



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



**Date:** February 1, 2016

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Lisa Miller, AICP, Senior Planner  
**Subject:** Historic Properties Local Review Criteria Update and Consolidation

**Summary.** The City and County, through the Planning Department's work program, have initiated a consolidation of, and update to, the criteria used by the Historic Preservation Commission (HPC) to review proposed changes to locally-designated historic properties (local historic districts and local historic landmarks).

There are seven components to this project. This is the first component which is the adoption of the Historic Properties Local Review Criteria. In addition, there is an updated preservation plan for each of the Local Historic Districts that have to be adopted to reference the new review criteria, each of these are separate action items.

**Recommendation.** That the City Council approve the Historic Properties Local Review Criteria.

**Background.** Local historic landmark and district designations are intended to protect the important historic character of the property or district, and are applied as either zoning overlay districts (for local districts) or recorded with the Register of Deeds (for local landmarks). When each designation was originally adopted by the governing bodies a set of criteria to review proposed future changes to properties was adopted. For the 80 designated local historic landmark properties, the Secretary of the Interior's Standards for Rehabilitation have been adopted for use by reference in the landmark ordinance of designation. In historic districts, the review criteria are found within the larger preservation plan for the district as a whole that lays out the history, architectural significance, inventory, and policies for preservation. There are currently seven local historic districts designated:

- Downtown Durham
- Cleveland and Holloway Streets
- Fayetteville Street
- Morehead Hill
- Trinity Heights
- Watts Hillandale

The six districts that are primarily residential in nature have virtually identical language in the adopted review criteria. The Downtown district has a completely different set of criteria. As per paragraph 3.17.1 of the Unified Development Ordinance the criteria are used by the HPC and Planning staff when considering requests for modifications, site work, or new construction to properties with a local historic designation. Currently, the review criteria contained within each district's preservation plan, or the Secretary of the Interior's Standards for Rehabilitation for landmarks, are used by the HPC in their review and approval of COAs.

### Origin of the Project

Since the adoption of the criteria, Planning staff and the HPC have identified several key historic preservation issues where the criteria did not provide clear direction: archaeological sites; cemeteries; Modern architecture; work in the right-of-way; sustainability; new alternative or substitute materials; and distinctions between landmark properties, contributing properties, and non-contributing properties. The intent of this project is to rectify these issues and to simplify and streamline review for applicants, the HPC, and staff, by consolidating the criteria into a single document, applicable to all districts and landmarks.

### Timeline of the Project and Public Input

Planning staff brought the above concerns regarding the existing criteria to the Commission with a proposal to undertake an update and consolidation of the review criteria. The idea was endorsed by the Commission but for several years staff resources did not allow for the project to be undertaken.

In February of 2012 the Planning Department applied for a Historic Preservation Fund matching grant through the State Historic Preservation Office to hire a consultant to work on the project. In December of 2012 two initial public meetings were held to introduce attendees to the scope of the project and provide the opportunity for initial input about revisions to the document. Notices for those meetings were sent out to all owners of local historic landmark properties and properties within the boundaries of each of the local historic districts. The consultant then met with Planning staff and the HPC steering committee for the project to get further feedback regarding issues to be addressed with the rewrite of the review criteria. The focus was on clarification of the current criteria rather than on significant changes to the criteria content. Two concerns arose with the criteria as drafted by the consultant. First, organization of the criteria in the document did not meet the aim of simplification for the public. Second, the issue of dealing differently with contributing and non-contributing structures had not been addressed.

In addition, in response to some case-specific concerns that arose in early 2013, focus groups were held in the last two weeks of May 2013. These were intended to get broader meaningful input from stakeholders including representatives from each local historic district, landmark owners, Preservation Durham, Downtown Durham Inc., City and County administration and elected officials, consultants who work within the districts, and several City and County departments who work within the districts (i.e. General Services, Public Works, Office of Economic and Workforce Development, etc.). This feedback was provided to the consultant

but could not be incorporated into the document prior to the grant-mandated deadline of August of 2013 for the consultant's work.

Therefore, in September of 2013, staff began working to address the two issues identified above in a new version of the draft. In July of 2014, Planning staff prepared a complete draft of the review criteria and held two public meetings seeking feedback on the revised proposal. Notification was again sent to all owners of local historic landmark properties and properties within the boundaries of each of the local historic districts and the City issued a press release. Approximately 80 people attended between the two meetings.

Staff then revised the criteria taking into account the comments received during the input period and began drafting the remaining contents of the overall document. In July of 2015, staff held another public input session on a draft of the complete document, again sending notices to all impacted property owners and issuing a press release. At the same time the draft was sent to the State Historic Preservation Office for their advisory review. An additional special meeting was held specifically for property owners where the significance designation of their property (contributing or non-contributing) was proposed to change. Notices for this meeting were only sent to impacted property owners.

