



**ZONING MAP CHANGE
STAFF REPORT**

City Council Meeting Date:
May 7, 2013

Council District ALL

Zoning Commission Recommendation:

Approval by a vote of 9-0

Opposition: none

Continued	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Case Manager	<u>Jocelyn Murphy</u>	
Surplus	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Council Initiated	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Owner / Applicant: City of Fort Worth Planning and Development Department

Site Location: Citywide Mapsco: N/A

Proposed Use: An Ordinance amending the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 13896, as amended, codified as Appendix "A" of the Code of The City of Fort Worth (1986), to amend:

- Chapter 4 "Zoning Districts" to amend Article 4 "Overlay Districts", Sections 4.401.H. "Designation as Highly Significant Endangered" ("HSE");
- Section 4.401.I. "Designation as Historic and Cultural Overlay Landmark" ("HC");
- Section 4.401.J. "Designation as Demolition Delay" ("DD") to clarify the process for removal of the Historic Designation

To review the proposed amendments:

<http://fortworthtexas.gov/planninganddevelopment/zoningcommission.aspx>

Request: TEXT AMENDMENT: REVISE PROCESS OF HISTORIC DESIGNATION (HC, HSE, DD) REMOVAL

Background:

The proposed text amendment, Section 4.508 of the HP Ordinance, adds a step to the process for removing a historic designation. Under the proposal, the Historic and Cultural Landmarks Commission (HCLC) would hear the application as an advisory body prior to hearings before the Zoning Commission and City Council. The changes would apply to all of the historic designations (HC, HSE and DD). As the HCLC is the City's expert body in historic matters, its advisory opinion shall be valuable to the Zoning Commission and ultimately to the City Council that is solely charged under state law with the responsibility to make zoning decisions.

Under the proposed text amendment, applications requesting removal of historic district designations shall require approval of at least 50% of property owners in the district. The proposal is consistent with the ordinance's requirement for establishing a historic district that approval of at least 50% of the district's residents are required.

An Informal Report was provided to the City Council on February 12, 2013 and the amendments were approved by the HCLC on March 11, 2013.

Attachments: Proposed Ordinance
Minutes from the Zoning Commission meeting

REVISE PROCESS OF HISTORIC DESIGNATION (HC, HSE, DD) REMOVAL

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX “A” OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING CHAPTER 4 “ZONING DISTRICTS” TO AMEND ARTICLE 4 “OVERLAY DISTRICTS”, SECTIONS 4.401.H. “DESIGNATION AS HIGHLY SIGNIFICANT ENDANGERED (“HSE)”, 4.401.I. “DESIGNATION AS HISTORIC AND CULTURAL LANDMARK (“HC)”, 4.401.J. “DESIGNATION AS DEMOLITION DELAY (“DD)” “TO CLARIFY THE PROCESS FOR REMOVAL OF THE HISTORIC DESIGNATION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on July 10, 2007, the City Council amended the Preservation Ordinance (Ordinance No. 16747) in its entirety to incorporate amendments recommended as part of the City Council adopted 2003 Citywide Historic Preservation Plan as well as revise language and order of the ordinance to improve readability; and

WHEREAS, on February 2, 2010 the Preservation Ordinance was further amended upon the adoption of Ordinance No. 19026 to provide for clarification of definitions related to preservation and the appeals process; and

WHEREAS, staff recommends adding language to require a public hearing before the Historic and Cultural Landmarks Commission for a recommendation on the removal of a historic designation from a property and staff recommends clarifying the process to remove a historic designation from a property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Chapter 4, Article 4, “Overlay Districts” of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, Section 4.401.H., “Designation as Highly Significant Endangered (“HSE),” is hereby amended to amend subsection 5. “Removal of Highly Significant Endangered Designation” to clarify the process to remove the designation, to read as follows:

4.401.H. Designation as Highly Significant Endangered ("HSE")

5. Removal of Highly Significant Endangered Designation.

- a. The highly significant endangered designation may be recommended for removal by the Historic and Cultural Landmarks Commission to the Zoning Commission and City Council for the following reasons:
 - i. ~~It is~~The Historic Cultural Landmarks Commission has determined that the site or structure is no longer historically, culturally, architecturally or archaeologically significant under the criteria listed in section 4.401.C.4 or the Historic and Cultural Landmarks Commission has determined that the owner has established by a preponderance of the evidence that the structure has undergone significant and irreversible changes which have caused it to lose the significance, qualities or features which qualified the structure designation; or
 - ii. It is determined that the site or structure is no longer endangered; or
 - iii. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions in section 4.401.G.
- b. An applicant seeking removal of the highly significant endangered designation on the basis that the site or structure is no longer endangered shall simultaneously nominate such structure for designation as historic and cultural landmark. The application for removal of the highly significant endangered designation and the request for designation of such property as historic and cultural landmark shall be considered and decided concurrently; provided, however, failure to designate such property as historic and cultural landmark by the city council shall not be grounds for denial of the application for removal of the highly significant endangered designation. An applicant's request for the removal of the designation as HSE shall be considered at public hearings by the Historic and Cultural Landmarks Commission, the Zoning Commission, and final determination by the City Council.
- c. Within ten days after approval by the city council of removal of the designation, the historic preservation officer shall remove the highly significant endangered designation from the official zoning maps of the city and shall file a notice that the highly significant endangered designation has been removed in the official property records of the county in which the property is located. In addition, if applicable, the Historic Preservation Officer shall record the historic and cultural landmark designation on the city's official zoning maps and record such designation in the property records of the county in which such property is located.

