



CITY OF SAN ANTONIO  
DEVELOPMENT SERVICES DEPARTMENT

CITY OF SAN ANTONIO

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§  
§

COUNTY OF BEXAR

STATE OF TEXAS

**TO THE HONORABLE BOARD OF ADJUSTMENT:**

Property description where Certificate Appropriateness was requested:

Lot no. 4  
Block No. 25  
NCB 513 Property Address: 1129, 1127, 1123 N Hackberry

Per Section 35-451 of the Unified Development Code (UDC), the Zoning Board of Adjustment is empowered to consider an appeal from an applicant for a Certificate of Appropriateness.

The Applicant, Mary Ellen Hardee and Manuel I Campas Medina of Bexar County, alleges that the City

Manager or designee erred in the decision regarding Case No. 2021-367, rendered on  
18 Aug 2021 (add date).

The correct decision or interpretation should be as follows: The decision of limiting the fence to 4' when prior

approval of a 6' fence was given. Also according to (Ord. No. 2014-10-02-0742, § 2, 10-2-14) Sec. 35-451. - Certificate of Appropriateness

paragraph h, the original Certificate of appropriateness which I was awarded for this project should still be enforce.

Paragraph h stays that once a certificate is awarded as long as a permit is pulled within 180 days and the work started

within 180 day after that, the certificate of appropriateness is valid. There is no requirement for

how long the work takes after that and how many additional permits can be pulled until the work is completed. There

was never a need to apply for an additional certificate as the original certificate is still valid. Also the

new certificate which limits the fence size to 4' is also incorrect as, a 4' fence is only for the front residential yard and a yard is only limited to

4' if there isn't an historical precedence, which in this case there is a historical precedence, as many of the fences in the area are 6' which according to Guidelines for Site Elements, Section 2, a, iii.

Respectfully submitted:

Applicant's name: Mary Ellen Hardee and Manuel I Campas M.

Status: Owner ( ) Agent ( )

Mailing address: 326 Sherman San Antonio, TX 78202

Telephone: 720-635-5168 Alternate: \_\_\_\_\_

Email: mary.ellen.hardee@earthlink.net

Mary Ellen Hardee 27 Aug 2021  
Applicant's Signature Date

Property Owner: Mary Ellen Hardee and Manuel I. Campas M.

Mailing address: 326 Sherman San Antonio, TX 78202

Telephone: 720-635-5168 Alternate: \_\_\_\_\_

Email: mary.ellen.hardee@earthlink.net

I, Mary Ellen Hardee the owner of the subject property, authorize  
myself to submit this application and represent me in this  
appeal before the Board of Adjustment.

Please include the following items with this appeal

- ☐ Documentation from City of San Antonio Office of Historic Preservation representing the decision you are appealing and proof that you are within the mandatory 20 day time limit to file the appeal.
- ☐ Sections of the UDC, or the Historic Design Guidelines from which the decision was based, including all support sections which potentially reinforce your assertion that an error was made.
- ☐ Property Ownership documentation, including a copy of the warranty deed and Bexar County Appraisal District and applicable documentation as required per IB 554.
- ☐ Filing Fee of \$600 (plus applicable administrative fees)

## 2. Fences and Walls

### Why is this Important?

The historic use of fences and low retaining walls to identify front yard boundaries and provide privacy and security varies dramatically from district to district and from block to block within San Antonio's historic districts. The types of fences and walls that are used are similarly eclectic. Where historic fences and walls do exist, they are important character-defining features that help reinforce the age and style of the principal building and often times the block. Front yard fences and walls play a large role in defining rhythm and pattern along the street edge. In some districts, non-historic fence materials, such as chain link, have been introduced over time.



*Ornamental, wrought iron fences with an open character and low height are just one of the many styles of historic fences found in San Antonio's historic districts.*



*Stone walls of varying heights and designs are found in many of San Antonio's historic districts. In some locations (as illustrated above), the walls are used to enclose and screen a yard. In other locations, lower stone walls are used for retention purposes on sloped sites.*

### Guidelines

#### A. HISTORIC FENCES AND WALLS

- i. **Preserve**—Retain historic fences and walls.
- ii. **Repair and replacement**—Replace only deteriorated sections that are beyond repair. Match replacement materials (including mortar) to the color, texture, size, profile, and finish of the original.
- iii. **Application of paint and cementitious coatings**—Do not paint historic masonry walls or cover them with stone facing or stucco or other cementitious coatings.

