

**Notice of Planning and Zoning Commission
AGENDA**

January 07, 2025 at 6:00 PM

NOTICE IS HEREBY GIVEN that a Meeting of the Montgomery Planning and Zoning Commission will be held on **Tuesday, January 07, 2025** at **6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

Members of the public may view the meeting live on the City's website www.montgomerytexas.gov under Agenda/Minutes and then select **Live Stream Page (located at the top of the page)**. The Meeting Agenda Pack will be posted online at www.montgomerytexas.gov. The meeting will be recorded and uploaded to the City's website.

CALL TO ORDER

PUBLIC FORUM:

The Planning and Zoning Commission will receive comments from the public on any matters within the jurisdiction of the Commission. Speakers will be limited to three (3) minutes each. Persons wishing to participate (speak) during the Public Forum portion of the meeting must sign-in to participate prior to the meeting being called to order. Please note that discussion, if any, on subjects for which public notice has not been given, are limited to statements of specific factual responses and recitation of existing policy.

REGULAR AGENDA

All items on the Regular Agenda are for discussion and/or action.

- 1.** Consideration and possible action on the Regular Meeting Minutes of December 03, 2024.
- 2.** Consideration and possible action on the unapproved demolition of a structure located at 900 Caroline Street in the Historic Preservation District.

COMMISSION INQUIRY

Pursuant to Texas Government Code Sect. 551.042 the Planning & Zoning Commission may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

ADJOURNMENT

I, Ruby Beaven, City Secretary, the Undersigned Authority, do hereby certify that this notice of meeting was posted on the website and bulletin board at City Hall of the City of Montgomery, Texas, a place convenient and readily accessible to the general public at all times. This notice was posted at said locations on the following date and time: **January 03, 2025 by 2:30 p.m.** and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting. I further certify that the following news media was notified of this meeting as stated above: The Courier

/s/ Ruby Beaven

City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.

**CITY OF MONTGOMERY
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
DECEMBER 3, 2024**

CALL TO ORDER

Chairman Simpson called the meeting to order at 6:00 p.m.

Present: Board Member John Fox, Board Member Daniel Gazda, Chairman Bill Simpson, Board Member Merriam Walker

Absent: Vice Chairman Tom Czulewicz

Also Present: Chief Anthony Solomon, Interim City Administrator
Corinne Tilley, Code Enforcement/Planning & Zoning Administrator
Ruby Beaven, City Secretary
Diana Titus, Deputy City Secretary
Katherine Vu, City Engineer

PUBLIC FORUM:

None at this time.

REGULAR AGENDA

1. Consideration and possible action on the Regular Meeting Minutes of September 03, 2024 and November 05, 2024.

Motion: Commission Member Walker made a motion to approve the Regular Planning & Zoning Commission Minutes of September 03, 2024 and November 05, 2024. Commission Member Gazda seconded the motion. Motion carries with all present voting in favor.

2. Consideration and possible action regarding approval of the final plat for Montgomery Bend Section 3.

Ms. Katherine Vu, City Engineer said this is for an additional 85 homes and two reserves. They have reviewed the plat and it is in accordance with their development agreement which allows them to go down to as small as a 45 foot lot, the minimum area of 400 square feet, with a side yard of a minimum of five feet with no pertinences to be placed in the side yards. This is in accordance with their agreement and is the next section of their development.

Board Member Fox said he is curious about how they will enforce the five-foot side yard easement requirement. Ms. Vu said whenever the building plans are submitted to the building plan reviewer he is aware of the five-foot setback allowance and will use it at that time. Board Member Fox said we could get a violation of that later if someone puts a home generator in their yard and asked how are you going to track that. Ms. Vu said they are also making Ms. Tilley aware of the requirements of the agreement and the ordinances as well. They are working with staff to make sure that gets enforced. Board Member Fox asked Ms. Tilley if she is going to require a permit for the home generator plans. Ms. Tilley said yes on generators they do have a permit application for whoever would want to install a generator and then she would look at it

for the location. Ms. Tilley said as you were concerned about the setback, we are also looking at requiring the certified setback surveys for the developers and contractors to submit. Board Member Fox said he thinks they are going to have to watch it real close because the placement of that generator is a real issue with the location of the electrical service on the house. You will have a very long service lead from the generator to wherever the service is coming in and it is going to have to be monitored closely because I think you are going to find some technical resistance for that distance.

