

July 3, 2024

OTHER MATTERS NO.: TWO Ordinance Amendment: Administrative Review

NAME: Ordinance Amendment: Administrative Review

LOCATION: Ordinance Amendment to Little Rock Historic Preservation Code

APPLICANT: Staff

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A. BACKGROUND

There are currently no explicit procedures set in the Little Rock Historic Preservation Code regarding administrative approvals. Currently, Planning & Development staff administratively review projects within the MacArthur Park Local Ordinance Historic District that do not involve a change in design, material, or outer appearance, such as ordinary maintenance or repair. The permits issued for these reviews are called Certificates of Compliance (“COC”). These reviews do not require the filing of a COA or for the application to be scheduled for a public hearing to be heard before the Historic District Commission. Administrative review through a COC does not prevent ordinary maintenance or repair project types from occurring in the district, but reviews in order to confirm that the project scope and methodology do not go beyond ordinary maintenance, repair, replacement in-kind, and the work does not result in a change in design, material, or outer appearance. A COC identifies the scope of the proposed changes, must be issued before certain building permits can be issued, and must be displayed at the project site along with any other relevant permits.

Additionally, there are several project types which go beyond ordinary maintenance and repair that the Commission has previously set standards and procedures for administrative review, requiring that all standards and procedures are met in order for a COC to be issued. Below is a list of current project types and standards that are administratively reviewed:

a. Architectural Shingles

Staff may approve the replacement of asphalt shingles with architectural shingles on a case-by-case basis.

b. Rain Gutter Systems

Staff may approve the installation of hang-on gutters, downspouts, and French drains on a case-by-case basis. This does not include the installation or removal of boxed (or built-in) gutters.

1. Downspouts are located away from significant architectural features.

2. Downspouts are painted to be camouflaged against structure.

c. Historical Markers

Staff may approve the installation of historical markers on a case-by-case basis.

d. Mechanical Systems

Staff may approve the installation and replacement of mechanical units on a case-by-case basis.

1. Replacement units will be installed in the same location as the existing or relocated to a rear façade or the back of the building and be screened by fencing/landscaping to reduce visibility from the public right-of-way.
2. Any condenser units and supply lines that are replaced where visible from the public right-of-way will be eliminated. New supply lines will not be installed along the exterior of the building visible from the right-of-way.

e. Sign Refacing

Staff may approve the replacement of signage on a case-by-case basis.

f. Solar Panels

Staff may approve the installation of solar panels not visible from the public right-of-way.

g. Storm Windows

Staff may approve the installation of storm windows with the following specifications on a case-by-case basis:

3. Proportion and profile must match the design of the original window, including the sash.
4. Exterior must be wood, baked-on enamel, or anodized aluminum in a color to match the window sash paint color.
5. Must fit within the window casing and not overlap the trim or brick mold.
6. For originally fixed windows and casement windows that are non-operable, storm windows must be full view.
7. Finished must be non-reflective.

h. Handrails

Staff may approve the installation of exterior handrails with the following specifications on a case-by-case basis. This does not include handrails for porch steps.

1. Handrails to be constructed of simple metal or ornamental iron components. Materials should be black or painted to match trim color.
2. The design should be the least obtrusive yet functional option.
3. Posts shall be square stock.
4. The top rail should shed water.
5. Handrail to be installed only at steps. No installation is approved on flat or sloped surfaces.
6. Railing height shall be not less than 36” above nosing of steps. Nosing is defined at the leading front edge of the tread.
7. Staff must visit the site and approve the installation location before approval is granted.

*Past Action & Discussion*

On September 1, 2022, the Commission approved requirements for the administrative approval of storm windows and handrails.

On February 1, 2024, the Commission discussed that the creation of new design guidelines presents the opportunity to clarify existing procedures for administrative approvals and consider inclusion of lower impact project types for administrative review to incentivize compliance. The Commission asked Staff to present...