#### B. NEW FENCES AND WALLS

- i. **Design**—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.
- ii. **Location**—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.
- iii. **Height**—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.
- iv. **Prohibited materials**—Do not use exposed concrete masonry units (CMU), Keystone or similar interlocking retaining wall systems, concrete block, vinyl fencing, or chain link fencing.
- v. **Appropriate materials**—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure.
- vi. **Screening incompatible uses**—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.



**HISTORIC AND DESIGN REVIEW COMMISSION  
CERTIFICATE OF APPROPRIATENESS**

**March 06, 2013**

**HDRC CASE NO:** 2013-062

**ADDRESS:** 326 Sherman, 1129 & 1123 Hackberry

**LEGAL DESCRIPTION:** NCB 513 BLK E25 LOT W IRR 47.2 OF 3 ARB A13 E  
HLF 25, NCB 513 BLK E 1/2 25 LOT N 33 FT OF 4 & E  
8 FT OF N 33 FT OF 3, NCB 5130 BLK HLF LOT25  
LOT S 47.33 FT OF 4

**HISTORIC DISTRICT:** Dignowity Hill Historic District

**APPLICANT:** Mary Ellen Hardee 326 Sherman St.

**OWNER:** Mary Ellen Hardee

**TYPE OF WORK:** Fencing

**REQUEST:**

The applicant is requesting a Certificate of Appropriateness for approval to:

1. Replace an existing 4' chain link front yard fence at 326 Sherman with a new 4' wrought iron fence and stone retaining wall. The property slopes down from the front of the home to the street and the applicant hopes to mitigate erosion of the front yard by constructing a retaining wall below the fence.
2. Install a new fence around properties at 1123 and 1129 Hackberry, which are adjacent to 326 Sherman and owned by the same individual. The proposed fence will be 6' tall wrought iron with stone pillars and stone base.

**FINDINGS:**

- a. Staff performed a site visit to the property on February 18, 2013. At that time, staff found that the home at 326 Sherman is in need of substantial rehabilitation and staff commends the homeowners for their efforts to restore this structure, including restoring the existing historic wood windows.
- b. While there are examples of historic retaining walls on properties in the vicinity of the home at 326 Sherman, staff finds that this is not a dominant character defining feature of this block in particular. Similarly, since the elevation change from the front of the home on this property to the street is less dramatic than many of the retaining wall examples, the introduction of a retaining wall should be avoided as it is not in keeping with the Historic Design Guidelines for Site Elements, Section 2.B.ii.
- c. Staff finds that replacing the existing 4' high front yard chain link fence with a new 4' high wrought iron fence is appropriate for a residential property in a historic district such as Dignowity Hill where front yard fences are common, in accordance with the Historic Design Guidelines for Site Elements, Section 2.B.ii.
- d. The properties at 326 Sherman and 1129 Hackberry have frontage on Sherman St., which is the northern boundary of this portion of the Dignowity Hill Historic District. Directly across Sherman St. from these properties is a large industrial and warehouse area.
- e. The two parcels which face Hackberry St. are owned by the same property owner as 326 Sherman. They are zoned commercial, but are vacant and are therefore eligible to have a 6' high fence if the style of the fence is predominantly open, rather than solid, according to the UDC Section 35-514.

3/6/13

f. Staff finds that the proposed 6' wrought iron fence is appropriate and sufficiently transparent for the two parcels that face Hackberry, but that introducing a stone base along the fence is not in keeping with the historic character of the area and should be avoided, in accordance with the Historic Design Guidelines for Site Elements, Section 2.B.i and ii.

**RECOMMENDATION:**

1. Staff recommends approval with the stipulation that the new wrought iron fence be installed in the same location as the existing chain link fence and that a new retaining wall not be introduced, based on findings b and c.
2. Staff recommends approval with the stipulation that the proposed 6' wrought iron fence with stone pillars be installed without the proposed stone base, based on findings d, e and f.

