) Properties must possess an integrity of location, design, setting, workmanship, materials or association that represents a significant place in national, state or local history, architecture, engineering or culture.

(4) Properties not generally considered eligible for designation on the national register include cemeteries, properties owned by religious institutions or used for religious purposes, birthplaces or graves of historic figures, structures that have been moved from their original location, buildings or sites primarily commemorative in nature, reconstructed historic buildings and properties that have achieved significance within the past fifty (50) years. However, such properties will qualify if they are integral parts of districts that do meet the criteria previously described or if they fall into one or more of the following categories:

(a) A religious property deriving its primary significance from architectural or artistic distinction or historical importance;

(b) A building or structure removed from its original location but which is primarily significant for its architectural value, or which is the surviving structure most importantly associated with a historic event or person;

(c) A birthplace or grave of a historic figure of outstanding importance if there is no other appropriate site of building directly associated with his or her productive life;

(d) A cemetery which derives its primary importance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events;

(e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

(f) A property primarily commemorative in nature if design, age, tradition or symbolic value have invested it with its own exceptional historic significance; or

(g) A property or district having achieved significance within the past fifty (50) years if it is of exceptional historic or architectural importance.

C. Local designation criteria. In addition to or instead of National Register designation criteria, the HRPB and the City Commission may designate a landmark or a historic district if it satisfies criterion C.(1) and any one (1) of the additional criteria C.(2) through C.(13), following:

(1) In the case of a site, the structure shall be at least fifty (50) years old; in the case of a district, at least forty (40) percent of the structures shall be at least fifty (50) years old; and

(2) Its location is a site of a significant local, state or national event;

(3) It is identified with a person or persons who significantly contributed to the development of the City, state or nation;

(4) It is identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the City, state or nation;

(5) Its value as a building is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance;

(6) It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;

(7) It embodies distinguishing characteristics of architectural style or elements of design, detailing, materials or craftsmanship that render it architecturally significant or valuable for the study of a period, type, method of construction or use of indigenous materials;

(8) Its character is a geographically definable area possessing a significant concentration or continuity of sites, buildings, objects or structures united in past events or aesthetically by plan or physical development;

(9) Its character is an established and geographically definable neighborhood, united in culture, architectural style or physical plan and development;

(10) It is associated with a singular location that is unique or possesses singular physical characteristics that make it an established or familiar visual feature;

(11) It demonstrates a likelihood of yielding significant information in terms of archaeology, history or prehistory;

(12) It is listed in the National Register of Historic Places; or

(13) It is consistent with the historic preservation goals of the comprehensive plan of the City.

(14) No more than fifty (50) percent of the owners of a landmark property object to the designation.

D. Interpretation. For purposes of this subsection, terms such as "exceptional importance", "exceptional significance", "significant", "significance",

“compatible”, “irreparable”, “importance”, and other subjective terms shall have their plain meaning, as established by the current edition of Webster's Dictionary, or applicable Florida or federal case law, to the extent that such exists.

8. HRPB recommendation.

A. After evaluating the testimony, survey information and other material presented at the public hearing, the HRPB shall within sixty (60) days determine, based on the evidence presented, whether or not the site satisfied the designation criteria. Such determination shall be submitted as a recommendation to the City Commission, accompanied by a written report stating the HRPB's findings of fact based on the designation criteria. The recommendations shall be either for approval of the designation or for denial. In the case of a historic district, the HRPB shall also indicate by map or text which properties are identified as “landmarks” or as “contributing” or “non-contributing” properties; and may also recommend supplemental design guidelines and land development regulations which will govern issuance of certificates of appropriateness within the district. Unless waived by the applicant, the HRPB may vote to defer its decision for no more than an additional thirty (30) days.

B. If the HRPB recommends denial of designation, such action shall be final unless an affected party (in the case of an individual landmark) or not less than two-thirds (2/3) of the affected eligible property owners (in the case of a historic district) appeal to the City Commission in the manner provided in subsection n), below, of this section.

C. The division shall promptly notify the applicant and the property owner(s) of the HRPB's recommendation.

9. City Commission review and designation.

A. The City Commission shall by ordinance approve, modify or deny the proposed designation within sixty (60) days of receipt of the HRPB's recommendation. A decision to reverse an HRPB recommendation of approval shall be by no less than four (4) votes of the full City Commission or by no less than three (3) votes if the full City Commission is not in attendance.

B. If a landmark or district designation is made, the comprehensive plan, including the future land use map, shall be amended in accordance with state law to reflect the designation. In the case of designation of a historic district, the ordinance shall also set forth: (1) supplemental design guidelines and actions, if any, ~~that~~ which would require a certificate of appropriateness; and (2) any additional exceptions to actions which would normally require a certificate of appropriateness, as provided in subsection m), below, of this section. Designation of a historical district shall include identification of contributing and non-contributing properties.

10. Designation of landmark or historic district status; local register of historic places.

The City clerk shall notify the applicant and the property owners of the City Commission's decision within seven (7) working days of a final decision. If the City Commission approves designation of a landmark or a historic district, the City clerk shall cause a notice or certificate of such action to be recorded in the public records of Palm Beach County at the expense of the applicant. The property or district shall be listed on the local register, which shall be maintained by the division. The division shall place a

notation indicating the designation upon the official zoning map of the City. The future land use map of the comprehensive plan of the City shall also be amended to indicate the location and boundaries of landmarks and historic districts.

11. Standardized street signs. Within two (2) years following official designation of a historic district, the City shall install standardized street signs which identify the district boundaries. The design of standardized historic district street signs shall be reviewed and approved by the HRPB prior to manufacture and placement.

12. Successive applications. Upon denial of an application for designation, there shall be a twelve (12) month waiting period before the applicant may resubmit an identical or substantially similar proposal. An applicant shall be required to submit new evidence to justify his re-application unless the re-application is accepted pursuant to subsection o), below, pertaining to emergency actions. The waiting period may be waived by the City Commission when such action is deemed necessary and in the best interests of the City.

13. Amendments and rescissions. The designation of any landmark or historic district, including subsequent boundary adjustments thereto, may be amended or rescinded through the same procedure utilized for the original designation. The terms and conditions of the ordinance designating the landmark or the historic district which involve matters other than district boundaries may be amended as provided in Chapter 166, Florida Statutes.

