

090007

City of
Gainesville

Inter-Office Communication

Planning Division
X5022, FAX x2648, Station 11

Item No. 1

TO: City Plan Board **DATE:** April 23, 2009
FROM: Planning Division Staff
SUBJECT: Petition PZ-09-17 TCH. City of Gainesville. Amend the City of Gainesville Land Development Code to establish and describe a Heritage Overlay District and procedures.

Recommendation

Staff recommends approval of Petition PZ-09-17 TCH.

Explanation

The purpose of this petition is to establish Heritage Overlay Districts (HODs) in the Land Development Code so that areas that are eligible can apply for the overlay.

HODs are overlay districts that use special regulations to protect and conserve the design and aesthetics of single-family residential neighborhoods with special architectural features. Examples of the types of issues the regulations address include (but are not limited to) building materials, porches, balconies, fences and walls, building heights, building setbacks, window and door openings, garage doors, building orientation, accessory structures, and off-street parking.

The Future Land Use, Housing, and Urban Design Elements of the Comprehensive Plan contain policies calling for the study and adoption, as needed, of HODs.

Background

In 2006, the University Park Neighborhood Association approached the City with concerns over recent modifications, additions, demolitions and new residential structures built in the neighborhood. As a result, on September 25, 2006, the City Commission initiated an item and referred it to the Community Development Committee (CDC) for consideration. The item specifically mentions "designating the University Park Neighborhood as a Heritage Neighborhood in order to receive similar protection, but not as stringent as the Historic Neighborhood designation." This petition, however, does not designate the University Park Neighborhood, or any other area, as an HOD.

On June 19, 2007, the CDC recommended that the City Commission initiate a land development regulation amendment to establish a HOD designation. On September 24, 2007, the City Commission accepted the CDC's recommendation and directed staff to process a Plan Board Petition to establish a HOD designation, describe what can be regulated within a HOD, and describe procedures and criteria for applying the district to a particular geographic area.

Proposed Language

The proposed regulations are attached to this staff report. They set criteria that all HODs must meet. Those criteria address district boundaries, number of parcels, existing uses, and other factors. If these regulations are adopted, and a request to place a HOD over a certain geographic area met those minimum requirements, then the City Commission could consider the request through the standard rezoning process, including application forms, application fees, public notice and public hearings.

Key provisions

Important provisions of the proposed regulations include the following:

1. Any owner of property within a proposed HOD may apply to have that area designated a HOD and impose special regulations on that area. Concurrence of the other property owners is not required.

If an application were made that included properties whose owners did not wish to be within a HOD, that situation would be similar to the establishment of the Significant Ecological Communities Overlay. In that situation several impacted land owners did not wish to be included. An important difference, however, is that the Significant Ecological Communities Overlay was City-initiated, while a HOD would be initiated by an individual or a group of property owners.

2. An application for a HOD is essentially a rezoning and is processed as such. For that reason, the requirements for rezonings apply. Those requirements include application fees (currently \$2,790 for areas outside Enterprise Zones, and \$1,395 for areas within Enterprise Zones), neighborhood workshops, public notice, and public hearings before both the Plan Board and the City Commission.
3. Like all overlay districts, the designation of a HOD must be based on data and analysis. This means that the applicant must submit a justification study (often referred to as a Design Standards Analysis) with the application. That study must document that buildings in the area have special or unique design elements that give the area a special character, what those design elements are, and that the character of

the area is threatened. Additionally, the Design Standards Analysis shall include the boundaries of the proposed district, and the proposed regulations.

4. The Plan Board and the City Commission may consider other data and analysis, in addition to the applicant's Design Standards Analysis. As such, the Plan Board and the City Commission may decide to vote for different regulations and boundaries than those proposed in the applicant's Design Standards Analysis. However, any decision by the Plan Board or the City Commission must be based on the data and analysis presented.
5. After a HOD (including regulations) is placed over a specific area, the reviewing board, when applicable, is the Historic Preservation Board (HPB). On January 8, 2008, after a staff presentation on HODs, the HPB indicated that they had the necessary knowledge to review and evaluate architectural elements. The HPB, however, requested more information regarding how HODs would work in Gainesville.
6. Each HOD has its own unique regulations specifically tailored to its own unique circumstances. This includes thresholds regarding what is reviewed, and whether it is reviewed by staff or the HPB.
7. To establish a HOD, the City Commission must make a finding that the proposed area is architecturally special and/or unique, that the special and/or unique characteristics of the area are threatened, and that the proposed regulations will protect the special and/or unique characteristics.
8. HOD regulations apply only to one- and two-family residential uses within single-family residential zoning districts.
9. HODs must contain at least 25 parcels. This is the same number of parcels as required for the Residential Parking Overlay District.
10. As with all City Overlay Districts, where conflicts exist between the Overlay District and the underlying zoning, the Overlay District prevails.