Board Member Fox asked with all these subdivisions going in now, do they have on the plat a cluster box arrangement approved with each one of these? Ms. Vu said yes there are cluster boxes. Board Member Fox asked if everything is going to be cluster boxes? Ms. Vu said yes that is by ordinance. Board Member Fox said he wonders if they should look at those from a standpoint of how much mail is being stolen as seen on the news all the time, if it is an area appropriate to the residents, and when they get to it without having mail stolen, as we see it is happening now. Plus, it seems like the boxes are a theft item of the day or week. Maybe we could guide the developers. He said he knows they have to be approved through the post office but they should get them in a safe area where the mail is not going to get stolen. He said he thinks it would be a good thing to look at.

Board Member Walker asked who do they submit the application to for putting in a generator in those homes if they do not do it when they build it. Ms. Tilley said it goes to the building permit technician. Board Member Fox said he thinks the whole issue with that is going to be that is something that is performed by the homeowner after closing. It could be in any area in a city and if they just decide to do that without your approval it is going to be really hard to catch. Ms. Tilley said our inspectors have been watching out for those because a lot of them have them going in before we are able to get them to pull a permit so we do have them come into the office. There have been a few they were able to catch. Board Member Walker asked what is the fee for not following that ordinance. Ms. Tilley said there is no penalty at this time, but as long as they stop the job and come right in and apply for that permit. Board Member Fox asked if there are full house generators in the subdivision now. Ms. Tilley asked in Montgomery Bend. Board Member Fox said yes. Ms. Tilley said she has not seen any. She said it was at Water Stone where they saw generators being put in.

Board Member Gazda asked if the main entrance is compatible with this expansion. Ms. Vu said it is. Their traffic analysis with TxDOT will require them to have a signal for Section 4.

Motion: Commission Member Gazda made a motion to approve the final plat for Montgomery Bend Section 3. Commission Member Fox seconded the motion. Motion carries with all present voting in favor.

3. **Consideration and possible action regarding approval of the final plat for Hills of Town Creek Section 5.**

Ms. Vu said this is a similar process to what you just did and is for Hills of Town Creek Section 5 for their final 73 homes, three reserves, and the completion of Emma's Way out to Lone Star Parkway. The variances were approved by City Council on December 14, 2021 and that included a five yard setback and a minimum 50-foot lot width and 100-foot lot depth for an area of 5,500 square feet. They reviewed the plat in accordance with those variances and all their applicable portions of the ordinance and recommend approval.

Board Member Gazda asked if this is that area down Lone Star Parkway that has been cleared. Ms. Vu said yes. They are near completion of the construction of the section and then they are choosing to plat at the end.

Board Member Fox asked Ms. Vu to repeat those variances. Ms. Vu said the variances were five-foot side yard setbacks, 50-foot lot width, and 100-foot lot depth for an area of 5,500 square feet.

Board Member Gazda asked what the right-of-way is. Ms. Vu said at the entrance of Section 5 it is a 60-foot right-of-way with a 28-foot road back to back and then throughout the remainder of the section it is a 50-foot right-of-way.

Board Member Walker said Montgomery Bend is 45-foot wide, 120-feet deep with a lot area of 5,400 square feet. The Hills of Town Creek are 50-foot lot wide, and 100-foot deep with the area being 5,500 square feet. She asked is that because the width and the depth are within 5-feet and would equal that extra 100. Ms. Vu said if her memory serves her correctly being three years ago, that was how the request was submitted so you could go with the lot being a little bit deeper or 100-foot lot that is a bit wider to the minimum 5,500 square foot area on Hills of Town Creek Section 5. Board Member Walker said Montgomery Bend is 5,400 square feet and Montgomery Bend Section 3 is 5,400 square feet. Ms. Vu said with 45-foot lot at 120-feet. Board Member Walker said Hills of Town Creek lot area is 5,500 square feet. Ms. Vu said correct. It is the minimum but it could be larger.

Motion: Commission Member Gazda made a motion to approve the final plat for Hills of Town Creek Section 5. Commission Member Fox seconded the motion. Motion carries with all present voting in favor.

COMMISSION INQUIRY:

None at this time.

ADJOURNMENT

Commission Member Gazda adjourned the regular meeting of the Planning and Zoning Commission at 6:14 p.m.

