



TEXAS HISTORICAL COMMISSION

real places telling real stories

Section 106 Review and the Texas Historical Commission

Justin Kockritz
History Programs Division

July 2017



Our Mission:

To protect and preserve the state's historic and prehistoric resources for the use, education, enjoyment and economic benefit of present and future generations.



Texas Historical Commission

- State Historic Sites
- Texas Main Street Program
- Heritage Tourism
- Markers and Designations
- Financial Incentives
- State & Federal Reviews



Bexar County Courthouse
Casa Navarro State Historic Site
San Ygnacio Historic Marker



Section 106 Process



Section 106 Overview

Section 106 of the National Historic Preservation Act requires federal agencies “take into account the effects of their undertakings on historic properties,” and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment

The goal of Section 106 consultation is to avoid, minimize, or mitigate any adverse effects on historic properties



DeLuxe Theater, Houston
Before and After CDBG-Funded Rehabilitation





Section 106 Overview

Steps in the Section 106 Process

1. Establish Undertaking

Determine if there is a Federal undertaking with the potential to affect historic resources

2. Identify Historic Properties

Define the Area of Potential Effect (APE) and identify any historic properties within the APE

3. Assess Effects

Determine the effect, if any, of the project on historic resources

4. Resolve any Adverse Effects

Throughout the process, the agency consults with the State Historic Preservation Officer (SHPO), the public, and other interested parties



Section 106 Overview

What is a Federal Undertaking?

Any project that involves:

- Federal funds (in whole or in part, including pass-through funds)
- Federal permit
- Federal licenses
- Federal approval
- Federal land or property



Highway Construction



Corps of Engineers Permits



FCC Licenses



Section 106 Process: Identifying Historic Properties

Area of Potential Effects (APE)

- Should be delineated before any identification efforts take place
- Does not have to be one contiguous area
- Not necessarily based on boundaries of land ownership
- Includes all direct and reasonably foreseeable indirect effects
- May also account for cumulative effects

General guidance for HUD projects:

Direct effects:

***New construction or ground disturbance:** the footprint to be directly affected by new construction, staging areas, and access areas*

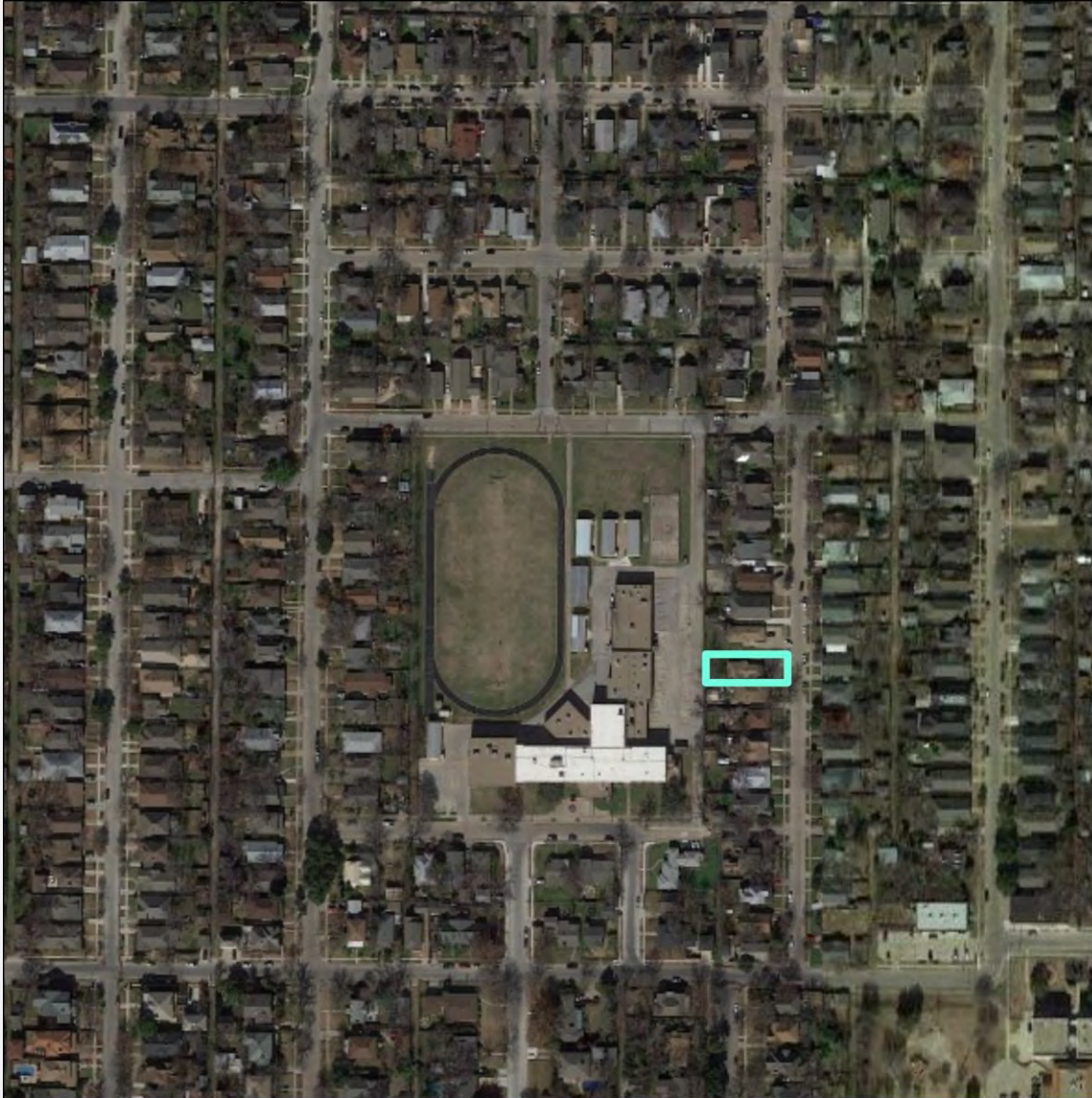
***Rehabilitation of a building:** limited to the building being rehabilitated*