**COMMISSION ACTION:**

Approval with staff recommendations based on findings a through f.

Confirmation was submitted indicating applicant agrees to meet the required stipulations.



Sharon Shea Miller Historic  
Preservation Officer



## 1123 - 1129 N Hackberry - Historic and Design Review Commission - Fencing

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**From:** Edward Hall (OHP) <Edward.Hall@sanantonio.gov>  
**To:** mary.ellen.hardee@earthlink.net <mary.ellen.hardee@earthlink.net>  
**Subject:** 1123 - 1129 N Hackberry - Historic and Design Review Commission - Fencing  
**Date:** Aug 11, 2021 1:31 PM  
**Attachments:** [image001.png](#) [image002.jpg](#) [image003.jpg](#) [image004.jpg](#)

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Good afternoon, Ms. Hardee,

Thank you again for submitting the Historic and Design Review Commission Application for approval to install fencing at 1123 – 1129 N Hackberry.

The Guidelines for Site Elements 2.B. notes that fences and walls should appear similar to those found historically within the district in terms of their scale, transparency, and character; that fences should be installed where appropriate historically, should be limited to four (4) feet within the front yard and should be constructed of materials similar to those found historically within the district.

Staff finds the proposed fencing to be consistent with the Guidelines with the exception of the proposed height. Staff is recommending approval of the proposed fence with the stipulation that the height be reduced to four (4) feet in height.

Please note that this is staff's recommendation based on the Historic Design Guidelines.

The Historic and Design Review Commission reviews each application on a case by case basis, and may find the proposed height to be appropriate. You will be able to present the fence at the proposed height of six feet to the Commission at next Wednesday's hearing. The hearing begins at 3PM.

As previously noted, the HDRC is currently holding hearings virtually. I will provide additional information in a later email for how to attend the virtual hearing.

Please let me know if you have any questions.

Thank you,  
Edward Hall

*Senior Historic Preservation Specialist  
Design Review, HDRC & Enforcement*

City of San Antonio · Office of Historic Preservation  
1901 South Alamo · San Antonio, TX 78204  
Direct: 210.207.4680 · Office: 210.207.0035  
[www.sanantonio.gov/historic](http://www.sanantonio.gov/historic)



CITY OF SAN ANTONIO  
**OFFICE OF HISTORIC PRESERVATION**

*Our team is practicing social distancing with limited availability at our physical office. During this time, we encourage you to utilize our many online resources including the online application portal and explorer map. Visit [www.sapreservation.com](http://www.sapreservation.com) or contact us at 210-207-0035.*

Visit our website for details on OHP events and activities:

<http://www.sanantonio.gov/historic/events.aspx>

application. The commission, by a majority of its membership, may waive the aforementioned time limitation if the application presents new substantial evidence. If such waiver is granted, a new application shall be filed with the historic preservation officer.

- (g) **Amendments.** A certificate of appropriateness shall be amended in the same manner as the approval of the original application.
- (h) **Scope of Approval.** A certificate of appropriateness shall authorize only those modifications to a building or structure requested in the application and approved as provided herein. The historic and design review commission shall recommend approval, denial, or approval with conditions for the application before it, unless said application is revised with the consent of the applicant. Following commission approval of final design, defined as eighty (80) percent working drawings, and issuance of a certificate, an applicant must secure permits within one hundred eighty (180) days and start work within one hundred eighty (180) days of issuance of permits or the certificate becomes null and void and of no force or effect. Thereafter, the applicant must reapply for reissuance of a certificate to the historic preservation officer. The historic preservation officer will determine whether significant changes have occurred to the final design. If the historic preservation officer determines that significant changes have occurred, then plans must be resubmitted to the commission for rehearing and action.
- (i) **Recording Procedures.** A certificate of appropriateness need not be recorded, but shall be maintained and displayed by the applicant on the premises. The historic preservation officer shall also retain a copy of the certificate of appropriateness for public inspection.