APPROVED:

Bill Simpson, Commission Chairman

ATTEST:

Ruby Beaven, City Secretary

Planning and Zoning Commission
AGENDA REPORT

| | |
|--|------------------------------------|
| Meeting Date: January 7, 2025 | Budgeted Amount: N/A |
| Department: Planning and Zoning | Prepared By: Corinne Tilley |

Subject

Consideration and possible action on the unapproved demolition of a structure located at 900 Caroline Street in the Historic Preservation District.

Recommendation

Staff recommends applying the penalties pursuant to Section 98-357 outlined in the City of Montgomery Code of Ordinances.

Discussion

900 Caroline Street is located in the Residential Zoning District and Historic Preservation District.

According to Montgomery County Appraisal District records, in 2005, the residential structure was constructed with a total gross building area of 988 square feet. This includes a main area of 442 square feet and an attached brick garage of 546 square feet.


In February 2008, the Historic Preservation District was established.

In December 2024, the structure was demolished without Planning and Zoning Commission approval.

Approved By

| | | |
|----------------------------|-----------------|-----------------------|
| Interim City Administrator | Anthony Solomon | Date: January 7, 2025 |
|----------------------------|-----------------|-----------------------|



 Street View

STAFF REPORT

900 Caroline Street

PIN and Legal Description: 244279 - MONTGOMERY TOWNSITE 07, LOT 8A-1, ACRES 0.718

For discussion, consideration and possible action regarding the unapproved demolition of a residential structure in the Historic Preservation District.

A. HISTORY

According to Montgomery County Appraisal District records, in 2004-2005, a residential structure was constructed with a total gross building area of 988 square feet. This includes a main area of 442 square feet and an attached brick garage of 546 square feet.

In February 2008, the City of Montgomery established the Historic Preservation District.

A water utility account was opened on October 25, 2007 and closed December 2, 2024.

In December 2024, the residential structure was demolished without Planning and Zoning Commission approval.

I was unable to locate any plans or permits associated with this property.

B. FINDINGS

Sec. 98-346 (b) Criteria for designation of historic districts.

Historic preservation districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic preservation district may be designated if the proposed district exhibits a density of properties with the following characteristics:

- (1) Represents an established and familiar visual feature of the city;
- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or
- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

FINDINGS: The residential structure at 900 Caroline Street was constructed in 2004/2005. The surrounding, neighboring residential structures were built, (west) in 1909; (north west) in 1900; (north east) in 1980; (east) in 1995; (south east) in 2008, photos attached for reference; and Cedar Brake Park to the south in 2004.

Sec. 98-347. Approval for alteration or new construction within historic preservation districts or affecting historic landmarks.

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission. New construction within an historic preservation district or on property designated as an historic landmark, or buildings or structures moved onto a property within an historic preservation district or onto property designated as an historic landmark will be subject to and in accordance with the design guidelines for the city.

FINDINGS: This finding is not met. Approval was not obtained from the planning and zoning commission.

Sec. 98-348. Nonconforming structures.

Commercial, institutional, and residential structures existing within the historic preservation district, or on property designated as an historic landmark, prior to the effective date of the ordinance from which this article is derived shall not be required to be altered, repaired or modified to meet existing design criteria unless major façade or structural renovations are planned by the property owner. Major façade or structural renovations are defined as changes or renovations to 25 percent or more of any façade of the structure or improvements facing a street.

FINDINGS: This finding is not met. Although the structure is nonconforming, more than 25% of the structure was changed due to 100% demolition.

Sec. 98-349. Historic preservation district/landmark building permit application procedures.

(a) Prior to the commencement of any work requiring planning and zoning commission approval in accordance with this article, the owner shall follow standard procedures for a building permit application and provide the following information for review:

- (1) Name, address, email address and telephone number of the applicant and property owner;
- (2) A detailed description of proposed work;
- (3) Location and photograph of the property and adjacent properties;
- (4) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
- (5) Elevation drawings of the proposed changes;
- (6) Description of materials and colors to be used; and
- (7) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the city, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.

(b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.

(c) The planning and zoning commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The planning and zoning commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the planning and zoning commission after required adjustments are made.

(d) All decisions of the planning and zoning commission shall be in writing. The commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the city secretary as part of the public record.

(e) An applicant dissatisfied with the action of the planning and zoning commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the city within 30 days after receipt of notification of such action.