14. Potential landmark designation.

A. *In general.* The HRPB or the City Commission may by a majority vote of its members and without notice to the owner, designate as a "potential landmark" any building, structure or site which is identified in the survey as value being "potentially eligible" for listing in the National Register based on the criteria for designation outlined in subsection b. If such interim designation is made, the HRPB shall within no more than forty five (45) days complete an application and schedule a public hearing. If the owner of the potential landmark objects in writing to designation, the HRPB shall complete its review of the application within ninety (90) days of its initial designation of potential landmark status. Once a formal application for designation has been filed, the matter shall be reviewed as provided in subsection e). Designation of a potential landmark is to be considered an extraordinary action and its use shall be limited to situations where the HRPB has reason to believe that an imminent threat exists to the maintenance or survival of buildings or structures identified in the survey to be "potentially eligible" for listing in the National Register.

B. *Effect of pending applications for designation.* When an application for designation is made and notice is mailed to affected parties, no action with respect to the exterior appearance of such site or district shall commence unless approved in accordance with the procedures provided in subsection e). In order to protect the City's general welfare, avoid an irreparable loss and prevent circumvention of the protections of this article, such requirement shall remain in effect until final disposition of the recommended action. The applicant may apply to the HRPB for review of a proposed action prior to final action by the City Commission. The HRPB shall review the application using the criteria established herein, including unreasonable economic hardship. Permits may be issued upon HRPB approval of designation. Should the HRPB deny the applicant's request, the Applicant may

appeal to the City Commission as provided in subsection o) below. If the City Commission declines to designate the landmark or historic district, all permitting requirements set forth herein shall no longer apply to any proposed action.

15. Design guidelines. The HRPB may recommend to the City Commission supplemental design guidelines which will apply to proposed changes in the exterior appearance of individual landmarks or of buildings or structures in historic districts. The purpose of the design guidelines is to conserve and enhance the special aesthetic, historical and cultural character of the landmark or the historic district. Once adopted by the City Commission, these guidelines will supplement the land development regulations applicable to the site or sites within a district. Guidelines may be amended from time to time as provided herein, and may be published in the form of a manual. Guidelines may govern any aspect of physical design, including but not limited to architectural and aesthetic character, site design, site layout or landscape design. If a conflict exists between the standards proposed in the design guidelines and the standards in the underlying zoning district, the most restrictive standards shall take precedence.

f) *Certificates of Appropriateness, in general.* Approval of changes to designated landmarks or to properties within designated historic districts is required by way of a certificate of appropriateness (COA or “certificate”). Unless otherwise provided herein, no person may undertake the following actions affecting a designated or potential landmark or any property in a designated or potential historic district, or any appurtenance, improvement or landscape feature thereto, without first obtaining a certificate of appropriateness from the HRPB whether or not a building permit is otherwise required:

- (1) Alteration of an archaeological site or the exterior part of a building or a structure;
- (2) New construction;
- (3) Demolition; or
- (4) Relocation.

1. Subject of certificate; other permits required. New construction and alterations to designated buildings and structures shall include review of exterior changes on both primary facades (facing a public right-of-way) and secondary facades (not facing a public right-of-way). Whenever any alteration, new construction, demolition or relocation is undertaken on a designated landmark or on a property in a designated historic district without a certificate of appropriateness, the building official or the Director for Community Sustainability is hereby authorized to issue a stop work order. A certificate of appropriateness shall be in addition to any other building permits required by law. The issuance of a certificate of appropriateness from the HRPB shall not relieve the property owner of the duty to comply with other state and local laws and regulations.

2. Effective date of certificate stayed pending appeal. A certificate of appropriateness shall be effective immediately after the written rendition of the decision as signed by Director for Community Sustainability, notwithstanding the permit approval from the building division. If an appeal is made to the HRPB or City Commission, all work permitted by the certificate of appropriateness shall automatically be stayed pending the appeal.

3. Procedural rules. The HRPB is authorized to prepare such administrative and procedural rules it deems necessary to administer this function.

4. Burden of proof. The applicant shall have the burden of proving that the permit sought is consistent with the City's comprehensive plan, its land development regulations and this section; and, further, that the application complies in every respect with the procedural requirements of these LDRs. If the applicant shall prove the above based on substantial competent evidence, the burden shall shift to the City to prove by substantial competent evidence, to be set forth in written findings of fact and reasons for a denial or a conditional approval, that its decision accomplishes a valid public purpose and is therefore not arbitrary, discriminatory or unreasonable. If the City proves the above, the applicant's remedy shall be to prove by substantial competent evidence that the City's decision imposes an unreasonable economic hardship, as defined in subsection 1). "Substantial competent evidence" shall be as defined in the then-controlling Florida case law.

g) *Certificates of Appropriateness, application procedures.*

1. Pre-application conference. A potential applicant may request an informal pre-application conference with City staff or with the HRPB to obtain information or guidance regarding the application process. The HRPB may designate a subcommittee of at least one member to hold a pre-application conference with the applicant. The purpose of the pre-application conference is to discuss and clarify preservation objectives and HRPB regulations and guidelines and to address any preliminary questions the applicant may have which may arise during the application process. If more than one HRPB member is present at a pre-application conference, it shall be subject to applicable open meetings and public notice requirements. No statement or representation made at a pre-application conference prior to official HRPB review shall bind the HRPB or any City department with regard to the application

2. Application fee. Each application for a certificate of appropriateness shall be accompanied by the required fee, which shall reflect processing costs for the application. The application fee shall be waived for any public construction project.

3. Application form and contents. The applicant shall complete an application form provided by the City containing at least the following information:

A. A site plan, rendering sketch or drawing of the proposed work, specifically indicating the proposed changes in appearance, color, texture of materials, landscape design and architectural design of the exterior of a structure, including the front, sides, rear (if visible from a public right-of-way), roof and any alterations to or additions of any outbuilding, courtyard, fence or other accessory structure or improvement;

B. Photographs of the existing building or structure and adjacent properties;

C. Information identifying the building materials to be used;

D. Any proposed waiver of development regulations which may be permitted by these LDRs; and

E. Any other information which may be reasonably required by the City in order to convey a clear understanding of the applicant's proposed action.

F. Proof of homestead; or statement of such fact and of written copies of all leases in effect; and if any lease is not written an affidavit setting forth material terms of any leases.