**B. PROPOSAL/REQUEST/APPLICANT’S STATEMENT:**

Staff proposes codifying the existing and proposed COA approval authority delegated to administrative staff by approval of the proposed ordinance amendment (Attachment A). The ordinance amendment adds the below language to the Little Rock Historic Preservation Code concerning Certificate of Appropriateness requirements:

“Administrative Review. The commission shall have the authority to determine when work is an appropriate improvement which constitutes ordinary maintenance and does not materially affect properties within the area of influence of the property for which the work is to be performed and the special character of the district. The commission shall have the authority to delegate to administrative staff the ability to issue a Certificate of Appropriateness, without public hearing and notice.

(1) All project requirements and conditions for work delegated to administrative review must have been previously approved by the commission.

(2) The type of work delegated to administrative review must be specifically identified in the guidelines adopted for the local ordinance district.”

The ordinance amendment also proposes to remove the below language from the Little Rock Historic Preservation Code:

“Repairs considered as part of a building’s ordinary maintenance are those that do not change but simply upgrade a structure, including painting, replacing deteriorated porch flooring, stairs, siding or trim in the same material and texture, replacing screens, gutters or downspouts. These repairs shall not require a certificate of appropriateness. Improvements of this type are specifically identified in the guidelines adopted for the historic district commission.”

In addition to the proposed ordinance amendment, Staff recommends the approval of the below project types and requirements for the administrative issuance of a Certificate of Appropriateness, also called a Certificate of Compliance. New proposed project types and requirements are shown as underlined text. Project types beyond ordinary maintenance would be approved on a case-by-case basis and administrative staff would have the authority to forward any application to the Historic District Commission for its approval as staff sees necessary.

- a. Ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material, or outer appearance.
- b. The replacement of existing asphalt shingle roofing with architectural shingle roofing on any building or structure.
- c. The replacement or installation of hang-on rain gutter systems, including flashing and downspouts, where downspouts are located away from architectural features and are painted to be camouflaged against the building or structure.
- d. The installation of ground mounted and flush mounted historical markers made of non-shiny materials and flush mounted markers are installed in mortar joints when attached to a masonry surface.

- e. The installation of mechanical equipment that is located in the rear of the property, or on the side of the property setback at least halfway between the front and rear walls, and is entirely screened from public view.
- f. The installation of storm windows where the proportion and profile match the design of the original windows, the storm fits the window casing and does not overlap the trim or brick mold, the exterior is wood, baked-on enamel, or anodized aluminum in a color that matches the window sash paint color, the finish is non-reflective, and, in the case of originally fixed or casement windows that are non-operable, the storm windows are full view.
- g. The installation of handrails only along steps, not including porch steps or along flat or sloped surfaces without steps, constructed of simple metal or ornamental iron, painted black, with square stock posts, a top rail that sheds water, a railing height that is no less than 36 inches above the nosing of the steps.
- h. The installation of solar photovoltaic arrays and system equipment not visible from the public right-of-way, that does not require the removal of historic materials or alter historic roof configurations and features and installation, if removed, will not damage existing historic building materials.
- i. Emergency, temporary maintenance and repair which does not permanently alter the distinctive features of the structure or property, all required city permits are obtained, and the owner of the property commits to apply for a certificate of appropriateness to make permanent repairs within 60 days of the date on which the Certificate of Compliance is issued for the emergency, temporary repairs.
- j. The replacement of an existing sign where only replacing the sign face and the installation of signage where flush mounted to a building or structure, made of wood or non-shiny material, installed in mortar joints when attached to a masonry surface, and no larger than one square foot in surface area.
- k. The removal or installation of a non-historic, detached accessory building, 200 square feet or less in area, meeting all city zoning and code requirements.

- l. The replacement or repair of historic and non-historic site features and streetscape features including sidewalks, streetlamps, curbs, driveways, stepping blocks, hitching posts, retaining walls, steps, gates and fencing, and other furnishings.

C. EXISTING CONDITIONS:

There are currently no explicit procedures set in the Little Rock Historic Preservation Code regarding administrative approvals.

D. NEIGHBORHOOD COMMENTS:

At the time of distribution, there were no public comments. All neighborhood associations registered with the City of Little Rock with areas intersecting the MacArthur Park Local Ordinance District were notified of the public hearing.