Indirect effects:

Must account for potential visual or auditory effects



Section 106 Process: Identifying Historic Properties

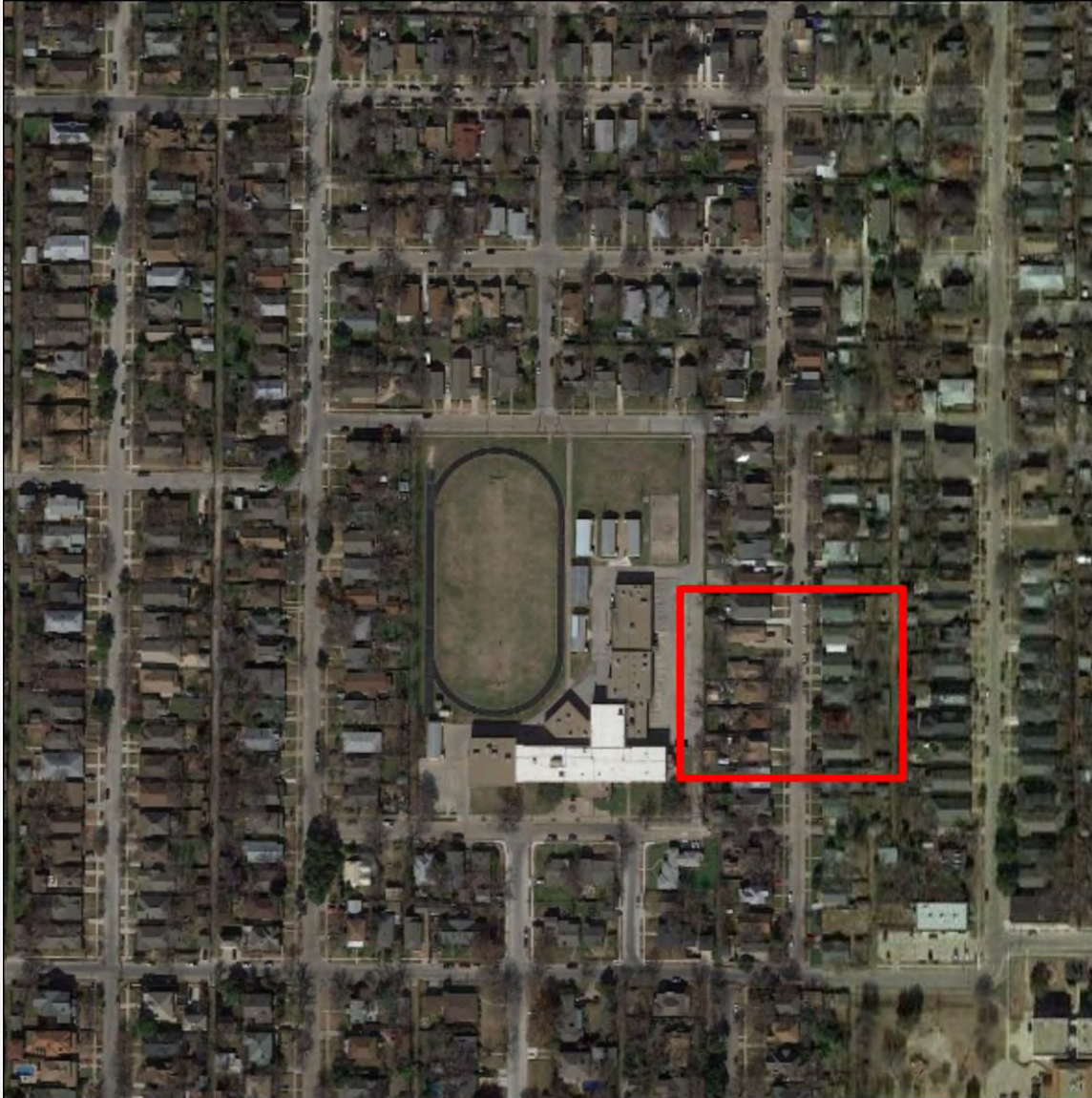


**Area of Potential Effect
Examples**

Interior Rehabilitation



Section 106 Process: Identifying Historic Properties

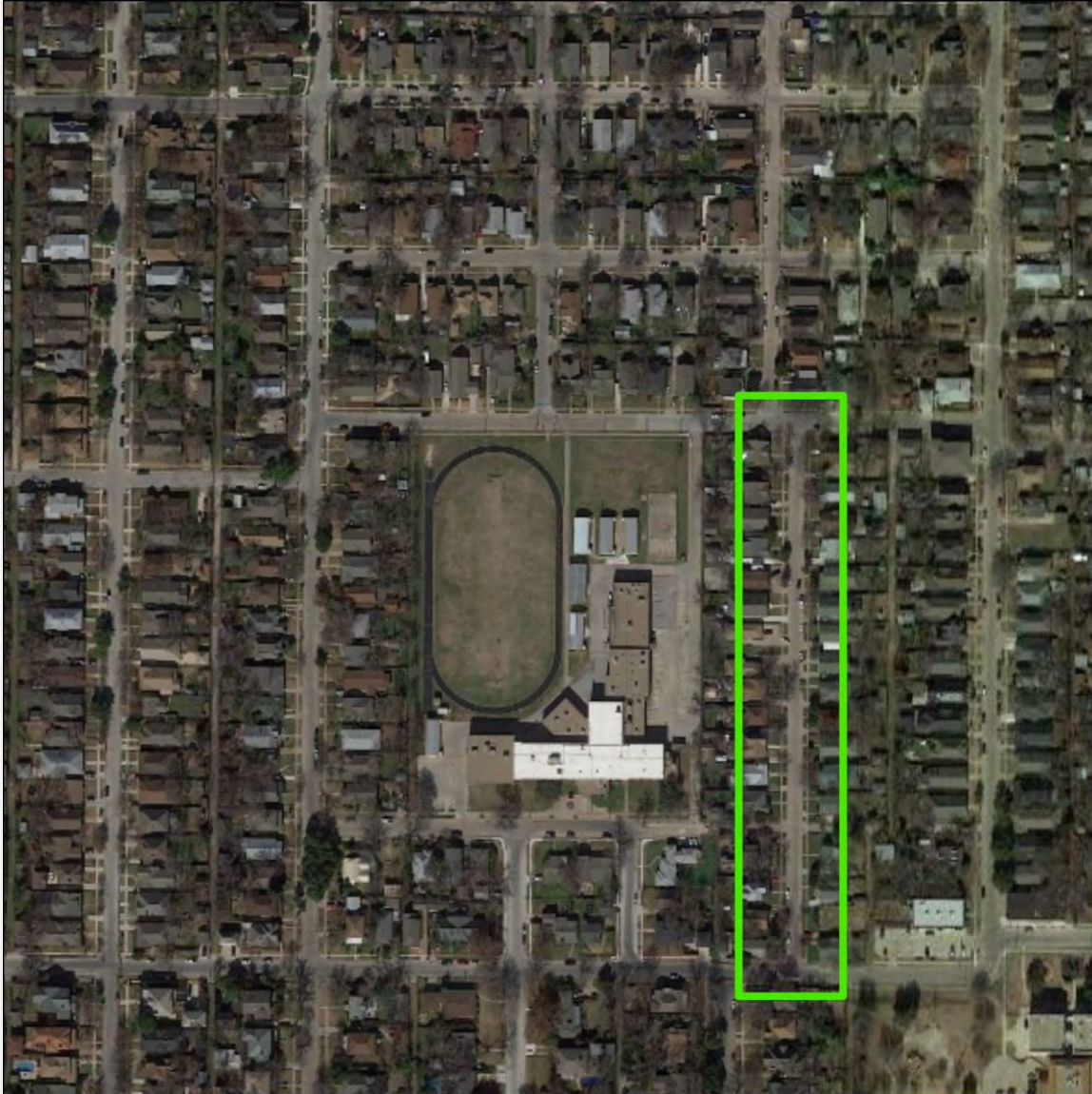


**Area of Potential Effect
Examples**

New Construction or
Exterior Rehabilitation



Section 106 Process: Identifying Historic Properties

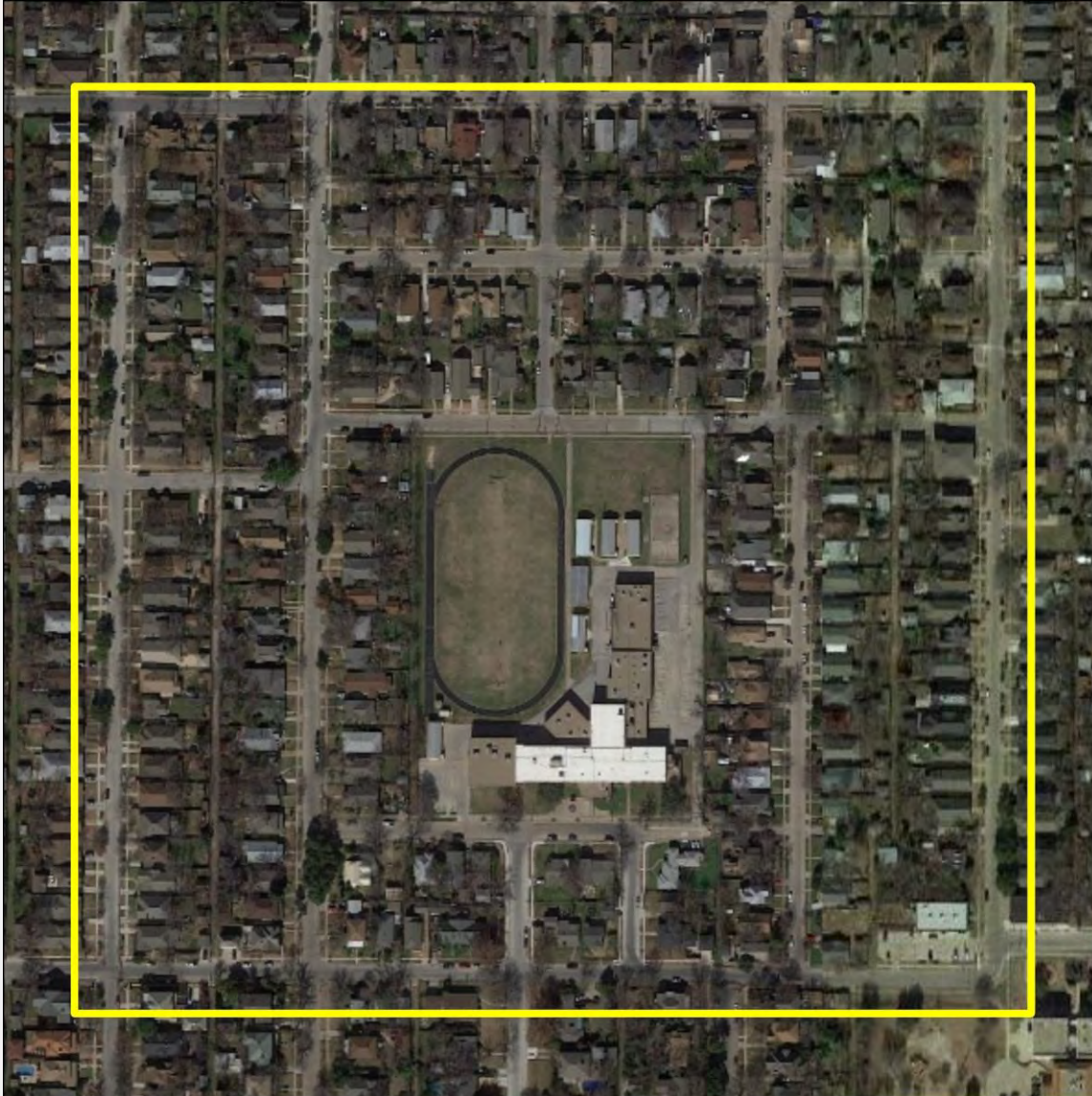


**Area of Potential Effect
Examples**

Utility Lines or Street
Improvements



Section 106 Process: Identifying Historic Properties



**Area of Potential Effect
Examples**

Major Redevelopment



Section 106 Process: Identifying Historic Properties

What is a Historic Property?