G. If applicant intends to claim unreasonable economic hardship he shall supply written estimates competent sources showing cost of compliance versus applicant's preferred course of action

H. Proof of unreasonable financial hardship as it pertains to applicant.

4. Staff review; complete application. The Development review officer shall determine when an application is complete and may request additional information when such application is determined to be incomplete. If an application is found to be insufficient or incomplete, written notice shall be provided to the applicant specifying the deficiencies. The City shall take no further action on the application until the deficiencies have been addressed. If the applicant fails to correct the deficiencies within twenty (20) working days, the application shall be considered to be withdrawn.

5. HRPB review of application. Unless administratively approved as provided in this section, the Development review officer shall forward to the HRPB for public hearing each application for a permit that would authorize an alteration, new construction, demolition or relocation affecting a designated landmark or a property in a designated historic district.

6. Notice. Notice of an application for a certificate of appropriateness shall be posted by the applicant on the proposed premises in a prominent location and in a manner which is clearly visible from the street using a sign provided by the division. Such notice shall be posted within three (3) working days of submittal of the application to the division. Courtesy mail notice and published notice of a public hearing for certificates of appropriateness for demolition and new construction shall be provided pursuant to Section 28.2-15.

h) *Certificate of Appropriateness, administrative approvals.*

1. Administrative approvals, in general. The HRPB shall prepare and maintain a list of routine alterations that may receive a certificate of appropriateness from the Department for Community Sustainability without a public hearing when an applicant complies with the design guidelines of the HRPB. This list shall be in the form of a Certificate of Appropriateness Approval Matrix, reviewed and approved by the HRPB as necessary. The development review officer may impose reasonable conditions on the approval in order to implement the goals and intent of this section. These routine alterations shall include, but are not limited to, the following:

A. Repair of cornices using existing materials and duplicating the original design;

B. Installation of decks at ground level which are not visible from any street and which do not require alteration of any structure;

C. Installation of new doors which are compatible in size and style with the original;

D. Location of fencing behind any facade or existing hedge and invisible from any public street;

E. The painting of any material or surfaces other than unpainted masonry, stone, brick, terra-cotta, stucco or concrete;

F. The replacement of front porch columns with ones duplicating the original in style, color and material;

G. The replacement of a roof with one of the same material and color;

- H. The repair of wooden siding with wood which duplicates the original;
 - I. Installation of skylights not visible from any public street;
 - J. Replacement of windows with ones compatible with the original in size, style and materials; and
 - K. Repair and maintenance of the visible exterior of a building when such work exactly duplicates the existing design and is executed in the existing materials.
 - K. Installation of hurricane protection not visible from any public street
2. Revisions to list of administrative approvals. The HRPB may expand or otherwise revise the list of exterior improvements which may be approved administratively.
 3. Appeals of administrative decisions. Any decision of an administrative COA approval permitted by this section may be appealed as provided below.

i) *Certificate of Appropriateness; public hearings.* Unless otherwise provided herein, the HRPB shall hold a public hearing on certificates of appropriateness within thirty (30) days after determination of a completed application and notice thereof shall be given as provided by these LDRs. The HRPB may visit and shall be given access to the proposed site. The HRPB shall approve, approve with conditions, continue the item pending additional information, approve the withdrawal of or deny each application, based on the criteria contained in this section. The HRPB shall act within thirty (30) days after the close of the public hearing. Nothing herein shall prohibit a continuation for a longer period if requested by or consented to by the applicant.

j) *Issuance of Certificate of Appropriateness; commencement of permitted improvements.* If the HRPB approves an application, a certificate of appropriateness shall be issued in a timely manner. Issuance of a certificate of appropriateness shall not relieve the applicant from obtaining all other required development permits, orders and approvals required by law. No building permit or other development order for a designated landmark or a property within a historic district shall be valid unless accompanied by a certificate of appropriateness. Construction approved by a certificate of appropriateness shall commence within twelve (12) months of the date of issuance, and the certificate shall automatically expire if less than fifty (50) percent of the approved improvements are completed within twelve (12) months of the date of commencement. A Certificate of Occupancy for the required improvements shall be received within twenty four (24) months of commencement of the work. The Department for Community Sustainability may grant a one-time time extension not exceeding twelve (12) months if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. The HRPB may in its absolute discretion grant additional time extensions as necessary if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. If the HRPB denies an application, it shall state its reasons for doing so in writing and present them to the applicant within ten (10) calendar days of the denial.

k) *Criteria for granting certificates of appropriateness.*

1. In general. In approving or denying applications for certificates of appropriateness, the City shall, at a minimum, consider the following general guidelines:
 - A. What is the effect of the proposed work on the landmark or the property upon which such work is to be done?

B. What is the relationship between such work and other structures on the landmark site or other property in the historic district?

C. To what extent will the historic, architectural, or archaeological significance, architectural style, design, arrangement, texture, materials and color of the landmark or the property be affected?

D. Would denial of a certificate of appropriateness deprive the property owner of reasonable beneficial use of his property?

E. Are the applicant's plans technically feasible and capable of being carried out within a reasonable time?

F. Do the plans satisfy the applicable portions of the general criteria contained in the United States Secretary of the Interior's Standards for Rehabilitation then in effect or as they may be revised from time to time? The current version of the Secretary's Guidelines provides as follows:

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) This historic character of the property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(3) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or because the different architectural elements from other buildings or structures happen to be available for relocation.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials, shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means least likely.

(8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. The new construction 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.

(10) New additions and adjacent or related new construction shall be undertaken in such manner that, if removed in the future, the essential form and integrity of the historic building and its environment would be unimpaired.

G. What are the effects of the requested change on those elements or features of the structure which served as the basis for its designation and will the requested changes cause the least possible adverse effect on those elements or features?

H. Such other supplemental guidelines for restoration and rehabilitation of historic properties which the HRPB may from time to time adopt.

2. Additional guidelines for alterations. In approving or denying applications for certificates of appropriateness for alterations, the City shall also consider the following additional guidelines:

A. Is every reasonable effort being made to provide a compatible use for a property that requires minimal alteration of the building, structure or site and its environment, or to use the property for its originally intended purpose?

B. Are the distinguishing original qualities or character of a building, structure or site and its environment being destroyed? The removal or alteration of any historic material or distinctive architectural features shall be avoided whenever possible.

C. When a Certificate of appropriateness is requested to replace windows or doors, the HRPB or development review officer, as appropriate, shall permit the property owner's original design when the City's alternative design would result in an increase in cost of thirty percent (30%) above the owner's original cost. The owner shall be required to demonstrate to the City that:

(1) The work to be performed will conform to the original door and window openings of the structure; and

(2) That the replacement windows or doors with less expensive materials will achieve a savings in excess of thirty (30) percent over historically compatible materials otherwise required by these LDRs.

