Plano City of Excellence | Memorandum

Date: December 13, 2017

To: Jack Carr, Deputy City Manager

From: Doug McDonald, Comprehensive Planning Manager

Subject: Heritage Preservation Ordinance: Impacts of Authority to Deny Demolition Requests

This memorandum provides a brief summary of the proposed heritage preservation ordinance update as it relates to the impacts of authority to deny demolition requests.

History of Heritage Preservation in Plano

As Plano experienced rapid growth in the 1970's, suburban shopping centers and commercial buildings began sprouting up along the city's major corridors, often replacing historic homes around the downtown area. In response to this development pressure, the City of Plano passed the original heritage preservation ordinance in 1979, which allowed the designation of local landmarks and historic districts to protect the city's historic properties from incompatible exterior alterations and discourage demolitions. In 1984, the tax exemption ordinance was passed as an incentive to encourage historic property owners to designate their individual properties or collectively as a district. Through the work of the Heritage Commission (formerly Historic Landmark Committee) and good stewards of historic structures, 19 properties were voluntarily designated as individual local landmarks in the first 20 years of the ordinance.

In 1999, residents of the neighborhood around Haggard Park successfully petitioned to designate the Haggard Park Heritage Resource Overlay District to protect homes in the area. This became the first heritage district in the city and made many additional properties eligible for tax exemptions. Downtown would soon follow, receiving designation in 2003. Designation of the buildings in downtown as a heritage district had been an important goal of the heritage preservation program since the approval of the first Preservation Plan in 1981. Thirteen additional properties received individual designation between 2000 and 2005, bringing the number of designated sites to its current total of 35 (33 individually designated properties + 2 heritage resource overlay districts).

Heritage Preservation Ordinance v. Tax Exemption Ordinance

The Heritage Preservation Ordinance outlines the purpose of heritage preservation, the duties and responsibilities of the Heritage Commission and Heritage Preservation Officer, and the administrative procedures and criteria for review of heritage preservation applications. It includes the procedures to designate a property, however, the individual requirements of those properties once designated are included in the district-specific ordinances or design guidelines/standards. All properties that are designated as heritage resources are subject to the general requirements of the Heritage Preservation Ordinance.

The Heritage Tax Exemption Ordinance is an incentive program intended to encourage voluntary designation of heritage resources and to help offset the costs often incurred by maintaining an older structure. In exchange for receiving a tax exemption, properties are subject to annual inspections to ensure maintenance of the property. Participation in the tax exemption program is voluntary.

Demolition Delay v. Demolition Denial

Under the current ordinance, the Heritage Commission only has authority to deny demolition permit requests of individually designated heritage resources, with an option for the applicant to appeal the denial to City Council. Demolition Delay is the only option available to the Commission and Council for contributing structures within a heritage resource overlay district. This allows suspension of a demolition permit for 90 days, with an option to request the City Council extend the delay for an additional 120 days. During the suspension period, the Heritage Commission is encouraged to work with the applicant on a plan to salvage the building. If no agreement can be reached to salvage the structure, the demolition permit is issued following the end of the Demolition Delay period. Today, there are 30 contributing structures in the Downtown Heritage Resource Overlay District and 43 contributing structures in the Haggard Park Heritage Resource Overlay District.

The proposed ordinance update would extend denial authority to contributing structures in heritage resource overlay districts and amend the valid reasons for demolition. Contributing structures are critically important to the viability and character of the entire district, and many of the contributing structures in the two districts would also qualify for individual designation should the property owner be interested. For these reasons, the Heritage Commission has recommended an additional layer of demolition protection for contributing structures to ensure that irreparable and irreversible actions do not diminish the historic character and integrity of the districts.

The ordinance outlines four valid reasons for demolition, which include:

1. ***The heritage resource has lost its architectural significance and/or historic integrity.*** If for any reason the property no longer meets the requirements for which it was originally designated, the property should be eligible for demolition.

2. ***No economically viable use of the property exists*****.** This allows the applicant to claim that no reasonable rate of return could be expected through any continued use of the existing structure or that preserving creates extreme economic hardship. Evidence is required to demonstrate that renovation, relocation, or change in use would not re-establish a reasonable rate of return.

3. ***The structure poses an imminent threat to public health or safety.*** This allowed for demolition of structures that are damaged by a disaster and where the damage poses a public health or safety risk.