- Any site, district, building, structure, or object listed in, or **eligible** for listing in, the National Register of Historic Places
- Must meet at least one National Register Criteria:
 - A. Historic Event or Broad Pattern of History
 - B. Historic Persons or People
 - C. Architecture, Engineering, or Design
 - D. Information Potential (Archeology)



Colonial Hills Historic District, Dallas



Bishop's Palace, Galveston

Section 106 Process: Identifying Historic Properties

THC's Texas Historic Sites Atlas features layers for:

- National Register
- NR Historic District
- Historical Markers
- Cemeteries
- Neighborhood Survey

<http://atlas.thc.state.tx.us>

The screenshot displays the Texas Historic Sites Atlas web application. The browser address bar shows the URL atlas.thc.state.tx.us/Map. The page header features the text "TEXAS HISTORIC SITES atlas" and "history on your desktop" on the left, and "TEXAS HISTORICAL COMMISSION" and "real places telling real stories" on the right. A navigation menu below the header includes links for HOME, ATLAS MAP, ATLAS DATA, TEXSITE, FAQ, and ABOUT ATLAS. The main content area shows a map of Beaumont, Texas, with numerous historic sites marked by various symbols. A legend on the right side of the map lists the following categories and symbols:

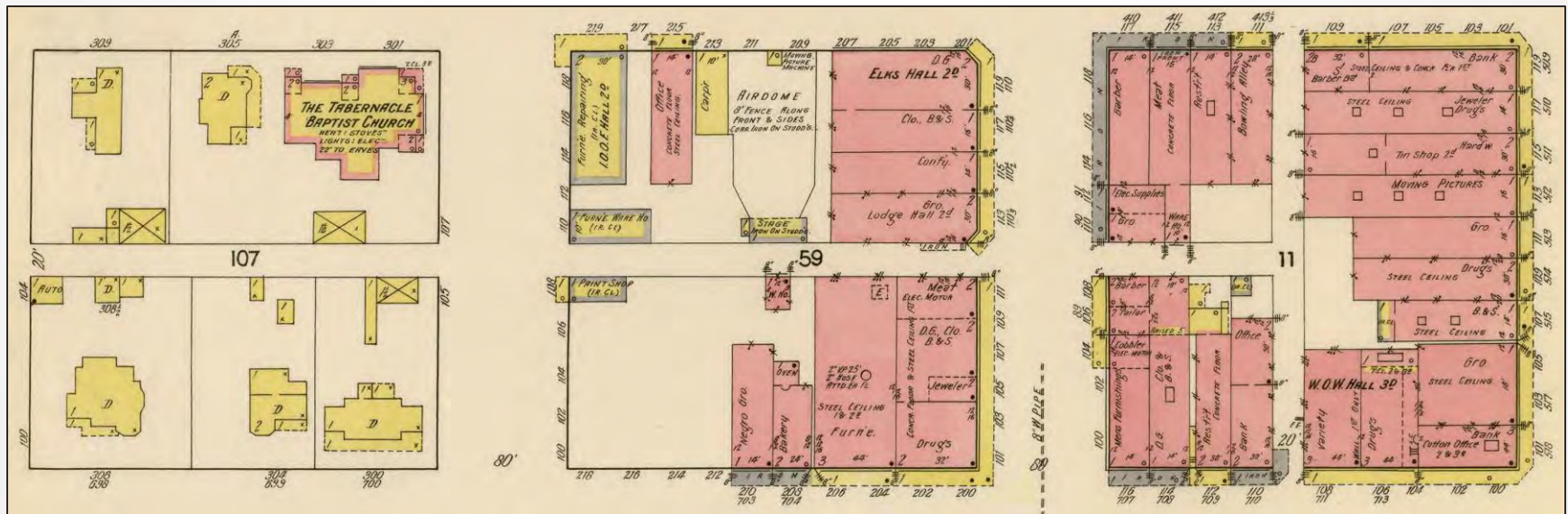
- Neighborhood Survey (Yellow diamond)
- Museum (Purple square)
- Historical Marker (Green circle)
- National Register Property (Blue star)
- National Register District (Blue square)
- Cemetery (Green square)
- County Courthouse (Red square)
- Counties (Grey square)