(3) If the applicant avails himself of this paragraph the materials used must appear to be as historically accurate as possible.

3. Additional guidelines for new construction; visual compatibility. All improvements to buildings, structures and appurtenances within a designated historic district shall be visually compatible. New buildings should take their design cues from the surrounding existing structures, using traditional or contemporary design standards and elements that relate to existing structures that surround them and within the historic district as a whole. Building design styles, whether contemporary or traditional, should be visually compatible with the existing structures in the district.

A. In approving or denying applications for certificates of appropriateness for new construction, the City shall also, at a minimum, consider the following additional guidelines which help to define visual compatibility:

(1) The height of proposed buildings shall be visually compatible and in harmony with the height of existing buildings located within the historic district.

(2) The relationship of the width of the building to the height of the front elevation shall be visually compatible and in harmony with the width and height of the front elevation of existing buildings located within the district.

- (3) The openings of any building within a historic district should be visually compatible and in harmony with the openings in buildings of a similar architectural style located within the historic district. The relationship of the width of the windows and doors to the height of the windows and doors in a building shall be visually compatible with buildings within the district.
- (4) The relationship of solids to voids in the front facade of a building or structure shall be visually compatible and in harmony with the front facades of historic buildings or structures located within the historic district. A long, unbroken facade in a setting of existing narrow structures can be divided into smaller bays which will complement the visual setting and the streetscape.
- (5) The relationship of a building to open space between it and adjoining buildings shall be visually compatible and in harmony with the relationship between buildings elsewhere within the district.
- (6) The relationship of entrance and porch projections to sidewalks of a building shall be visually compatible and in harmony with the prevalent architectural styles of entrances and porch projections on buildings and structures within the district.
- (7) The relationship of the materials, texture and color of the facade of a building shall be visually compatible and in harmony with the predominant materials used in the buildings and structures of a similar style located within the historic district.
- (8) The roof shape of a building or structure shall be visually compatible and in harmony with the roof shape of buildings or structures of a similar architectural style located within the historic district.
- (9) Appurtenances of a building, such as walls, wrought iron, fences, evergreen, landscape masses and building facades, shall, if necessary, form cohesive walls of enclosures along a street to insure visual compatibility of the building to the buildings and places to which it is visually related.
- (10) The size and mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible and in harmony with the buildings and places to which it is visually related.
- (11) A building shall be visually compatible and in harmony with the buildings and places to which it is visually related in its directional character: vertical, horizontal or non-directional.
- (12) The architectural style of a building shall be visually compatible with other buildings to which it is related in the historic district, but does not necessarily have to be in the same style of buildings in the district. New construction or additions to a building are encouraged to be appropriate to the style of the period in which it is created and not attempt to create a false sense of history.
- (13) Landscaping shall be compatible with the architectural character and appearance of the structure and of other buildings located within the historic district.
- (14) In considering applications for certificates of appropriateness to install mechanical systems which affect the exterior of a building or structure visible from a public right-of-way, the following criteria shall be considered:
 - (a) Retain and repair, where possible, historic mechanical systems in their original location, where possible.

(b) New mechanical systems shall be placed on secondary facades only and shall not be placed on, nor be visible from, primary facades.

(c) New mechanical systems shall not damage, destroy or compromise the physical integrity of the structure and shall be installed so as to cause the least damage, invasion or visual obstruction to the structure's building materials, or to its significant historic, cultural or architectural features.

(15) The site should take into account the compatibility of landscaping, parking facilities, utility and service areas, walkways and appurtenances. These should be designated with the overall environment in mind and should be in keeping visually with related buildings and structures.

B. In considering certificates of appropriateness for new buildings or structures which will have more than one primary facade, such as those on corner lots facing more than one street, the HRPB shall apply the visual compatibility standards to each primary facade.

4. Additional requirements for demolitions.

A. *Decision-making criteria.* No certificate of appropriateness for demolition shall be issued by the HRPB unless the applicant has demonstrated that no other feasible alternative to demolition can be found. In making its decision to issue or deny a certificate of appropriateness to demolish, in whole or in part, a landmark building or structure, the HRPB shall, at a minimum, consider the following additional decision-making criteria and guidelines:

(1) Is the structure of such interest or quality that it would reasonably fulfill criteria for designation as a landmark on the National Register of Historic Places?

(2) Is the structure of such design, texture, craftsmanship, size, scale, detail, unique location or material that it could be reproduced only with great difficulty or economically unreasonable expense?

(3) Is the structure one of the few remaining examples of its kind in the City?

(4) Would retaining the structure promote the general welfare of the City by providing an opportunity to study local history, architecture and design or by developing an understanding of the importance and value of a particular culture or heritage?

(5) Does the permit application propose simultaneous demolition and new construction? If new construction is proposed, will it be compatible with its surroundings (as defined above) and, if so, what effect will those plans have on the character of the surrounding sites or district?

(6) Would granting the certificate of appropriateness for demolition result in an irreparable loss to the City of a significant historic resource?

(7) Are there definite plans for the immediate reuse of the property if the proposed demolition is carried out, and what effect will those plans have on the architectural, historic, archeological or environmental character of the surrounding area or district?

(8) Is the building or structure capable of earning reasonable economic return on its value?

(9) Would denial of demolition result in an unreasonable economic hardship for the property owner?

(10) Does the building or structure contribute significantly to the historic character of a designated historic district and to the overall ensemble of buildings within the designated historic district?

(11) Has demolition of the designated building or structure been ordered by an appropriate public agency because of unsafe conditions?

(12) Have reasonable measures been taken to save the building from further deterioration, collapse, arson, vandalism or neglect?

B. *Concurrent application for relocation required.* The HRPB shall not deny a request for a certificate of appropriateness for demolition without also considering the request as a certificate of relocation. Absent compelling reasons otherwise, relocation shall be within the City.

C. *Concurrent application for new construction required.* Unless otherwise provided in this section, no designated landmark and no contributing structure within a historic district shall be demolished without the owner first applying for and receiving a certificate of appropriateness for new construction, unless the HRPB waives this requirement upon a good cause showing that such requirement would be unduly harsh or result in an unreasonable economic hardship to the owner. A showing of good cause may include, but is not limited to, substantial competent evidence that the owner cannot comply with the simultaneous permit requirement because of advanced age, infirmity, physical or other debilitating personal handicap or financial inability to comply. If the requirement is not waived, the owner shall submit such information and plans as required by subsection h.