E. ANALYSIS:

Staff has considered previous actions and discussions of the Commission and has taken statewide and nationwide historic preservation commission regulations and preservation ordinances under advisement. Procedures and regulations for local ordinance district within the state of Arkansas must be in agreement with the Arkansas Historic Districts Act. Certified Local Government programs and local ordinance districts throughout the state, including Fort Smith and Eureka Springs, set procedures and requirements for administrative approvals for minor impact project types beyond ordinary maintenance. Fort Smtih’s procedures and requirements are specifically codified. Codifying procedures for administrative approvals and identifying project types and requirements in adopted design guidelines provides reliable treatment of project types, provides clear standards for applicants and staff, and incentivizes compliance for minor impact projects and property maintenance.

F. STAFF RECOMMENDATION:

Staff recommends approval of the attached proposed ordinance amendment, Attachment A, to set specific procedures for the administrative issuance of Certificates of Appropriateness for specific project types. A redlined copy of the proposed ordinance amendment is attached as Attachment B.

G. COMMISSION ACTION

April 4, 2024

Ratzlaff made a presentation to the commission. Commissioner Nunn was supportive of the concept to set a clear procedure for administrative approvals of COAs with scopes of work beyond ordinary maintenance. He was more supportive of a flexible framework adopted by ordinance which pointed to the design guidelines for detailed standards, rather than strict detailed standards adopted by ordinance. He expressed he is always in favor of streamlining the review and approval process where it was beneficial to, and he was supportive of the proposed projects outlined in the staff analysis to be delegated to administrative review only. Commissioner Nunn said the proposed project types are typically a quick turnaround for applicants and are minor impact projects that have been previously determined to be appropriate and compatible with the local ordinance district.

Commissioner Fennell said the commission trusted the skill and judgement of current staff. He expressed concern that expanding the authority of staff for administrative approvals would prove to have a negative impact if there was a staff change. Deputy City Attorney, Sherri Latimer, said that administrative approvals could be delegated to staff with limited discretionary ability by the commission predetermining the standards and requirements of the projects in order for it to be administratively reviewed.

Ratzlaff said the second example within the staff analysis could achieve the flexibility that Commissioner Nunn spoke to as well as achieve setting discretionary limitations of staff that Commissioner Fennell was concerned with.

Commissioner Nunn asked if specific project types delegated to administrative review could be reassigned to the commission's review down the road. Ratzlaff said they could. She said that if a project type that was delegated to staff for administrative review, such as the installation of new storm windows, became an issue for the commission or the local ordinance district community down the road, the commission could take action at a regular or called meeting to reassign it to commission review only. (Note: delegated to administrative review on September 1, 2022, by the Historic District Commission.) Commissioner Nunn said he was in favor of the proposed process.

Deputy City Attorney Latimer questioned whether the design guidelines would need to be updated every time the commission added or removed a project type to or from administrative review. Ratzlaff said they should be updated since they are

meant to be a resource to property owners, residents, and the commission. She said it was best to make these determinations in batch now as the new guidelines were being proposed, but if changes occur, they would just be included in the next update.

Commissioner Nunn asked if an applicant would be denied if they requested a Certificate of Appropriateness for a project that did not meet staff' criteria of approval. Ratzlaff said staff would not deny the application, but instead refer it to the commission. If staff were unable to issue a COA administratively, the application would be docketed for a public hearing to be heard by the commission.

Commissioner DeGraff asked why staff was proposing this process at this time. He felt the commission did not review many Certificates of Appropriateness at this point and agendas were typically light. Ratzlaff said it was good practice for a commission of this type to have a smooth process in place for a of high-volume applications in case another local ordinance district was adopted. It also typically creates good will with local ordinance district property owners to have a process which incentivizes compliance with the regulations for minor impact projects. Often, property owners can feel that a public hearing is unnecessary or disproportionate to the request of approval for a smaller scope of work. Ratzlaff said, having fewer public hearing items also frees up the commission during meetings to discuss strategic initiatives and goals for historic districts and sites citywide.