FINDINGS: This finding is not met; specifically, (b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.

Sec. 98-352. Approval required for demolition.

(a) A permit for the demolition of an historic landmark or property within an historic preservation district, including secondary buildings, must be reviewed and approved by the planning and zoning commission and forwarded to the city council for final approval. The commission shall consult with the city on any application submitted and shall consider and review any findings and recommendations of the city.

(b) A structure deemed as an unsafe building under the city's ordinances may be demolished only with a permit from the city after city council approval.

FINDINGS: This finding is not met. A permit application for the demolition of property within a historic preservation district was not submitted prior to demolition of the structure.

C. STAFF RECOMMENDATION

Based on the findings above, staff recommends applying the penalties outlined below.

Sec. 98-357. Penalties.

In addition to the penalties set out under this chapter, the following penalties, which are non-exclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

(1) *Restrictions on future development.* If an historic resource, either a landmark or one located within the boundaries of the historic preservation district, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the planning and zoning commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:

a. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two years after the date of such demolition or removal. The city may file a certificate evidencing a violation of this section in the city's official public records of real property.

b. No permits shall be issued by the city for any curb cuts on the site for a period of two years from and after the date of such demolition or removal.

c. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two years from and after the date of such demolition and removal.

d. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of the county and such restrictions shall then be binding on future owners of the property.

(2) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016, as the same may be amended from time to time, with injunctive remedies and the like.

(3) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney or his designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

900 Caroline St
Located in the Residential Zoning District
and Historic Preservation District





12/31/2024 16:27



12/31/2024 16:28



12/31/2024 16:28



12/31/2024 16:32



12/31/2024 16:28



City of Montgomery

101 Old Plantersville Rd.
Montgomery, TX 77316
936-597-6866



December 31, 2024

Christian C. Cheatham
PO Box 234
Montgomery, TX 77356-0234

Re: NOTICE OF VIOLATION – Unauthorized Demolition in Historic Preservation District
Address: 900 Caroline Street, Montgomery, Texas 77356
Legal description: 244279 - MONTGOMERY TOWNSITE 07, LOT 8A-1, ACRES 0.718

Dear Christian C. Cheatham:

It has come to our attention that a structure located at 900 Caroline Street was demolished without receiving approval from the Planning and Zoning Commission. 900 Caroline Street is located within the Historic Preservation District, which is subject to specific regulations to protect and preserve its historical significance.

Violation:

Section 98-347 – No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission.

This letter serves as a formal notice and opportunity for you, as the owner of the real property recorded in the appraisal district records, to submit a detailed explanation of the circumstances leading to the demolition and attend a meeting with the City of Montgomery Planning and Zoning Commission on Tuesday, January 7, 2025, at 6:00 p.m., to discuss the violation, penalties or potential remedies.

We appreciate your prompt attention to this matter. A copy of the Historic Preservation Ordinance is enclosed for your reference. Please contact me via email at ctilley@ci.montgomery.tx.us if you have any questions.

Respectfully,

Corinne A. Tilley #1635
Code Enforcement Officer



900 Caroline St
Located in the Residential Zoning District
and Historic Preservation District



GENERAL INFO

ACCOUNT

Property ID: 244279
 Geographic ID: 7280-07-00815
 Type: R
 Zoning: 3
 Agent: AMBROSE & ASSOC
 Legal Description: MONTGOMERY TOWNSITE 07, LOT 8A-1, ACRES 0.718

OWNER

Name: CHEATHAM, CHRISTIAN C
 Secondary Name:
 Mailing Address: PO BOX 234 MONTGOMERY TX USA 77356-0234
 Owner ID: 669722
 % Ownership: 100.00
 Exemptions:

Property Use:

LOCATION

Address: 900 CAROLINE ST, MONTGOMERY TX 77356
 Market Area:
 Market Area CD: 71002.0
 Map ID:
 Zoning: 3

PROTEST

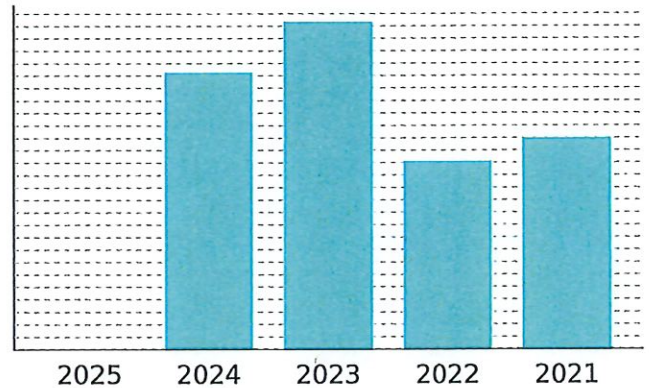
Protest Status:
 Informal Date:
 Formal Date:

VALUES

CURRENT VALUES

Land Homesite: N/A
 Land Non-Homesite: N/A
 Special Use Land Market: N/A
 Total Land: N/A
 Improvement Homesite: N/A
 Improvement Non-Homesite: N/A
 Total Improvement: N/A
 Market: N/A
 Special Use Exclusion (-): N/A
 Appraised: N/A
 Value Limitation Adjustment (-): N/A
 Net Appraised: N/A

VALUE HISTORY



VALUE HISTORY

| Year | Land Market | Improvement | Special Use Exclusion | Appraised | Value Limitation Adj (-) | Net Appraised |
|------|-------------|-------------|-----------------------|-----------|--------------------------|---------------|
| 2025 | N/A | N/A | N/A | N/A | N/A | N/A |
| 2024 | \$31,276 | \$79,742 | \$0 | \$111,018 | \$0 | \$111,018 |
| 2023 | \$31,280 | \$100,320 | \$0 | \$131,600 | \$0 | \$131,600 |
| 2022 | \$31,280 | \$44,200 | \$0 | \$75,480 | \$0 | \$75,480 |
| 2021 | \$31,280 | \$53,620 | \$0 | \$84,900 | \$0 | \$84,900 |

TAXING UNITS

| Unit | Description | Tax Rate | Net Appraised | Taxable Value |
|------|-----------------------|----------|---------------|---------------|
| CMO | City of Montgomery | N/A | N/A | N/A |
| F02 | Emergency Ser Dist #2 | N/A | N/A | N/A |
| GMO | Montgomery Cnty | N/A | N/A | N/A |
| HM1 | Mont Co Hospital | N/A | N/A | N/A |
| SMO | Montgomery ISD | N/A | N/A | N/A |

DO NOT PAY FROM THIS ESTIMATE. This is only an estimate provided for informational purposes and may not include any special assessments that may also be collected. Please contact the tax office for actual amounts.

IMPROVEMENT

Improvement #1: **Residential** Improvement Value: **N/A** Main Area: **442**
 State Code: **A1** Description: **HOUSE** Gross Building Area: **988**

| Type | Description | Class CD | Exterior Wall | Number of Units | EFF Year Built | Year | SQFT |
|------|-----------------------|----------|---------------|-----------------|----------------|------|------|
| MA | Main Area | 4+ | | 1 | 2005 | 2005 | 442 |
| BG | Attached Brick Garage | 4+ | | 1 | 2005 | 2005 | 546 |

Improvement Features

MA Foundation: 1, Plumbing: 5, Interior Finish: 1, Flooring: 1, HVAC: RH0, Roof: 1, Exterior Finish: R1, Plumbing: 1FB, HVAC: RC0

LAND

| Land | Description | Acres | SQFT | Cost per SQFT | Market Value | Special Use Value |
|------|--------------|--------|--------|---------------|--------------|-------------------|
| S1 | Primary Site | 0.7180 | 31,276 | \$1.00 | N/A | N/A |

DEED HISTORY

| Deed Date | Type | Description | Grantor/Seller | Grantee/Buyer | Book ID | Volume | Page | Instrument |
|-----------|------|-------------|----------------------------|--------------------------|---------|--------|------|------------|
| 6/30/22 | ERD | Extrs Deed | CHEATHAM, MARY ANN | CHEATHAM, CHRISTIAN C | | | | 2022082880 |
| 8/1/11 | WDV | W/d & V/In | CHEATHAM, C R & MARY ANN | CHEATHAM, MARY ANN | | | | 2011067824 |
| 3/11/96 | WD | Warnty Deed | BEATHARD, HENRY W & DICKEY | CHEATHAM, C R & MARY ANN | 140.00 | | 0511 | |

- CODE OF ORDINANCES
Chapter 98 - ZONING
ARTICLE VI. HISTORIC PRESERVATION

ARTICLE VI. HISTORIC PRESERVATION¹

Sec. 98-343. Purpose.