D. *Salvage and mitigation.* As a condition precedent to issuance of a certificate of appropriateness for demolition, the HRPB may require the owner, at the owner's expense, to salvage and preserve specified building materials, architectural details and ornaments, fixtures and the like for reuse in the restoration of other historic properties. The HRPB may also require the owner, at the owner's expense, to excavate, record and conserve archeological resources threatened by the alterations of the site so permitted. With the owner's consent, an interested, qualified group selected by the HRPB may salvage and preserve building materials, architectural details, ornaments, fixtures and the like at the group's expense. If a certificate of appropriateness or demolition of a landmark or a contributing structure is approved, it shall be issued simultaneously with the certificate of appropriateness for new construction upon receipt of reasonable proof that the owner is financially prepared to proceed with the new construction. In the absence of such proof, the HRPB may make receipt of proof of financial backing a condition precedent to issuance of a certificate of appropriateness for demolition. Such proof may include presentation of an irrevocable letter of credit, a payment or performance bond, or a commitment letter from a solvent bank or other lending institution.

E. *Outside assistance.* The HRPB may request assistance from interested individuals and organizations in seeking an alternative to demolition. The HRPB

may require the applicant to submit additional information which is relevant to carrying out this responsibility.

F. *Delayed effective date.* The HRPB may grant a certificate for demolition which may provide for a delayed effective date. The effective date of the permit will be determined by the HRPB based on the relative significance of the structure and the probable time needed to arrange an alternative to demolition. The HRPB may delay the demolition of landmarks listed on the National Register for up to six (6) months, for designated City landmarks for up to three (3) months, and for contributing structures within historic districts, for up to forty five (45) days. During the demolition delay period, the HRPB may take such steps as necessary to preserve the structure. These steps may include consultation with community groups, public agencies and interested citizens, recommending acquisition of the property using public or private funds, or salvaging significant features of the structure.

G. *Issuance of certificate if site has lost historic character; redevelopment areas.* The HRPB may grant a certificate of appropriateness for demolition even though the designated landmark, or property within the designated historic district has reasonable beneficial use, if the HRPB determines that the property no longer has significance as a historic, architectural or archaeological landmark or that the demolition of the designated property is required by a community redevelopment plan approved by the City Commission and the Community Redevelopment Agency.

H. *Demolition by public agencies.* All public agencies having the authority to demolish or permit the demolition of unsafe structures shall receive notice of designation of landmarks and historic districts. The HRPB shall be deemed an affected party and shall be entitled to receive notice of any public hearings conducted by such agencies regarding demolition of any designated property. The HRPB may make recommendations and suggestions to the responsible agency and the owner regarding the feasibility of and the public interest in preserving the designated structure.

I. *Other permits required.* A permit for demolition shall not be issued until all other plans for the site have been approved by all appropriate City Boards (including the HRPB), departments and agencies.

J. Applicant shall be required to submit an updated site file form with the State of Florida Division of Historic Resources Florida Master Site File.

5. Additional guidelines for relocation. When an applicant seeks to obtain a certificate of appropriateness for the relocation of a landmark, a building or structure on a landmark site, or a building or structure in a historic district or wishes to relocate a building or structure to a landmark site or to a property in a historic district, the HRPB shall also, at a minimum, consider the following additional criteria and guidelines:

A. What contribution does the building or structure make to its present setting?

B. Are there definite plans for the site to be vacated?

C. Can the building or structure can be moved without significant damage to its physical integrity, or change in or significant loss of historic characteristics? Prior to installation at its new location (especially if the structure has been dismantled to achieve relocation), will the owner undertake stabilization measures required

by the HRPB as a condition of its approval of the certificate of appropriateness for relocation?

D. Is the building or structure compatible with its proposed site and adjacent properties?

E. Will relocation affect subsurface historic or archeological resources?

F. Will site of relocation be within the City?

G. Will the relocation cause the district to fall below the threshold needed to qualify as an historic district?

1) *Supplemental standards to determine if unreasonable economic hardship exists.*

1. In general. No decision of the development review officer, HRPB or the City Commission shall result in an unreasonable economic hardship for the property owner. The HRPB shall have the authority to determine the existence of an unreasonable economic hardship in accordance with the criteria set forth in this section. The applicant shall have the burden of proving by substantial competent evidence that denial of a certificate of appropriateness or imposition of conditions on a certificate of appropriateness have caused or will cause an unreasonable economic hardship for the owner of the property.

2. Submission of evidence of hardship. In any case where the property owner or applicant for a certificate of appropriateness claims that denial of or imposition of conditions upon a certificate of appropriateness result in an unreasonable economic hardship, the owner or applicant may, by affidavit, submit to the HRPB any or all of the following information as justification for his claim. The applicant has the option of submitting evidence of reasonable economic hardship at any time in the review permit process; however, all information shall be received by the HRPB at least fifteen (15) days prior to the public hearing

3. Evidence considered for all property. The HRPB shall consider the following:

A. Whether the owner knew or should have known of the landmark or historic district designation at the time of acquisition and whether the structure or district was designated subsequent to acquisition.

B. The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between seller and buyer.

C. The form of ownership of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture or other form, and whether or not it is a homestead property.

D. An estimate of the cost of the proposed construction, alteration, demolition or removal.

E. The assessed value of the property according to the two (2) most recent assessments.

F. The real estate taxes for the previous two (2) years.

G. Annual debt service or mortgage payments if any, for the previous two (2) years.

H. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property.

I. Any information that the property is not marketable or able to be sold, considered in relation to any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years, including testimony and relevant documents regarding:

- (a) Any real estate broker or firm engaged to sell or lease the property.
- (b) Reasonableness of the price or rent sought by the Applicant.
- (c) Any advertisements placed for the sale or rent of the property.

J. Any Phase I or any other environmental analysis prepared for the site.

K. Any information regarding the unfeasibility of adaptive or alternative uses for the property that can earn a reasonable economic return for the property as considered in relation to the following:

(a) A report from a professional engineer registered in the State of Florida or an architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

(b) An estimate of the costs of construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendation and decision of the HRPB concerning the appropriateness of the proposed alterations.

(c) The estimated market value of the property in its current condition, after completion of the demolition, after completion of the proposed construction and after renovation of the existing property for continued use.