Commissioner Aleman asked if there was a benefit to codifying specific project types that the commission always wants to be administratively reviewed, such as the removal of chain link fencing, and identify other project types in the design guidelines. Deputy City Attorney Latimer said that it was her opinion that beyond ordinary maintenance, it was best practice to determine projects delegated for administrative review in the design guidelines so that the commission always had the ability to rescind or reassign this authority.

After additional discussion, the commission agreed that the second example within the staff analysis was preferable to the first example. Deputy City Attorney Latimer and Ratzlaff were asked to prepare a staff report and draft ordinance for the next meeting for the commission to consider.

COMMISSION ACTION

June 6, 2024

No action could be taken due to lack of a quorum.



July 3, 2024

OTHER MATTERS NO.: TWO

Ordinance Amendment: Administrative Review

# **Attachment A**

## **Proposed Ordinance Amendment**



1 (e) Administrative Review. The commission shall have the authority to determine when work is  
2 an appropriate improvement which constitutes ordinary maintenance and does not materially  
3 affect properties within the area of influence of the property for which the work is to be  
4 performed and the special character of the district. The commission shall have the authority to  
5 delegate to administrative staff the ability to issue a Certificate of Appropriateness, without  
6 public hearing and notice.

7 (1) All project requirements and conditions for work delegated to administrative review  
8 must have been previously approved by the commission.

9 (2) The type of work delegated to administrative review must be specifically identified in  
10 the guidelines adopted for the local ordinance district.

11 **Section 2.** Little Rock, Ark., Rev. Code Chapter 23, Article IV, Division 3 Subsection  
12 23-120 is deleted in its entirety and replaced with new text as follows:

13 **Sec. 23-120. – General criteria.**

14 In making its determination, the commission shall consider without being limited to the  
15 following criteria:

16 (a) Proposed repairs, alterations, new construction, moving or demolition in the  
17 historic district shall respect and relate to the special character of the district.  
18 Changes shall be evaluated on basis of:

19 (1) The purpose of this division.

20 (2) The architectural or historic value or significance of a building and its  
21 relationship to the surrounding area.

22 (3) The general compatibility of proposed changes.

23 (4) Any other factor, including visual and aesthetic considered pertinent.

24 (b) The commission shall encourage proposed changes which reflect the original  
25 design of the structure, based on photographs, written description or other historical  
26 documentation, and be guided by the following preferences:

27 (1) It is preferable to preserve by maintenance rather than to repair original  
28 features of the building.

29 (2) It is preferable to repair rather than to reconstruct if possible.

30 (3) It is preferable to restore by reconstruction of original features rather than to  
31 remove or remodel.

32 (c) When evaluating the general compatibility of alterations to the exterior of any  
33 building in the historic district, the commission shall consider, but not be limited to,  
34 the following factors within the building's area of influence:

- 1 (1) Siting.
- 2 (2) Height.
- 3 (3) Proportion.
- 4 (4) Rhythm.
- 5 (5) Roof area.
- 6 (6) Entrance area.
- 7 (7) Wall areas.
- 8 (8) Detailing.
- 9 (9) Facade.
- 10 (10) Scale.
- 11 (11) Massing.

12 (d) Additions to existing buildings shall be judged in the same manner as new  
13 construction and shall complement the design of the original building, including  
14 exterior window sizes, door heights and ceiling heights, and should not interfere with  
15 any outstanding architectural feature. Decoration of the exterior should blend with  
16 existing exterior features such as window casements, gable trim, roofline, siding  
17 material, foundation materials and types of windows.

18 (e) Generally, new construction shall be judged on its ability to blend with the existing  
19 neighborhood and area of influence. The commission shall consider, but not be  
20 limited to the factors listed for alterations in paragraph [subsection] (e).

21 **Section 3. Severability.** In the event any section, subsection, subdivision, paragraph,  
22 subparagraph, item, sentence, clause, phrase, or word of this ordinance is declared or adjudged to be  
23 invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of  
24 this ordinance, as if such invalid or unconstitutional provision was not originally a part of this ordinance.