The map also includes a search bar at the top with the text "Searches - Location/Address and Historic Markers", a "Switch Basemap" button, and "Map Tools". The map shows a grid of streets, major highways (I-10, US-90), and the Neches River. A blue shaded area on the map indicates a National Register District.

Section 106 Process: Identifying Historic Properties

The Atlas is a good place to start but...

- Many communities have surveys of local historic properties
- Historic photographs and maps can help identify potential historic properties
- Historic Sanborn Fire Insurance Maps may be available for some areas
- On-site observation is almost always necessary





Section 106 Process: Identifying Historic Properties

Archeology

Projects involving ground-disturbing activity may require an archeological survey

- Good maps and photographs of the site are critical for review
- Review staff look at topographical maps for high-probability areas for prehistoric archeology – often areas that are elevated but close to water, such as river terraces or floodplain rises
- Historic areas of a city may need archival research to determine the potential for historic archeology
- Archeological surveys for HUD projects are relatively rare and should not be undertaken without first consulting with the SHPO

Section 106 Process: Identifying Historic Properties

TEXAS HISTORICAL COMMISSION

Home Comment Designations Abstracts Map Address County Quad Trinomial Keyword Data Download

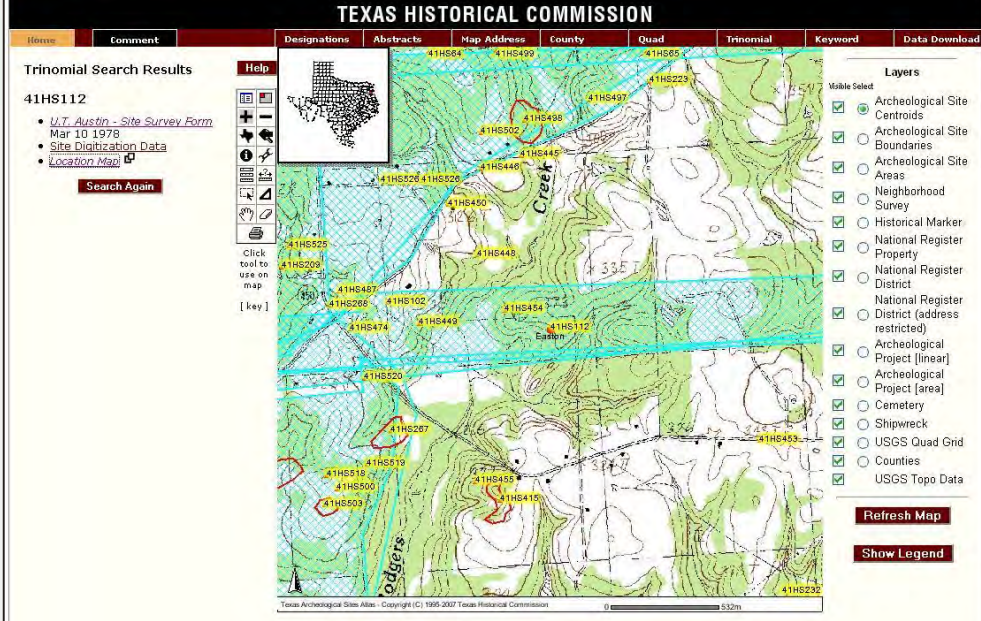
Trinomial Search Results

41HS112

- U.T. Austin - Site Survey Form Mar 10 1978
- Site Digitization Data
- Location Map

Search Again

Click tool to use on map [key]



Layers

- Archeological Site Centroids
- Archeological Site Boundaries
- Archeological Site Areas
- Neighborhood Survey
- Historical Marker
- National Register Property
- National Register District
- National Register District (address restricted)
- Archeological Project [linear]
- Archeological Project [area]
- Cemetery
- Shipwreck
- USGS Quad Grid
- Counties
- USGS Topo Data

Refresh Map Show Legend

Archeological survey may include:

- Background Research
- Fieldwork
- Artifact Analysis





Section 106 Process: Assessing Effects

Avoiding Adverse Effects

- Projects affecting historic properties ideally should be designed from the outset to avoid adverse effects
- For a rehabilitation project, strive to meet the Secretary of the Interior's *Standards for the Treatment of Historic Properties*





Section 106 Process: Assessing Effects

Secretary of the Interior's *Standards*

- The *Standards* are four distinct but interrelated approaches to the treatment of historic properties:
 - *Preservation*
 - *Rehabilitation*
 - *Restoration*
 - *Reconstruction*
- *Standards for Rehabilitation* are most often applied
- Rehabilitation acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character



Section 106 Process: Assessing Effects

Standard #2: Preserve character-defining features

- Historic character of a property shall be retained and preserved
- Removal of historic materials or alteration of features and spaces that characterize a property shall be avoided

Moore and Tyler Groceries, Tyler
Heavy timber framing left exposed in apartments.