(d) In the case of a proposed demolition, an estimate from an architect, developer, licensed contractor, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

(e) Financial documentation of the ability to complete the replacement project, which may include, but is not limited to, a performance bond, a letter of credit or a letter of commitment from a financial institution.

(f) The fair market value of the property, as determined by at least two (2) independent certified appraisals.

L. Any state or federal income tax returns relating to the property or the owner for the past two (2) years. These forms may be redacted for confidentiality purposes.

M. Any other information considered necessary by the HRPB in making its determination.

4. Evidence considered for income property (actual or potential). The HRPB shall consider the following:

A. Annual gross income from the property, if any, for the previous two (2) years.

B. Depreciation deductions and annual cash flow, if any, for the previous two (2) years, before and after debt service.

C. Status of leases, rentals or sales for the previous two (2) years.

D. Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed.

E. Any other information considered necessary by the HRPB in making its determination as to whether or not the property does yield or may reasonably yield a reasonable economic return to the owners.

F. Any state or federal income tax returns relating to the property for the past two (2) years. These returns may be redacted for confidentiality purposes.

5. When information is unavailable. In the event that any of the required information is not reasonably available or cannot be obtained by the property owner, the property owner shall file, along with his affidavit, a statement of the information which cannot be obtained and the reasons why it cannot be reasonably obtained. Where such unobtainable information concerns required financial information, the property owner shall submit a statement describing estimates which will be as accurate as are feasible.

6. Submission under oath. All submissions to the HRPB shall be furnished under oath.

7. Alternative remedies. If the HRPB determines that the applicant has proved that an unreasonable economic hardship exists, it shall consider whether other relief is available that will not result in unreasonable economic hardship but which will provide the least adverse effect on the site or its historic, architectural, archeological or cultural features. If found, and within its power, the HRPB may grant this relief, or grant the requested relief with appropriate conditions attached thereto, so as to insure the least possible adverse effect on the historic property which does not result in unreasonable economic hardship. Such other relief, or conditions to the requested relief, may include, but is not limited to, property tax relief; loans or grants; requiring the owner to first market and offer the site for sale for a fair market price with appropriate preservation protections for a period of time not to exceed six (6) months (the length of time to be established by the HRPB based on a review of the structure's architectural, cultural or historic importance, as established by the survey and under the designation criteria set forth in this article); acquisition by a third party for a fair market value; taking by eminent domain with a fair compensation therefore; building and zoning code modifications; grant of transferable development rights; relaxation of the provisions of this article; in the case of an application for a demolition permit, waiver of the requirement that a permit for new construction be simultaneously issued; recommendation to the City Commission that some or all of the applicable review fees be waived; or some other relief, as appropriate.

H. *Issuance of certificate.* If, after full consideration of all other possible relief, the HRPB determines that unreasonable economic hardship shall result unless the specific relief requested is granted, the HRPB shall promptly grant the certificate of appropriateness for such relief. This shall not prevent the HRPB, however, from requiring the application for and issuance of a simultaneous permit for new construction, unless waived by the HRPB, or prevent the HRPB from imposing salvage or mitigation requirements set forth herein.

m) *Exceptions to certificates of appropriateness.*

1. General and occasional maintenance. A certificate of appropriateness shall not be required for general, occasional maintenance of any historic structure or of structures within a historic district. Occasional maintenance shall include, but is not limited to, lawn

and landscaping maintenance, minor repairs that restore or maintain the historic site or the current character of the building or structure, and ordinary maintenance activities that do not require receipt of building permits. General and occasional maintenance shall not include addition or change of awnings, signs, or alterations to porches and steps or alterations which require excavation or disturbance of the surface of the ground.

2. Interior alterations. No Certificate of Appropriateness shall be required for alteration, construction, reconstruction, restoration, renovation or demolition of the interiors of a building or structure unless such interiors have been included in the City survey, are open and accessible to the public and have been specifically called out in a landmarks designation.

3. City condemnation. A certificate of appropriateness shall not be required when a designated City landmark or a contributing building within a designated local historic district has been condemned by the City. A demolition permit, however, shall not be issued until the HRPB has been notified and given an opportunity to comment, as provided in subsection 1). A certificate of appropriateness shall be required prior to demolition by the City of a landmark listed on the National Register or of any contributing structure within a historic district listed on the National Register.

4. Appeals of staff determinations. Any staff decision regarding routine alteration may be appealed to the HRPB, as provided below.

5. Additional exceptions. An ordinance designating a landmark or historic district may specify additional exceptions to a certificate of appropriateness.

6. Emergency conditions; designated properties. In any case where the building official determines that there are emergency conditions dangerous to life, health or property affecting a landmark, or a property in a historic district, he may order the remedying of these conditions without approval of the HRPB or issuance of a certificate of appropriateness. The building official shall promptly notify the chairman of the HRPB in writing of the action being taken.

n) *Appeal of decisions regarding certificates of appropriateness.*

1. Appeal of administrative decisions. Any administrative decision may be appealed to the HRPB within fourteen (14) calendar days of its rendering. The HRPB shall consider the record made in the administrative proceedings and shall not take new testimony, and shall within sixty (60) days after the filing of the appeal reverse the administrative decision only if it was contrary to law or arbitrary and capricious.

2. Appeal of HRPB decisions. Within thirty (30) days after the date of written confirmation of a HRPB decision, the applicant or any affected party may appeal to the City Commission any decision of the HRPB regarding an application for a certificate of appropriateness pursuant to the procedures of Section 23.2-17 of these LDRs. The City Commission shall consider the record made before the HRPB in reaching its decision and shall not take new testimony. The City Commission shall reverse the HRPB decision only if it was contrary to law or arbitrary and capricious.

o) *Emergency actions; nondesignated properties.* The City Commission may call an emergency meeting to review a threat to a property that has not yet been designated but appears

to be eligible for designation based on the criteria in subsection b). The City Commission may request that a stop work order be issued by the building official for a thirty (30) day period in order to provide time to negotiate with the property owner to remove the threat to the property; the matter shall be referred to the HRPB, which shall seek alternatives that will remove the threat to the property. During the thirty (30) day period the City Commission may initiate steps to designate the property under the provisions of this section.