The city council hereby declares that as a matter of public policy, the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) Protect and enhance the landmarks and districts which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (4) Ensure the harmonious, orderly, and efficient growth and development of the city;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
- (6) Encourage stabilization, preservation, restoration, and improvements of such properties and their values.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-344. Designation of historic landmarks.

- (a) These provisions pertaining to the designation of historic landmarks both inside and outside of the historic preservation district constitutes a part of the comprehensive zoning plan of the city.
- (b) The city council may, from time to time, following recommendations either for or against such designation by the planning and zoning commission, designate certain sites and/or structures in the city as historic landmarks, and define, amend, or eliminate the boundaries of designation. Such sites shall bear the words "historic landmark" in their zoning designation. Such designation and the requirement thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the historic landmark by the letters "HL" as a suffix to the use designated.
- (c) Property owners of proposed historic landmarks shall be notified by certified mail no less than 15 calendar days prior to the planning and zoning commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.

¹State law reference(s)—Antiquities Code of Texas, V.T.C.A., Natural Resources Code ch. 191.

- (d) The proposed historic landmark shall be submitted to the planning and zoning commission at the earliest available meeting and no later than 30 days from the date of the designation request. The commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within 45 days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
- (e) The city council shall schedule a hearing of the planning and zoning commission's recommendation to be held within 45 days of receipt of the recommendation of the commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.
- (f) Upon designation of an historic landmark, the city council shall cause the designated sites/structures to be recorded on the official zoning map.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-345. Designation of historic preservation districts.

- (a) These provisions pertaining to the designation of historic preservation districts constitute a part of the comprehensive zoning plan of the city.
- (b) The city council may, from time to time, following recommendations either for or against such designation by the planning and zoning commission, designate certain areas in the city as historic preservation districts, and define, amend, or eliminate the boundaries of designation. Such districts shall bear the words "Historic Overlay" in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the historic preservation district by the letters "HO" as a suffix to the use designated. Changes to the same may be initiated by any person by request submitted to the planning and zoning commission.
- (c) Property owners within a proposed historic preservation district shall be notified by certified mail no less than 15 days prior to the planning and zoning commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation district.
- (d) The proposed addition of or modification to an historic preservation district shall be submitted to the planning and zoning commission at the earliest available meeting and no later than 30 days from the date of the designation request. The commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within 45 days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
- (e) The city council shall schedule a hearing of the planning and zoning commission's recommendation to be held within 45 days of receipt of the recommendation of the commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.
- (f) Upon designation of an historic preservation district, the city council shall cause the designated district to be recorded on the official zoning map.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-346. Criteria for designation of historic landmarks and districts.

- (a) Historic landmarks are sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic landmark may be designated if it exhibits two or more of the following characteristics:
- (1) Represents an established and familiar visual feature of the city;
 - (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
 - (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
 - (4) Is associated with events that are significant to our past;
 - (5) Is associated with an individual or group having a profound influence on the history of the city; or
 - (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.
- (b) Historic preservation districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic preservation district may be designated if the proposed district exhibits a density of properties with the following characteristics:
- (1) Represents an established and familiar visual feature of the city;
 - (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
 - (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
 - (4) Is associated with events that are significant to our past;
 - (5) Is associated with an individual or group having a profound influence on the history of the city; or
 - (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-347. Approval for alteration or new construction within historic preservation districts or affecting historic landmarks.

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission. New construction within an historic preservation district or on property designated as an historic landmark, or buildings or structures moved onto a property within an historic preservation district or onto property designated as an historic landmark will be subject to and in accordance with the design guidelines for the city.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-348. Nonconforming structures.

Commercial, institutional, and residential structures existing within the historic preservation district, or on property designated as an historic landmark, prior to the effective date of the ordinance from which this article is derived shall not be required to be altered, repaired or modified to meet existing design criteria unless major façade or structural renovations are planned by the property owner. Major façade or structural renovations are defined as changes or renovations to 25 percent or more of any façade of the structure or improvements facing a street.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-349. Historic preservation district/landmark building permit application procedures.