4. ***The structure poses a threat to public health or safety.*** The primary reason for separating imminent threats from non-imminent threats to public health or safety is to differentiate procedures for mitigation of the threat. The Heritage Preservation Officer may immediately approve imminent threats, whereas non-imminent threats may be stable enough to wait for consideration at the next available Heritage Commission meeting.

In the current ordinance, ‘replacing an existing historic structure with a new structure’ is also valid reason for demolition of a contributing structure. This prevented vacant lots or gaps in the continuous, historic building façade along a street. It did not, however, protect historic structures from demolition. As part of the initial evaluation from Winter and Company, it was recommended for removal in the proposed ordinance.

The proposed ordinance continues to allow applicants to appeal to City Council any demolition decisions made by the Heritage Commission. City Council will continue to have the final say in demolition decisions.

Benefits of Designation

Historic structures provide significant historical, architectural, and cultural value that cannot be replaced once they are gone. In addition to the cultural benefits, designation as a heritage resource may also provide financial benefits, recognitions at the local/state/national level, and protections to the property owner:

- To encourage and promote historic preservation, the City adopted a voluntary heritage tax exemption program to help reduce the fiscal burden often associated with maintaining/preserving an older structure.
- Structures/historic districts that are placed on the National Register of Historic Places, such as Downtown, may also qualify for state and federal tax credits for building improvements and building maintenance. Downtown Plano was eligible for the National Register due to the high concentration of contributing structures.
- Designation as a heritage district can protect owner's investments in historic properties by ensuring that architectural changes to the buildings in the district are in character and historic context with the district as a whole. This helps preserve a uniquely genuine historic, tourist, or shopping destination that cannot be replicated or replaced.
- Property owner's investments are also protected by the ordinance through the demolition review process. While demolition may be necessary in limited situations, they can be detrimental to the district as a whole. Too many demolitions could jeopardize the district, and could even result in removing the district's heritage designation; and thus removing any financial benefits that are available for property owners of historic buildings.
- Historic preservation, when part of a successful strategy for economic development, may result in increased property values. Studies indicate that historic preservation generally has a positive impact on property values. A study conducted in 2000 of nine Texas cities found that the average property value increases between five and twenty percent of the total property value.

Public Benefits v. Property Rights

Any land use control, whether it be a zoning ordinance or heritage preservation ordinance, is fundamentally a philosophical decision between the benefits to the general public that cannot be protected without government regulation and the protection of private property rights.

Legally, heritage preservation is a well-established public power of zoning. Chapter 211.001 of the Texas Local Government Code states that zoning powers are granted to municipalities for the purpose of "promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance or significance." Furthermore, "in the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or ***razing*** of buildings and other structures."

In the City of Plano, the importance of heritage preservation arose from the rapid suburban growth in the last half of the 20th century. In 1979, City Council recognized the threat this growth posed to the city's architectural history and enacted the first preservation ordinance. To further encourage voluntary participation and recognize the fiscal burden often associated with maintaining older structures, the city enacted a heritage tax exemption program in 1984 that exempted over $370,000 in municipal property taxes between 2006-2016. Participants have also been eligible for tax exemptions from Plano ISD, College College, and Collin County, which have total over $1.2 million over that same period.

Today, the importance of heritage preservation will be renewed as the city nears build-out and development pressure begins to return from undeveloped land on the city's fringes to redevelopment of

the city's historical core. The recent revitalization of downtown has increased property values in the area, subsequently increasing redevelopment pressure in downtown. While this is largely positive for the city, Downtown and Haggard Park are two of the few areas that retain an architectural connection to the city's history and may require additional protection from changes this may bring. The ability to deny demolitions protects the city's history and culture from the potential negative effects of redevelopment.

Removing Designation and Heritage Preservation Regulations

All designated heritage resources are subject to the Heritage Preservation Ordinance. A property owner may remove the associated requirements of the ordinance by submitting an application and associated fees to remove the designation following the zoning procedure, including notice and public hearings at the Heritage Commission, Planning & Zoning Commission, and City Council. City Council has final authority to approve or deny an application to remove heritage resource designation.

An opt-out provision that exempts certain properties from some of the provisions of the ordinance and restricts tax benefits, but retains the property in the district would require creation of a very complicated regulation scheme for historic properties that would be difficult to explain to property owners and the public, challenging to administer, and would not incentivize preservation.

Please let us know if you have any questions or concerns.

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