p) *Conformity with certificate of appropriateness.* All work performed pursuant to a certificate of appropriateness shall conform to all provisions of such certificate. It shall be the responsibility of the building official to inspect from time to time, any work being performed to assure such compliance. In the event work is being performed not in accordance with such certificate, the building official is authorized to issue a stop work order. No additional work shall be undertaken as long as such stop work order shall continue in effect.

q) *Avoidance of demolition by neglect; Maintenance and repair of landmark property in historic districts:*

1. Minimum maintenance standards. Every owner of a landmark or a property in a historic district shall keep in good repair all of the exterior portions of such buildings or structures and all interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise fall into a state of disrepair. In addition, where the landmark is an archaeological site, the owner shall maintain his property in such a manner so as not to adversely affect its archaeological integrity. The owner shall repair the structure if it is found to have one or more of the following defects:

- A. Deterioration to the extent that it creates or permits a hazardous or unsafe condition, as determined by the building official.
- B. Parts or elements of the building are so attached that they may fall and injure persons or property.
- C. Deteriorated or inadequate foundations, flooring, floor supports, deteriorated walls or other vertical structural supports.
- D. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety.
- E. Members of walls or vertical supports that split, lean, list or buckle because of defective material, workmanship or deterioration.
- F. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle because of defective material, workmanship or deterioration.
- G. Members of ceilings, roofs, ceiling and roof supports and other horizontal members which are insufficient to carry out imposed loads with safety.
- H. Fireplaces or chimneys which list, bulge or settle because of defective material, workmanship or deterioration.
- I. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors, or deteriorated or crumbling exterior finishes such as stucco, shingles, paint or mortar.
- J. Defective or insufficient weatherproofing or exterior wall covering because of lack of paint or other protective covering.

K. Any fault, defect or condition in the building which renders its structurally unsafe or not properly watertight.

2. Notice of violation; hearing. If the HRPB determines that a designated landmark or a contributing property within a historic district is in the course of being demolished through neglect, it shall so notify the owner of record immediately to cease any actions which contribute to such demolition by neglect and shall give him thirty (30) calendar days to commence repairs sufficient to rectify the problems identified. Such notice shall be by certified mail, return receipt requested, to the address of the owner shown on the latest records of the Palm Beach County Property Appraiser and by attaching notice to the exterior of the structure. If the owner fails to commence repairs within thirty (30) days of receipt of the notice, the HRPB shall notify the owner to appear at its next regularly scheduled meeting. At that meeting, the HRPB shall present the reasons for the notice and permit the owner to present rebuttal evidence, if desired. If the HRPB fails to receive adequate assurance that identified problems will be rectified in a reasonable time, the HRPB shall find that the site is being demolished by neglect and shall refer the matter to the City's code enforcement officer for action.

3. Supplemental to other maintenance standards. The provisions of this section shall be in addition to the provisions of any applicable building code requiring such buildings and structures to be kept in good order.

r) *Incentives for improvements to designated and contributing properties*

1. Waiver of modification of certain building code provisions. Structures, buildings, sites and appurtenances thereon which are designated as landmarks or which are contributing structures within designated historic districts are eligible for modified enforcement of Florida Building Code provisions as provided in section 3401.5 of the Florida Building Code. The provisions of the Florida Building Code and the land development regulations relating to the construction, repair, enlargement, alteration, restoration or moving of designated buildings and structures, and to setback, height, floor area ratios shall not be mandatory if specifically waived by the HRPB. Such waivers and deviations from standard building and land development regulation provisions shall be granted or denied based on the criteria set forth herein or in the development guidelines, if any, applicable to a particular historic district, and when such waivers or deviations are judged by the building official to be safe and not against public health, safety or welfare. All such waivers or deviations shall be based on the Applicant's submittal of architectural or engineering plans prepared and sealed by licensed professionals.

2. Waiver or modification of certain land development regulations. In addition, the HRPB may waive or modify certain land development regulation requirements. Waiver or modification may occur concurrently with issuance of a certificate of appropriateness or upon initial designation of a landmark or of a historic district. Waivers may include setbacks, lot width, area requirements, height limitations, open space requirements, vehicular parking and circulation requirements, design compatibility requirements and similar development regulations. No waiver shall be permitted for permitted land uses, density or environmental and health standards. Before granting a waiver or modification, the HRPB must find that:

(A) The waiver or modification is in harmony with the general appearance and character of the neighborhood or district.

(B) The project is designed and arranged in a manner that minimizes aural and visual impact on adjacent properties while affording the owner reasonable use of the land.

(C) The waiver or modification will not injure the area or otherwise be detrimental to the public health, safety or welfare.

(D) The waiver or modification is the minimum necessary to allow reasonable use of the property while preserving its historical attributes.

3. Supplemental conditions of approval. In approving a waiver or modification of property development regulations, the HRPB and the City Commission may prescribe any appropriate conditions necessary to protect and further the interests of the community and of abutting properties, including but not limited to:

(A) Landscape material, walls and fences as required buffering;

(B) Modification of the orientation of any openings; and

(C) Modification of site arrangements.

(D) The waiver or modification shall be incorporated into the findings of the certificate of appropriateness.

s) *Penalties.*

1. Criminal penalties. Any person violating any of the provisions of this article shall be guilty of a misdemeanor in the second degree and fined not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for each offense. Each day's continued violation up until the restoration of the site to its appearance and setting prior to the violation shall constitute a separate offense.

2. Civil penalties. In addition to the criminal penalties provided above, any person who violates any provision of this article shall forfeit and pay to the City civil penalties equal to the fair market value of any property demolished, destroyed, disturbed (in case of an archaeological site) or relocated in violation of this article or the cost to repair or rehabilitate any property that is altered in violation of this section. Fair market value shall be construed to mean value of the property prior to its demolition, destruction or relocation. In lieu of any monetary penalty, any person altering property in violation of the provisions of this article may be required to repair or restore any such property or return it to its former location or condition. The civil penalty shall be in addition to and in lieu of any criminal prosecution or penalty.

3. Equitable remedies. In addition to any other remedies provided in this section, the City may seek injunctive or other equitable relief in an appropriate court to enforce the provisions of this section.

4. Suspension of permit issuance. In addition to or in lieu of the civil penalty provided in this section, the applicant or owner shall not be entitled to issuance of any building or any other permit for the property, with the exception of a permit to fully restore the site, for a period of three (3) years from and after the date of such unpermitted activity. In addition, the applicant or owner shall not be issued by the City any permit allowing curb cuts on the property for a period of three (3) years from and after the date of such unpermitted activity. This provision may be waived if the applicant or owner is able to demonstrate that it will cause an unreasonable economic hardship, as provided in paragraph 1) of this subsection.