- (a) Prior to the commencement of any work requiring planning and zoning commission approval in accordance with this article, the owner shall follow standard procedures for a building permit application and provide the following information for review:
- (1) Name, address, email address and telephone number of the applicant and property owner;
 - (2) A detailed description of proposed work;
 - (3) Location and photograph of the property and adjacent properties;
 - (4) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
 - (5) Elevation drawings of the proposed changes;
 - (6) Description of materials and colors to be used; and
 - (7) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the city, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
- (b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.
- (c) The planning and zoning commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The planning and zoning commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the planning and zoning commission after required adjustments are made.
- (d) All decisions of the planning and zoning commission shall be in writing. The commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the city secretary as part of the public record.
- (e) An applicant dissatisfied with the action of the planning and zoning commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the city within 30 days after receipt of notification of such action.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-350. Criteria for approval by the planning and zoning commission.

Approval by the planning and zoning commission shall be guided by the adopted design guidelines for the city. The design guidelines for the city shall be made available at the office of the city secretary.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-351. Special setback provisions.

New commercial structures or improvements being built in the historic downtown commercial area (i.e., any building with front and/or rear façades facing Liberty, Caroline, Prairie, Maiden, McCown, John Butler, or College Streets, and which are located between State Highway 105 on the south and Clepper Street on the north) will be required to adhere to front (main entrance) setbacks that match immediately adjacent buildings or structures facing the same street. If new commercial structures or improvements are being constructed between existing buildings or structures whose setback lines do not match, the new building or structure's front (main entrance) setback line must match the adjacent building or structure whose front (main entrance) setback line is closest to the street which the adjacent structure or building faces.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-352. Approval required for demolition.

- (a) A permit for the demolition of an historic landmark or property within an historic preservation district, including secondary buildings, must be reviewed and approved by the planning and zoning commission and forwarded to the city council for final approval. The commission shall consult with the city on any application submitted, and shall consider and review any findings and recommendations of the city.
- (b) A structure deemed as an unsafe building under the city's ordinances may be demolished only with a permit from the city after city council approval.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-353. Economic hardship application procedure.

- (a) After receiving written notification from the planning and zoning commission of the denial of a permit request, an applicant may commence the hardship process. No building permit or demolition permit may be issued unless the commission makes a finding that an economic hardship exists.
- (b) When a claim of economic hardship is made due to the effect of this article, the owner must prove that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (c) The applicant shall consult in good faith with the planning and zoning commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the commission.

- (d) The planning and zoning commission shall hold a public hearing on the application within 60 days from the date the application is received by the city secretary. Following the hearing, the commission has 30 days in which to prepare a written response to the applicant. In the event that the commission does not act within 90 days of the receipt of the application, a permit may be granted.
- (e) All decisions of the planning and zoning commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the city secretary's office for public inspection. The commission's decision shall state the reasons for granting or denying the hardship application.
- (f) If an applicant is dissatisfied with the action of the planning and zoning commission, he shall have the right to appeal to the city council within 30 days after receipt of notification of such action. The city council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-354. Enforcement.

All work performed pursuant to a building permit issued under this article shall conform to any requirements included therein. It shall be the duty of the city building official (or other designated official) to inspect periodically any such work to ensure compliance. In the event work is not being performed in accordance with the approved scope of work, or upon notification of such fact by the planning and zoning commission and verification by the designated official, the official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-355. Ordinary maintenance.

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic preservation district which does not involve a change in design or outward appearance.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-356. Demolition by neglect.

No owner or person with an interest in real property designated as a landmark or included within an historic preservation district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the planning and zoning commission, produce a detrimental effect upon the character of the historic preservation district as a whole or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roof or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior stucco or mortar;
- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;

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- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-357. Penalties.

In addition to the penalties set out under this chapter, the following penalties, which are non-exclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

- (1) *Restrictions on future development.* If an historic resource, either a landmark or one located within the boundaries of the historic preservation district, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the planning and zoning commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:
 - a. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two years after the date of such demolition or removal. The city may file a certificate evidencing a violation of this section in the city's official public records of real property.
 - b. No permits shall be issued by the city for any curb cuts on the site for a period of two years from and after the date of such demolition or removal.
 - c. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two years from and after the date of such demolition and removal.
 - d. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of the county and such restrictions shall then be binding on future owners of the property.
- (2) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016, as the same may be amended from time to time, with injunctive remedies and the like.
- (3) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney or his designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

(Ord. No. 2014-03, § 1, 5-20-2014)

Secs. 98-358—98-387. Reserved.