Section 106 Process: Assessing Effects

Standard #3: Maintain true historical development

- 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 shall not be undertaken



One-room schoolhouse, ca. 1920



After "rehabilitation" as a residence



Section 106 Process: Assessing Effects

Standard #6: Repair rather than replace

- Deteriorated historic features shall be repaired rather than replaced
- Where the severe deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials



Section 106 Process: Assessing Effects

National Park Service
Preservation Briefs provide guidance on treatment of historic buildings, materials, and systems

Topics include:

- Lead-Paint Hazard Reduction
- Repair of Wood Windows
- Preserving Wooden Porches
- Roofing

www.nps.gov/tps/how-to-preserve/briefs.htm

37 PRESERVATION BRIEFS

Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing

Sharon C. Park, AIA, and Douglas C. Hicks



U.S. Department of the Interior
National Park Service
Cultural Resources
Heritage Preservation Services



Lead-based paint, a toxic material, was widely used in North America on both the exteriors and interiors of buildings until well into the second half of the twentieth century. If a "historic" place is broadly defined in terms of time as having attained an age of fifty years, this means that almost every historic house contains some lead-based paint. In its deteriorated form, it produces paint chips and lead-laden dust particles that are a known health hazard to both children and adults. Children are particularly at risk when they ingest lead paint dust through direct hand-to-mouth contact and from toys or pacifiers. They are also at risk when they chew lead-painted surfaces in accessible locations. In addition to its presence in houses, leaded paint

chips, lead dust, or lead-contaminated soil in play areas can elevate a child's blood lead level to a degree that measures to reduce and control the hazard should be undertaken (see Action Level Chart, page 6)

The premise of this Preservation Brief is that historic housing can be made lead-safe for children without removing significant decorative features and finishes, or architectural trimwork that may contribute to the building's historic character (see fig. 1). *Historic housing* — encompassing private dwellings and all types of rental units—is necessarily the focus of this Brief because federal and state laws primarily address the hazards of lead and



Before



After

Figure 1. A large-scale historic rehabilitation project incorporated sensitive lead-hazard reduction measures. Interior walls and woodwork were cleaned, repaired, and repainted and compatible new floor coverings added. The total project was economically sound and undertaken in a careful manner that preserved the building's historic character. Photos: Landmarks Design Associates.



Section 106 Process: Resolving Adverse Effects

Memorandum of Agreement (MOA)

- Resolution of an adverse effect is memorialized in an official Memorandum of Agreement (MOA) between the federal agency, responsible entity, SHPO, and any consulting parties
- Spells out minimization and mitigation measures that the agency or responsible party will follow to resolve the adverse effects
- The ACHP is always notified and given the opportunity to participate

For More Inforamtion

<http://www.thc.state.tx.us/project-review/guidance-and-agreement-documents>

The screenshot shows a web browser window displaying the Texas Historical Commission (THC) website. The browser's address bar shows the URL: www.thc.state.tx.us/project-review/guidance-and-agreement-documents. The website header features the THC logo with the tagline "real places telling real stories" and a search bar. A navigation menu includes links for HOME, ABOUT US, PRESERVE, PROJECT REVIEW, NEWS & EVENTS, GET INVOLVED, LEARN, and EXPLORE TEXAS. The main content area is titled "Guidance and Agreement Documents" and includes a breadcrumb trail: Home > Project Review > Guidance and Agreement Documents. The page text explains that the THC has developed guidance and agreement documents for compliance with Section 106 of the National Historic Preservation Act and the Antiquities Code of Texas. It provides links to various documents, including "Section 106 for Homeowners", "Guidelines for Defining Areas of Potential Effects", "Streetscape Guidelines for Historic Commercial Districts", "National Historic Preservation Act", "Antiquities Code of Texas", "Finding and Hiring a Preservation Consultant", "How THC Reviews Projects", "What to Send for a Project Review", "Preservation Covenants and Easements", "Statutes, Regulations, & Rules", "Project Review Resource Links", "Tribal Consultation Guidelines", "Tribal Consultation FAQ", and "Project Review FAQ". A "Share This" button is visible in the top right corner of the content area.

Guidance and Agreement Documents

To assist entities tasked with coordinating project review, the Texas Historical Commission (THC) has developed guidance and agreement documents for compliance with Section 106 of the National Historic Preservation Act and the Antiquities Code of Texas. This material provides supplemental instructions beyond the general overview in the [Project Review](#) portion of our website, and in the case of agreement documents, streamlines consultation for specific programs and agencies. For general updates regarding our project review procedures, please see [How the THC Reviews Projects](#). To download the updated *Request for SHPO Consultation* form, please see [What to Send for a Project Review](#).