SECTION 2.

Chapter 4, Article 4, "Overlay Districts" of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, Section 4.401.I. "Historic and Cultural Landmark Designation ("HC")" to be hereby amended to revise subsection 12. "Removal of Historic and Cultural Designation", to clarify the procedure to remove the designation, to read as follows:

4.401.I. Designation as Historic and Cultural Landmark (“HC”)

12. Removal of Historic and Cultural Landmark Designation

- a. An application for the removal of the historic and cultural landmark individual designation or district designation shall be submitted to the Historic Preservation Officer. An application may be made by the property owner or an authorized representative, the city manager, the historic and cultural landmarks commission, or the city council. An applicant’s request for the removal of the designation as HC (individual or district) shall be considered at public hearings by the Historic and Cultural Landmarks Commission, the Zoning Commission, and final determination by the City Council. All owners of an individual site or structure must sign the application for removal. Applications for removal of a historic and cultural landmarks district designation shall be signed by the owners of:
- i. 50 percent or more of the individual tracts, parcels or platted area located within the boundaries of the district; and,
 - ii. 50 percent or more of the land area located within the boundaries of the district.
- Two or more platted lots developed together shall be counted as one lot. Each vacant lot of sufficient size to be developed under the current zoning designation for the property shall be counted as one lot.
- ab. The historic and cultural landmark designation, whether relating to individual properties or to a historic and cultural landmarks district, may be recommended for removal by the Historic and Cultural Landmarks Commission to the Zoning Commission and City Council removed for the following reasons:
- i. ~~It is~~The Historic and Cultural Landmarks Commission has determined that the site, structure or area, as applicable, is no longer historically, culturally, architecturally or archaeologically significant under the criteria listed in section 4.401.C.4 or the Historic and Cultural Landmarks Commission has determined that the owner has established by a preponderance of the evidence that the structure has undergone significant and irreversible changes which have caused it to lose the significance, qualities or features which qualified the structure designation; or
 - ii. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of section 4.401.G.
- bc. The historic and cultural landmark district designation may be removed only from a district as a whole. The designation shall not be removed from individual sites or structures located within a district.
- ed. The Historic Preservation Officer shall remove the historic and cultural landmark designation from the official zoning maps of the city and shall file a notice that the designation has been removed in the official property records of the county in which such property is located within ten days after approval by the city council of removal of the designation.

SECTION 3.

Chapter 4, Article 4, "Overlay District" of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, Section 4.401.J. "Designation as Demolition Delay" is hereby amended to amend subsections: 3. "Removal of Demolition Delay Designation" to revise the procedure to remove the designation, to read as follows:

4.101.J. Designation as Demolition Delay ("DD")

3. Removal of Demolition Delay designation.

- a. The demolition delay designation may be recommended for removal by the Historic and Cultural Landmarks Commission to the Zoning Commission and City Council ~~removed~~ for the following reasons:
 - ~~bi.~~ The Historic and Cultural Landmarks Commission has determined that the site or structure no longer satisfies at least one of the criteria set out in section 4.401.C.4 or the Historic and Cultural Landmarks Commission has determined that the owner has established by a preponderance of the evidence that the structure has undergone significant and irreversible changes which have caused it to lose the significance, qualities or features which qualified the structure designation; or
 - eii. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of section 4.401.G; or
 - ~~db.~~ The site or structure is demolished in accordance with this section.
- ec. The Historic Preservation Officer shall remove the demolition delay designation from the official zoning maps of the city and shall file a notice that the designation has been removed in the official property records of the county in which such property is located within ten days after approval by the city council of removal of the designation.
- d. An applicant's request for the removal of the designation as DD shall be considered at public hearings by the Historic and Cultural Landmarks Commission, the Zoning Commission, and final determination by the City Council.

SECTION 4.

Chapter 4, Article 4, "Overlay District" of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, Section 4.401.E. "Certificate of Appropriateness" is hereby amended to amend subsections: 4.d. "Certificate of Appropriateness, demolition or relocation" to add an introductory paragraph providing a requirement to meet with staff and interested parties after an application for demolition, to read as follows:

Within thirty (30) days, of submission of an application for demolition of a designated structure, the Historic Preservation Officer shall schedule a consultation meeting with the owner(s) or authorized agent, city staff and interested parties to propose alternatives to the owner which would seek to alleviate the need for demolition. The application shall not be deemed

complete by the Historic Preservation Officer until the owner of authorized agent provides a written response to any alternatives proposed in the consultation meeting.