5. Enforcement by affected party. If the City should neglect or decline to enforce the provisions of this article, any affected party may undertake to do so at its sole cost. Such action shall not be used to circumvent the permit or certificate procedures, and procedures for appeals thereafter, as set forth in these LDRs. The circuit court shall determine whether such affected party has standing to pursue this action based on the facts in each case.

Section 23.5-5. Tax Exemption for Historic Property.

a) *Scope of tax exemptions.* A method is hereby created for the City Commission to allow tax exemptions for the restoration, renovation or rehabilitation of historic properties, as defined in these LDRs. The exemption shall apply to a maximum of one hundred percent (100%) of the assessed value of all improvements to a historic property which result from and are directly attributable to restoration, renovation or rehabilitation made on or after the effective date of this section. The exemption applies only to taxes levied by the City. The exemption does not apply to taxes levied for the payment of bonds or to taxes levied authorized by a vote of the electors pursuant to section 9(b) or 12, article VII of the Florida Constitution. The exemption does not apply to taxes on personal property.

b) *Duration of tax exemptions.* Any exemption granted under this section to a particular property shall remain in effect for a maximum of ten (10) years, as specified in the ordinance approving the exemption. The exemption shall continue regardless of any change in the authority of the City to grant exemptions or any changes in ownership of the property. In order to retain an exemption, however, the historic character of the property and improvements which qualified the property for an exemption must be maintained over the period for which the exemption was granted.

c) *Eligible properties and improvements.* The property is qualified for an exemption under this section if:

1. At the time the exemption is granted, the property is:
 - (A) Individually listed in the National Register; or
 - (B) A contributing property within a historic district listed in the National Register; or
 - (C) Is designated as a City landmark or is a contributing property within a designated historic district under the terms of this article; and
 - (D) The HRPB has certified to the City Commission that the property for which an exemption is sought satisfies the provisions of this section.
2. In order for an improvement to a historic property to qualify the property for an exemption, the improvement must be:
 - (A) Consistent with the United States Secretary of the Interior's Standards for Rehabilitation; and
 - (B) Determined by the HRPB to meet the criteria established in rules adopted by the Florida Department of State.

d) *Applications.*

1. Any person, firm or corporation that declares ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file with the Department for Community Sustainability, a written application on a form approved by the Florida Department of State.
2. The application shall consist of two parts. Part 1, the preconstruction application, shall be submitted by the property owner or his agent before improvements are initiated, and Part 2, the request for review of completed work, shall be submitted by the property owner or his agent upon completion of the improvements.
3. Application deadline shall be established by the City then ensures that a resolution approving an application for historic preservation tax exemption shall be transmitted to and received by the Palm Beach County property appraiser no later than March 1 of each year.
4. All applicable fees shall be paid at the time the application is submitted. The application must include the following information:
 - A. The name of the property owner and the location of the historic property;
 - B. A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;
 - C. Proof, to the satisfaction of the HRPB, that the property that is to be rehabilitated or renovated is either listed on the National Register or is a designated landmark or a contributing property within a designated historic district;
 - D. Proof, to the satisfaction of the HRPB, that the improvements to the property will be consistent with the Secretary of the Interior's Standards for Rehabilitation and will be made in accordance with the guidelines developed by the Florida Department of State; and
 - E. Such other information identified in applicable Florida Department of State regulations.
5. The economic hardship portion of this ordinance may not be applied to a property requesting tax abatement.

e) *Required covenant.* To qualify for an exemption, the property owner must enter into a covenant or agreement with the City for the term for which the tax exemption is granted. The form of the covenant or agreement must be approved by the Florida Department of State and must require that the character of the property and the qualifying improvements to the property be maintained during the period for which the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferees and their heirs, successors and assigns. Violation of the covenant or agreement results in the property owner being subject to payment of the differences between the total amount of taxes which would have been due in March of each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in section 212.12(3), Florida Statutes.

f) *Approval procedure.*

1. Review by HRPB.

(A) *Preconstruction applications.* The HRPB, or its successor, shall review completed preconstruction applications and all required supporting materials to determine whether

the property for which a proposed exemption is requested satisfies section 196.1997(11)(a), Florida Statutes; whether the proposed improvements are consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1990), U.S. Department of the Interior, National Park Service, which are hereby incorporated by reference into this section, and the criteria specified in chapter 1A-38, F.A.C.; and for applications submitted under the provisions of section 196.1998, Florida Statutes, whether the improvements meet the criteria in Rule 1A-38.004(3) and (4), F.A.C. Upon completion of the review of a preconstruction application, the HRPB shall notify the Applicant of the results of the review and shall make recommendations for correction of any planned work deemed to be inconsistent with the standards cited in Rule 1A-38.005, F.A.C. Each review of a preconstruction application shall be completed within thirty (30) days of receipt of a completed application and all required supporting materials.

(B) *Review of completed work.* Upon receipt of a request for review of completed work, and all required supporting materials, the Department for Community Sustainability shall conduct a field inspection to determine whether or not the completed improvements are in compliance with the work described in the appropriate preconstruction application, subsequent approved amendments thereto, if any, and the Secretary of the Interior's Standards or Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The staff recommendation shall be presented to the HRPB for review and consideration. Each review of a request for review of completed work shall be completed within thirty (30) days of receipt of the completed request and all required supporting materials.

(C) *Recommendation regarding tax exemption.* Upon completion of the review of a request for review of completed work, the HRPB shall recommend that the City Commission grant or deny the exemption. Such review shall be conducted in accordance with the terms of this article and regulations governing historic preservation tax abatement which may be adopted by the Florida Department of State. The HRPB's recommendation and the reasons therefore, shall be provided to the applicant and to the City Commission before consideration of the application by the City Commission.

2. Approval by City Commission. A majority vote of the quorum of the City Commission shall be required to approve an application for tax exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvements. The City Commission shall include the following in its resolution or ordinance approving the tax exemption:

(A) The name of the owner and the address and property control number of the historic property for which the exemption is granted.

(B) The period of time for which the exemption will remain in effect and the expiration date of the exemption.

(C) A finding that the historic property meets the requirements of this section and section 23.5-4.

3. Recording in public record. The covenant evidencing the tax abatement shall be recorded by the City at the owner's expense in the public records of Palm Beach County, Florida.