(Ord. No. 95352 § 4) (Ord. No. 98697 § 1, 4 and 6) (Ord. No. 2009-01-15-0001, § 2, 1-15-09) (Ord. No. 2010-06-24-0616, § 2, 6-24-10) (Ord. No. 2011-03-31-0240, § 2, 3-31-11) (Ord. No. 2014-04-03-0206, § 6, 4-3-14; Ord. No. 2015-12-17-1077, § 2, 12-17-15; Ord. No. 2017-10-05-0756, § 1(Att. A), 10-5-17; Ord. No. 2017-12-14-1010, § 2, 12-14-17)

# Warranty Deed

## Effective Date:

For good consideration, I, Mario Ruiz, 1213 N. Olive, San Antonio, TX 78202, (Grantor) hereby bargain deed and convey to Mary Ellen Hardee and Manuel I Campas Medina (Grantee), 326 Sherman, San Antonio, County of Bexar, State of Texas, the following described land in Bexar County, free and clear with WARRANTY COVENANTS; to wit:

## Legal Description:

**NCB 513**

**BLK: East ½ of 25**

**LOT: South 51 Feet of North 64 feet of 4**

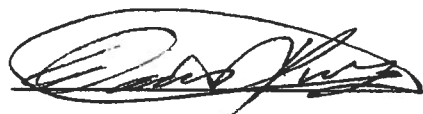
**As shown in volume 7383 and page 978 of the Deed and Plat Records of Bexar County, Texas, also known as 1127 N. Hackberry, San Antonio, Bexar County, Texas 78202.**

## RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Easements, right-of-way, prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and other instruments, other than liens and conveyances, that affect the Property; rights of adjoining owners in any walls and fences situated on a common boundary; and discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural



Mario Ruiz (Grantor)

Book 16950 Page 1787 2pgs



Warranty Deed

For good consideration, I, Mary Ellen Hardee, 326 Sherman, San Antonio, Texas hereby bargain deed and convey to **Mary Ellen Hardee and Manuel I. Campas Medina**, 326 Sherman, San Antonio, County of Bexar, State of Texas, the following described land in Bexar County, free and clear with WARRANTY COVENANTS; to wit:

**Legal Description : Block 25 NCB 513 North 33 Ft of lot 4 (Deed), East 8 Feet of the North 33 FT of lot 3 (Deed), N 90.00.00 E 65.07 (Field) W E 65.07 (Field) Property Location : 1129 North Hackberry, San Antonio, Texas 78202**

Grantor, for itself and its heirs, hereby covenants with Grantee, its heirs, and assigns, that Grantor is lawfully seized in fee simple of the above-described premises; that it has a good right to convey; that the premises are free from all encumbrances; that Grantor and its heirs, and all persons acquiring any interest in the property granted, through or for Grantor, will, on demand of Grantee, or its heirs or assigns, and at the expense of assurance of the title to the premises that may be reasonably required; and that Grantor and its heirs will forever warrant and defend all of the property so granted to Grantee, its heirs, against every person lawfully claiming the same or any part thereof. Being the same property covered to the Grantors by deed dated February 1, 2013.

WITNESS the hands and seals of said Grantors this 8<sup>th</sup> day of July, 2013.

Grantee

Grantee

Book 16221 Page 1353 1pgs

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law  
STATE OF TEXAS, COUNTY OF BEXAR  
I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

JUL 11 2013

STATE OF TEXAS

COUNTY OF BEXAR

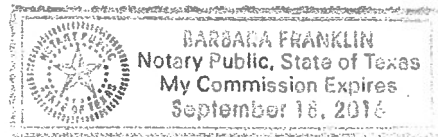


COUNTY CLERK BEXAR COUNTY, TEXAS

On July 8, 2013 before me, Mary Ellen Hardee, personally appeared with Manuel I Campas Medina, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal.