SECTION 5.

This ordinance shall be cumulative of all other ordinances of the Code of the City of Fort Worth, Texas (1986), as amended, affecting zoning and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinance are in direct conflict with the provisions of this ordinance.

SECTION 6.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of Ordinance Nos. 3011, 13896, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9.

That the City Secretary of the City of Fort Worth, Texas is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 10.

This ordinance shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____

Assistant City Attorney

Adopted: _____

Effective: _____

NA					
Bishop Spears	6400 Briar Cliff	Out	Opposition		Spoke at hearing
Re. Alvin Booker Jr.	NA		Opposition		Sent letter in

IV. New Cases

5. ZC-12-134 Broderick D. Steele (CD 5) 3327 Fite Street (Kitty House Survey, Abstract 678, 0.49 Acres): from “AG” Agricultural to “PD/A-5” Planned Development for all uses in “A-5” One-Family plus moving company with outside storage; site plan waiver requested

This case was continued to the end of the agenda so the applicant was present.

Broderick Steele, 3405 (3327) Fite Street, Fort Worth, Texas explained to the Commissioners he spoke with the neighborhood association and his surrounding neighbors who support the request. Mr. Steele mentioned he doesn’t have storage outside, he has moving vehicles for his business. Mr. Ferrell asked if all the neighbors are on board. Mr. Steele said yes they are.

Allen Tucker, 1601 Briar Drive, Bedford, Texas spoke in support. Mr. Tucker said he owns property two lots to the north of the subject property. Mr. Tucker said he runs a moving and storage business and parks his trucks there in the evening. Mr. West asked if he could confirm the neighbors were in support. Mr. Tucker said yes the Mosier Valley NA is mostly business owners there are not many residents around there.

Ms. Reed asked how many trucks are at the residence. Mr. Steele said there is no storage in the back yard and all he wants is the two moving vehicles.

Motion: Following brief discussion, Mr. Ferrell recommended approval of the request, seconded by Mr. Hollis. The motion carried unanimously 8-0.

<i>Document received for written correspondence</i>				ZC-12-134	
Name	Address	In/Out 300 ft notification area	Position on case		Summary
Allen Tucker	1601 Briar Drive	In		Support	Spoke at hearing

6. ZC-13-033 City of Fort Worth Planning & Development Text Amendment Revise Process of Historic Designation (HC, HSE, DD) Removal (CD All) – An Ordinance amending the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 13896, as amended, codified as Appendix “A” of the Code of The City of Fort Worth (1986), to amend:

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- **Section 4.401.J. “Designation of Demolition Delay” (“DD”) to clarify the process for removal of the Historic Designation**

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Dana Burghdoff, Deputy Director explained the Historic text amendment to the Commissioners. Ms. Burghdoff mentioned the HCLC has had their public hearing on this and voted to approve.

Motion: Following brief discussion, Mr. Hollis recommended approval of the request, seconded by Ms. Reed. The motion carried unanimously 9-0.

7. ZC-13-051 Duong Thuan (CD 8) 5570 Meadowbrook Drive (Forty Oaks Addition, Block 4, Lots J & K , 0.57 Acres): from “ER” Neighborhood Commercial Restricted to “E” Neighborhood Commercial

Duong Thuan, 2808 Fossil Run, Fort Worth, Texas explained to the Commissioners he would like to rezone the property to E to allow for more types of businesses.

Ms. Conlin asked what use he is proposing in E that can’t be done in ER. Mr. Thuan said he has had several customers request him to change it to E for retail merchandise sales.

Mr. Hollis said if he understands correctly, his tenants want him to change it to E. Mr. Thuan said yes but he does not know what the use is.

Mr. Flores asked if they were to grant the zoning what he would do differently. A gentleman in the audience tried to help with the language interpretation. He noted the business wanted is general retail. Ms. Murphy explained a general merchandise store is not allowed in ER. Ms. Burghdoff asked how they are listed in the use table. Ms. Murphy said retail sales and service is a general category and general merchandise store is a specific use in that category and is not permitted in ER.

James Bews, 1709 Watson Street, Fort Worth, Texas representing the Central Meadowbrook NA spoke in opposition. Mr. Bews said they have not talked to the neighborhood about what they are proposing. There is an existing church and nail salon in the strip center. He believes they want E zoning for alcohol sales. They do not want alcohol sales close to the Eastern Hills High School or in the neighborhood.

Mr. Flores mentioned for clarification if he is wanting them to deny the E and not the ER zoning request. Mr. Bews said yes.

Mr. Edmonds noted the applicant might not have known the process of working with the neighborhood prior to him bringing in a zoning application and asked if the neighborhood would be willing to meet with the applicant. Mr. Bews said yes as long as he could come to one of the neighborhood meetings and that the next meeting is Tuesday May 7, 2013.

Ms. Conlin asked if he was willing to meet with the neighborhood. Mr. Thuan said yes he would.