Guidance Documents

The THC has developed fact sheets for [Section 106](#) consultation for certain project types and agencies. When applicable, please consult these guides before submitting a project for review. General guidance documents:

- [Section 106 for Homeowners](#)
This document is for homeowners who receive federal assistance for reconstruction, rehabilitation, or other construction activities at their homes. It provides an introduction to the National Historic Preservation Act and answers frequently asked questions about the THC's role and review process.
- Guidelines for Defining Areas of Potential Effects (coming soon)
The area of potential effects (APE) is the geographic area within which effects to historic properties may occur as the result of an undertaking. For Section 106 review, the federal agency must first define the APE, then identify any historic properties within that area. This guidance document outlines the factors to consider when proposing an APE.
- [Streetscape Guidelines for Historic Commercial Districts](#)
This document provides an overview of how the THC reviews streetscape improvement projects, including guidance on the design of elements such as street and sidewalk replacement, street lighting, and accessibility upgrades.

Guidance documents by federal program or agency:

[Share This](#)

In This Section

- [National Historic Preservation Act](#)
- [Antiquities Code of Texas](#)
- [Finding and Hiring a Preservation Consultant](#)
- [How THC Reviews Projects](#)
- [What to Send for a Project Review](#)
- [Preservation Covenants and Easements](#)
- Guidance and Agreement Documents
- [Statutes, Regulations, & Rules](#)
- [Project Review Resource Links](#)
- [Tribal Consultation Guidelines](#)
- [Tribal Consultation FAQ](#)
- [Project Review FAQ](#)

Forms »



HUD Guidance Memo

MEMORANDUM

DATE: June 2014

FROM: Mark Wolfe, Texas State Historic Preservation Officer, Texas Historical Commission

TO: State and local officials receiving HUD funding or assistance

SUBJECT: Guidelines for consulting with the Texas State Historic Preservation Officer (SHPO) to meet requirements of 24 CFR § 58.5(a) and Section 106 of the National Historic Preservation Act

The Texas State Historic Preservation Officer (SHPO) and the U.S. Department of Housing and Urban Development (HUD) are working together to improve the Section 106 consultation process as it relates to projects funded in whole or in part with HUD funds. Section 106 of the National Historic Preservation Act (16 USC § 470f) requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on those undertakings. The regulations issued by the Council at 36 CFR 800 provide guidelines for consultation with the SHPO, Council, and others. This memorandum explains the responsibilities of HUD grantees preparing environmental reviews under 24 CFR Part 58, “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.” These regulations cover responsibilities for complying with Section 106 of the National Historic Preservation Act.

Both the SHPO and HUD look forward to working with you under the attached consultation guidelines. A number of helpful websites are also available for more information.

Advisory Council on Historic Preservation: www.achp.gov

Texas Historical Commission: www.thc.state.tx.us

Historic Preservation section of the HUD Environmental Review website: www.onecpd.info/environmental-review/historic-preservation

State Law and THC Review



State Reviews: The Antiquities Code of Texas

The **Antiquities Code of Texas** was enacted in 1969 in response to salvage at the sites of 16th-century Spanish shipwrecks

Created State Antiquities Landmarks and Antiquities Permits

Notification is required for ground-disturbing work on land owned by political subdivisions that affects:

- 5 or more acres,
- 5,000 or more cubic yards of earth,
- Historic district, or
- Recorded archeological site





State Reviews: State-Level Designations

State Antiquities Landmarks (SAL)

- Historic Structures Permits are required for work on officially designated SALs
- Typically publicly owned property but private property can be eligible for SAL designation
- Routine maintenance and work in non-public spaces is exempted from review



Austin State Hospital

Recorded Texas Historic Landmarks (RTHL)

- Owner must notify the THC 60 days prior to work affecting the building exterior
- Work to the interior and grounds is exempt from review



Howard E. and Mary Butt House, Harlingen



State Reviews: Historic County Courthouses

Courthouse Law

- A county may not demolish, sell, lease or damage the historical or architectural integrity of a courthouse without consulting the THC
- A county may carry out ordinary maintenance and repairs to a courthouse without notification



Milam County Courthouse

Working with the THC



Working with the THC

Three THC divisions work together to process, on average, over 15,000 reviews each year:

- **Archeology:** Eligibility and effect for archeology
- **History Programs:** Eligibility determinations for above-ground resources
- **Architecture:** Effect determinations for above-ground resources





Working with the THC

Request for SHPO Consultation Form

- Not required
- An effort to standardize data
- The form provides the THC with the basic information required for most reviews
- Attach site photos and location map, and detailed scope of work or plans as needed