#### Overview of the Proposed Project

The proposed criteria are divided into separate sections for Residential Districts (everything except Downtown), the Downtown District, Landmarks, Cemeteries, and Archaeological Sites. Within the districts, separate criteria are established for Contributing Properties, Non-Contributing Properties, and Rights-of-Way. Based on the designation of the property (district or landmark) and the significance of the property (contributing or non-contributing) in question, an applicant can find all of the relevant criteria for his or her project in one section. The criteria are set up in a hierarchical fashion so that landmarks are held to the highest preservation standards, contributing structures in districts have a bit more flexibility, and then non-contributing structures and new construction have a great deal of flexibility, focusing mainly on placement, scale, height, and general compatibility of the architecture.

#### Updates to District Preservation Plans

Since the existing review criteria are adopted in each preservation plan, part of this project is to revise those plans to remove the old criteria and adopt by reference the new Historic Properties Local Review Criteria document. Since these plans must be readopted, staff is proposing a few other changes as well. First, outdated references to ordinances, or to properties that may have been demolished, are being corrected or removed. Second, the significance classification (either contributing or non-contributing) for district properties has been reassessed with this project to ensure the new criteria will be appropriately applied.

- Contributing properties are those properties that make up the intact historic character of a district.
- Non-contributing properties are those properties that are not part of the historic character of the district, generally due to age or incompatible modifications.

However, two of the plans only include the revised criteria reference. The Downtown preservation plan was updated in 2011, so those properties were not reassessed in this project. The Cleveland Street and Holloway Street plan will be more holistically revised as part of the Holloway Street District Expansion project shortly following adopting of these criteria, so those properties were not reassessed in this project either.

Staff used the following methods in re-evaluating the significance of each property.

- Standard practice no longer includes the classifications of “pivotal” and “intrusive,” therefore all pivotal properties were changed to contributing and all intrusive properties were changed to non-contributing.
- All vacant properties have been classified as non-contributing for the purposes of applying the non-contributing criteria to new construction.
- Generally, properties constructed within the period of significance for each district (see pages 11-22 of the draft) are classified as contributing. In establishing the period of significance the overall architectural styles and periods of significant development for each district were considered.
- Some properties constructed within the period of significance for the district are classified as non-contributing; generally, if inappropriate modifications have been made to the property or if the property does not represent a significant or common architectural style within that district.
- Properties constructed after the period of significance for each district are classified as non-contributing.

Of the 913 properties in the four districts that were reassessed (Fayetteville Street, Morehead Hill, Trinity Heights, and Watts-Hillandale), four properties were changed from contributing to non-contributing and 18 properties were changed from non-contributing to contributing.

#### Advisory Body Recommendations

The Historic Preservation Commission unanimously recommended approval of all seven items at their October 6, 2015 meeting. Their recommendation on the Historic Properties Local Review Criteria included a series of recommended changes that staff has incorporated into the attached document. The Planning Commission recommended approval of all seven items at their November 10, 2015 meeting (9-2 vote). Their recommendation included a condition that a couple of changes to wording in the document be incorporated. Staff has revised the language in the attached document accordingly.

**Issues.** One concern that has consistently been raised at the public meetings on this project is the continual need for education and outreach to current property owners, potential property owners, realtors, closing attorneys, etc. on locally-designated historic properties. It is important for property owners to know the boundaries of our local historic districts and the meaning of a property’s inclusion within that boundary prior to purchasing property within a

district. It is likewise important to ensure that current property owners within the district boundaries are aware of the existence of the certificate of appropriateness requirements and how to navigate that process. It is important for realtors and closing attorneys to be knowledgeable about district and landmark designations in order to accurately disclose not only whether a property is designated but what that means for the property owner at the time of sale. Staff continues to struggle to find adequate methods and resources for accomplishing this task.

As evidenced by the timeline for the project described above, the HPC has had to apply criteria that are known to be problematic for some time, creating frustration within the HPC, the applicants, property owners, and the community at large. This project intends to address the issues that have contributed to that frustration with the historic preservation program and the existence of local historic districts and landmarks, by developing new criteria that embody the preservation ethic of the Durham community rather than the strictest historic preservation approach.

Finally, there is the potential for concern by owners where the significance of their property is proposed to change, particularly due to the distinction in the new criteria between how contributing and non-contributing properties are treated. However, staff sent additional notices and held a special meeting for the 22 properties where this is applicable. No property owners whose significance classification is proposed to change attended the meeting and staff did not receive any inquiries from these property owners outside the meeting.

**Alternative.** The City Council could vote to deny the Historic Properties Local Review Criteria, or to approve with changes.

## **Attachments**

**Attachment 1,** Consistency Statement

**Attachment 2,** Ordinance

Note: The complete draft of the Historic Properties Local Review Criteria is in excess of 100 pages and is available for review on the Planning Department website at: <http://durhamnc.gov/DocumentCenter/View/8447>.