Signature


Affiant \_\_\_\_\_ Known \_\_\_\_\_ Nknown ID Produced \_\_\_\_\_

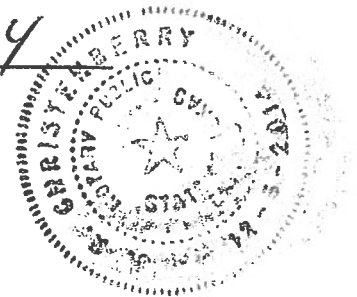


Doc# 20130142890 Fees: \$16.00  
07/11/2013 2:37PM # Pages 1  
Filed & Recorded in the Official  
Public Records of BEXAR COUNTY  
GERARD C. RICKHOFF COUNTY CLERK

STATE OF TEXAS     )  
COUNTY OF BEXAR    )

This instrument was acknowledged before me on 11-1, 2014, by Mario Ruiz.

  
Notary Public, State of Texas  
My commission expires: 12-6-14



AFTER RECORDING RETURN TO:

Mary Ellen Hardee and Manuel I Campas Medina  
326 Sherman  
San Antonio, TX 78202

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law  
STATE OF TEXAS, COUNTY OF BEXAR  
I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

NOV 07 2014



  
COUNTY CLERK BEXAR COUNTY, TEXAS

Doc# 20140192736 Fees: \$30.00  
11/07/2014 10:48AM # Pages 2  
Filed & Recorded in the Official  
Public Records of BEXAR COUNTY  
GERARD C. RICKHOFF COUNTY CLERK

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

SCANNED

SPECIAL WARRANTY DEED

Effective Date: March 20, 2009



Grantor: Naven Taiym

Grantee: Mary Ellen Hardee and Manuel I. Campas

Grantee's Mailing Address:

CONSIDERATION:

Ten Dollars (\$10.00), and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

PROPERTY:

Lot S 47.33 ft of 4 Blk HLF WCB S130  
1123 W. Hackberry St.  
San Antonio, TX 78202

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Easements, rights-of-way, prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and other instruments, other than liens and conveyances, that affect the Property, rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and



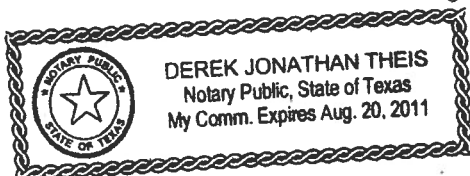
assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

Naveen Jayam 3-20-09  
Naveen Jayam Grantor

STATE OF Texas  
COUNTY OF Bexar

This instrument was acknowledged before me on the 20<sup>th</sup> day of March, 2009, by Naveen Jayam.



Derek Theis  
Notary Public, State of Texas  
Printed Name: Derek Theis  
Commission Expires: 8-20-2011

After recording, return to:

Doc# 20090049573 Fees: \$20.00  
03/20/2009 12:55PM # Pages 2  
Filed & Recorded in the Official Public  
Records of BEXAR COUNTY  
GERARD RICKHOFF COUNTY CLERK

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law  
STATE OF TEXAS, COUNTY OF BEXAR  
I hereby certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

MAR 20 2009



Gerard Rickhoff  
COUNTY CLERK BEXAR COUNTY, TEXAS

Sec. 35-451. - Certificate of Appropriateness.

- (a) Applications proposing work or changes to the exterior of a landmark, in a historic district, in a river improvement overlay district, viewshed protection or mission protection overlay district, or a property identified as an eligible resource or recommended for historic designation in accordance [with] subsection 35-453(a) shall require review for appropriateness with the provisions of this article, and any adopted design guidelines. In addition, the demolition or relocation of any structure designated historic shall also require review for appropriateness in the same manner. Such applications may include, but are not limited to:
- (1) Construction and reconstruction,
  - (2) Alteration, additions, restoration and rehabilitation,
  - (3) Relocation,
  - (4) Stabilization,
  - (5) Signage,
  - (6) Landscaping,
  - (7) Construction or reconstruction of a parking lot,
  - (8) Construction or reconstruction of an appurtenance,
  - (9) Acquisition or deaccessioning of artwork,
  - (10) Demolition, and
  - (11) Lighting, furniture and seating plan, and awnings and umbrellas within the Riverwalk area and in the public right-of-way.
- (b) **Initiation.** Applications for certificates of appropriateness shall be referred to the commission by the historic preservation officer. In the case of an application for new infill development or redevelopment of property zoned "D" Downtown, the application shall be referred to the commission by the director of the planning and community development department and shall be guided by procedures specified in the Downtown Design Guide in Appendix G of this chapter (35-G101). In the case of an application for demolition, the commission shall be guided by procedures specified in sections 35-614 to 35-617 of this chapter.
- (c) **Completeness Review.** The historic preservation officer shall review an application for a certificate of appropriateness in accordance with section 35-402 of this chapter. The appellate agency for purposes of completeness review (see subsection 35-402(c) of this chapter) shall be the historic and design review commission.
- (d) **Decision.**
- (1) **Commission Review.** The commission shall make its written final recommendation to either approve, deny, or approve with stipulations the application within sixty (60) days after the historic preservation officer's receipt of the completed application. Applications forwarded to the commission shall include all required materials and documents from the applicant. If the