TEXAS HISTORICAL COMMISSION			
REQUEST FOR SHPO CONSULTATION: Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas Please see instructions for completing this form and additional information on Section 106 and Antiquities Code consultation on the Texas Historical Commission website at http://www.thc.state.tx.us/crm/crmsend.shtml .			
<input type="checkbox"/> This is a new submission.			
<input type="checkbox"/> This is additional information relating to THC tracking number(s): _____			
Project Information			
PROJECT NAME			
PROJECT ADDRESS	PROJECT CITY	PROJECT ZIP CODE(S)	
PROJECT COUNTY OR COUNTIES			
PROJECT TYPE (Check all that apply)			
<input type="checkbox"/> Road/Highway Construction or Improvement	<input type="checkbox"/> Repair, Rehabilitation, or Renovation of Structure(s)		
<input type="checkbox"/> Site Excavation	<input type="checkbox"/> Addition to Existing Structure(s)		
<input type="checkbox"/> Utilities and Infrastructure	<input type="checkbox"/> Demolition or Relocation of Existing Structure(s)		
<input type="checkbox"/> New Construction	<input type="checkbox"/> None of these		
BRIEF PROJECT DESCRIPTION: Please explain the project in one or two sentences. More details should be included as an attachment to this form.			
Project Contact Information			
PROJECT CONTACT NAME	TITLE	ORGANIZATION	
ADDRESS	CITY	STATE	ZIP CODE
PHONE	EMAIL		
Federal Involvement (Section 106 of the National Historic Preservation Act)			
Does this project involve approval, funding, permit, or license from a federal agency?			
<input type="checkbox"/> Yes (Please complete this section)		<input type="checkbox"/> No (Skip to next section)	
FEDERAL AGENCY	FEDERAL PROGRAM, FUNDING, OR PERMIT TYPE		
CONTACT PERSON	PHONE		
ADDRESS	EMAIL		
State Involvement (Antiquities Code of Texas)			
Does this project occur on land or property owned by the State of Texas or a political subdivision of the state?			
<input type="checkbox"/> Yes (Please complete this section)		<input type="checkbox"/> No (Skip to next section)	
CURRENT OR FUTURE OWNER OF THE PUBLIC LAND			
CONTACT PERSON	PHONE		
ADDRESS	EMAIL		
VER 0811			

<http://www.thc.texas.gov/project-review/what-send-project-review>



Working with the THC: Submit *Useful* Images





Working with the THC: eTRAC

Electronic Submission is Here!

The screenshot shows the eTRAC website interface. At the top left, the logo reads "eTRAC" in red, with the tagline "electronic THC review and compliance" below it. On the right side of the header, there is a red exclamation mark icon above the text "TEXAS HISTORICAL COMMISSION" and the tagline "real places telling real stories". A dark red navigation bar contains the links "Home | Check Reviews | Submit Reviews | About" on the left and "Register Log in" on the right. The main content area features the text "TEXAS HISTORICAL COMMISSION" and "SECTION 106 AND ANTIQUITIES CODE REVIEW" in a serif font. Below this, a paragraph states: "If submitting a mailed hard copy project or any materials, DO NOT use this electronic Section 106 and Antiquities Code review system. For more information, see the Users' Guide." At the bottom of the page, a copyright notice reads "© 2017 - Texas Historical Commission".

eTRAC
electronic THC review and compliance

TEXAS HISTORICAL COMMISSION
real places telling real stories

[Home](#) | [Check Reviews](#) | [Submit Reviews](#) | [About](#) [Register](#) [Log in](#)

TEXAS HISTORICAL COMMISSION
SECTION 106 AND ANTIQUITIES CODE REVIEW

If submitting a mailed hard copy project or any materials, DO NOT use this electronic Section 106 and Antiquities Code review system. For more information, see the Users' Guide.

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Working with the THC: eTRAC

REQUEST FOR SHPO CONSULTATION:

Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas

Project Information

Project Name* ?

Project County* ?

Project Address* ?

Other Counties ?

Project City* ?

Program* ?

Project Zip

Permit ?

***Brief Project Description:** Please explain the project in one or two sentences.

Federal & State Involvement

- This project involves approval, funding, permit or license from a federal agency
- This project involves state or local public property
- Due Diligence

Attachments:

Please attach relevant project documentation. The file size limit is **40MB**. Accepted File Types: doc,docx,pdf,txt,rtf,jpg,zip

No file chosen



Working with the THC: eTRAC

Some Notes about eTRAC:

- Eliminates the need for submitting a hard copy
- Same 30-day review period but no mailing time and costs
- Applicants may submit Additional Information for projects currently under review, or a Supplemental Review for submissions related to an ongoing project
- Projects subject to Section 106 of the NHPA or the Antiquities Code of Texas may be submitted
- Do not use eTRAC for:
 - *Recorded Texas Historic Landmark reviews*
 - *Historic Rehabilitation Tax Credit Applications*
 - *Antiquities Code Permit Applications (Archeological Survey Permits)*
 - *Final Archeological Reports*
 - *State Antiquities Landmark Permit Applications*
 - *Other General Inquiries*
 - *Large documents, full sets of architectural or engineering plans, etc.*

Working with the THC: eTRAC

This Correspondence sent to ncortez@talonlpe.com on 20-01-2017



TEXAS HISTORICAL COMMISSION
real places telling real stories

Re: Project Review under Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas
201703288
City of Clute Drainage Improvements
Cemetery Rd. culvert and Hargett St.
Clute, TX 77531

Dear Nelda Cortez:

Thank you for your submittal regarding the above-referenced project. This response represents the comments of the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC), pursuant to review under Section 106 of the National Historic Preservation Act.

The review staff led by Jeff Durst and Charles Peveto has completed its review and has made the following determinations based on the information submitted for review:

Above-Ground Resources

- No historic properties present or affected

Archeology Comments

- No historic properties present or affected

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please email the following reviewers: Jeff.Durst@thc.texas.gov, charles.peveto@thc.texas.gov.

Sincerely,

Mark Wolfe, State Historic Preservation Officer
Executive Director, Texas Historical Commission

Please do not respond to this email.



Contact Us

History Programs Division

Divided by Agency

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*HUD Infrastructure, all other agencies,
and eTRAC questions*

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HUD Housing Projects

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Divided by Region

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