25 **Section 4. Repealer.** All ordinances, resolutions, bylaws, and other matters  
26 inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

27 **PASSED:** \_\_\_\_\_, 2024

28 **ATTEST:**

**APPROVED:**

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30 \_\_\_\_\_  
31 **Susan Langley, City Clerk**

\_\_\_\_\_ **Frank Scott, Jr., Mayor**

32 **APPROVED AS TO LEGAL FORM:**

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3 **Thomas M. Carpenter, City Attorney**

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July 3, 2024

OTHER MATTERS NO.: TWO

Ordinance Amendment: Administrative Review

**Attachment B**  
**Proposed Ordinance Amendment**  
**(redlined copy)**



1 (e) Administrative Review. The commission shall have the authority to determine when work is  
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3 affect properties within the area of influence of the property for which the work is to be  
4 performed and the special character of the district. The commission shall have the authority to  
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6 public hearing and notice.

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8 must have been previously approved by the commission.

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10 identified in the guidelines adopted for the local ordinance district.

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15 criteria:

16 (a) Proposed repairs, alterations, new construction, moving or demolition in the historic district  
17 shall respect and relate to the special character of the district. Changes shall be evaluated on  
18 basis of:

19 (1) The purpose of this division.

20 (2) The architectural or historic value or significance of a building and its relationship  
21 to the surrounding area.

22 (3) The general compatibility of proposed changes.

23 (4) Any other factor, including visual and aesthetic considered pertinent.

24 ~~(b) Repairs considered as part of a building's ordinary maintenance are those that do not change~~  
25 ~~but simply upgrade a structure, including painting, replacing deteriorated porch flooring,~~  
26 ~~stairs, siding or trim in the same material and texture, replacing screens, gutters or~~  
27 ~~downspouts. These repairs shall not require a certificate of appropriateness. Improvements of~~  
28 ~~this type are specifically identified in the guidelines adopted for the historic district~~  
29 ~~commission.~~

30 ~~(e)(b)~~ The commission shall encourage proposed changes which reflect the original  
31 design of the structure, based on photographs, written description or other historical  
32 documentation, and be guided by the following preferences:

33 (1) It is preferable to preserve by maintenance rather than to repair original features of  
34 the building.



1 (2) It is preferable to repair rather than to reconstruct if possible.

2 (3) It is preferable to restore by reconstruction of original features rather than to  
3 remove or remodel.

4 ~~(d)~~(c) When evaluating the general compatibility of alterations to the exterior of any  
5 building in the historic district, the commission shall consider, but not be limited to, the  
6 following factors within the building's area of influence:

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8 (2) Height.

9 (3) Proportion.

10 (4) Rhythm.

11 (5) Roof area.

12 (6) Entrance area.

13 (7) Wall areas.

14 (8) Detailing.

15 (9) Facade.

16 (10) Scale.

17 (11) Massing.

18 ~~(e)~~(d) Additions to existing buildings shall be judged in the same manner as new  
19 construction and shall complement the design of the original building, including exterior  
20 window sizes, door heights and ceiling heights, and should not interfere with any outstanding  
21 architectural feature. Decoration of the exterior should blend with existing exterior features  
22 such as window casements, gable trim, roofline, siding material, foundation materials and  
23 types of windows.

24 ~~(f)~~(e) Generally, new construction shall be judged on its ability to blend with the existing  
25 neighborhood and area of influence. The commission shall consider, but not be limited to the  
26 factors listed for alterations in paragraph [subsection] (e).

27  
28 **Section 3. Severability.** In the event any section, subsection, subdivision, paragraph,  
29 subparagraph, item, sentence, clause, phrase, or word of this ordinance is declared or adjudged to be  
30 invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of  
31 this ordinance, as if such invalid or unconstitutional provision was not originally a part of this ordinance.

32 **Section 4. Repealer.** All ordinances, resolutions, bylaws, and other matters inconsistent  
33 with this ordinance are hereby repealed to the extent of such inconsistency.

1 **PASSED:** \_\_\_\_\_, 2024

2 **ATTEST:**

**APPROVED:**

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5 **Susan Langley, City Clerk**

**Frank Scott, Jr., Mayor**

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8 **APPROVED AS TO LEGAL FORM:**

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11 **Thomas M. Carpenter, City Attorney**

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