commission does not make its final recommendation within a sixty-day period, the application shall be deemed recommended by the commission for approval and the city manager or her designee shall either approve, deny or approve with conditions the application within five (5) days of the applicant's demand. The sixty-day time period may be extended up to three additional times, with each time not exceeding thirty (30) days, with the concurrence of the applicant if additional time is required for the preparation of information or for research required by the commission. In cases involving demolition applications, the Historic Preservation Officer may extend this timeline consistent with subsection 35-455(d).

- (2) **City Manager Review.** Upon receipt of the recommendation by the commission, or on their own initiative, the city manager or designee may implement such recommendation by notifying the applicant within ten (10) business days from receipt of such recommendation that the application has been approved, conditionally approved, or disapproved. The city manager designee for this purpose shall be the historic preservation officer, unless the city manager chooses to designate otherwise. The city manager or designee shall also submit a copy of the decision to the commission for its information, to the department of planning and development services for issuance of permits, and to other departments, as applicable. The city manager or designee shall assure the decision is based on the criteria established by the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and was considered by the commission in the determination as to issuance or denial of any certificate.
  - (3) **Appeal.** An applicant for a certificate may appeal the decision of the city manager or designee to the board of adjustment within thirty (30) days after receipt of notification of the city manager's action. The applicant shall be advised by the city manager or designee of the time and place of the hearing at which the appeal will be considered and shall have the right to attend and be heard as to the reasons for filing the appeal. In determining whether or not to grant the appeal, the board of adjustment shall consider the same factors as the commission and the report of the commission. If the board of adjustment approves the application, it shall direct the city manager or designee to issue a certificate for the work covered. If the board of adjustment disapproves the application, it shall direct the city manager or designee not to issue such certificate. Such disapproval may indicate what changes in the plans and specifications would meet the conditions. Upon receipt of the written disapproval of the board of adjustment, the city manager or designee shall immediately advise the applicant and the commission in writing.
- (e) **Approval Criteria** (See article VI of this chapter.)
- (f) **Subsequent Applications.** In the case of disapproval of an application by the board of adjustment, a new application for the same work shall not be resubmitted for consideration until one (1) year has elapsed from the date of disapproval unless the indicated changes in the plans and specifications required to meet the conditions have been incorporated into the new

The decision of limiting my fence height to 4' when prior approval of a 6' was given, was incorrect. According to (Ord. No 2014-10-02-0742, 2, 10-2-14) Section 35-451 – Certificate of Appropriateness, paragraph h, the original Certificate of Appropriateness which I was awarded for this project should still be enforced. Paragraph h says that once a certificate is awarded as long as a permit is pulled within 180 days and the work is started within 180 days after that, the certificate of appropriateness is valid. There is no requirement for how long the work takes after that or how many additional permits can be pulled until the work is completed. There was never a need to apply for an additional certificate as the original certificate is still valid. Section 35-451, also states that as long as the work has not changed the Certificate should be reissued as is.

Also the new certificate which limits the fence size to 4' is also incorrect as, a 4' fence is only for the front of a residential yard and this only applies if there are no historical precedence for a taller fence, as there are many fences in the area which are 6', according to Guidelines for Site Elements, Section 2,a,iii.

In addition section H also  
states that a certificate of  
appropriateness only needs to be  
re addressed if any significant change  
are made to the plan. No changes  
were made to our plan.