Consistency with the Goals, Objectives and Policies of the Comprehensive Plan

The proposed petition is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, particularly the Goal and Policies listed below.

Future Land Use Element

Goal 5: To enhance the City's commitment to improve and maintain the vitality of its neighborhoods. The neighborhood represents the primary building block of the city, and

the health and vitality of existing and new neighborhoods is essential to building a viable, sustainable community.

Policy 5.1.4: The City shall create heritage, conservation or other appropriate overlay districts as needed for neighborhood stabilization.

Housing Element

Policy 3.1.11: The City shall create heritage, conservation or other appropriate overlay districts, as needed, for neighborhood stabilization

Urban Design Element

Policy 2.2.3: The City shall explore creation of heritage, conservation or other appropriate overlay districts as needed for neighborhood stabilization.

Impact on Affordable Housing

Similar to Historic Districts, the cost of housing in HODs is anticipated to rise. That anticipated long-term rise can be attributed to several factors including application fees and lost time associated with the HOD review process, as well as the actual cost of complying with the HOD regulations.

Respectfully submitted,



Ralph Hilliard
Planning Manager

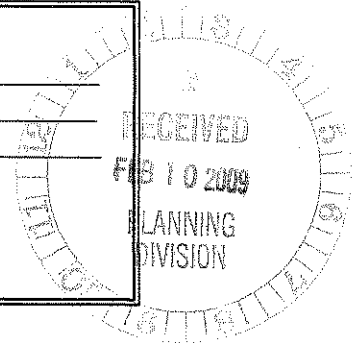
JW

Attachments: Draft Proposed Regulations

090007

APPLICATION—CITY PLAN BOARD—TEXT AMENDMENT
Planning & Development Services

OFFICE USE ONLY	
Petition No. <u>PZ-09-00017</u>	Fee: \$ _____
1 st Step Mtg Date: _____	EZ Fee: \$ _____
Tax Map No. _____	Receipt No. _____
Account No. 001-670-6710-3401 []	
Account No. 001-670-6710-1124 (Enterprise Zone) []	
Account No. 001-670-6710-1125 (Enterprise Zone Credit) []	



Name of Applicant/Agent (Please print or type)	
Applicant/Agent Name: <u>City of Gainesville / John Wachtel</u>	
Applicant/Agent Address: <u>306 NE 6th Avenue</u>	
City: <u>Gainesville</u>	
State: <u>FL</u>	Zip: <u>32602</u>
Applicant/Agent Phone: <u>334-5022</u>	Applicant/Agent Fax: <u>334-2648</u>

Note: It is recommended that anyone intending to file a petition for a text amendment to Chapter 30 of the City of Gainesville Code of Ordinances (Land Development Code) or to the Comprehensive Plan, meet with the Department of Community Development prior to filing the petition, in order to discuss the proposed amendment and petition process. The request will be evaluated as applicable to the particular zoning district or land use category on a citywide basis.

TEXT AMENDMENT

Check applicable request below:		
Land Development Code <input checked="" type="checkbox"/>	Comprehensive Plan Text []	Other []
Section/Appendix No.: <u>To be Determined;</u> <u>Heritage Overlay District</u>	Element & Goal, Objective or Policy No.:	Specify:

Proposed text language and/or explanation of reason for request (use additional sheets, if necessary):
<u>See Attached. Request is to protect neighborhood aesthetics.</u>

Certified Cashiers Receipt:

DRAFT**30-79.1 Heritage Overlay District**

District established

The Heritage Overlay District is established to protect areas with a distinct identity that are threatened by redevelopment or new development that is incompatible with the existing style, character or design of the area.

Findings

The City Commission makes the following findings:

Visual and design characteristics give some areas a distinct identity;

A harmonious appearance of structures stabilizes neighborhoods and maintains their character;

Compared to property owners within an unstable neighborhood, property owners within a stable neighborhood benefit from higher property values and a higher quality of life;

The unique character of this city cannot be properly maintained or enhanced unless its distinctive neighborhoods are protected, conserved and preserved; and

Several factors, including limitations on the City's financial and human resources, prohibit the City from performing all tasks associated with implementing a Heritage Overlay District. For that reason, property owners within a Heritage Overlay District, as the primary beneficiaries of the imposition of the district, are responsible for some of the tasks, such as required studies.

Intent

In order to promote the economic and general welfare of the people of Gainesville and of the general public; and to ensure complementary, orderly and efficient growth and development, the City Commission wishes to maintain, protect, conserve and preserve the visual characteristics that give certain areas a distinct identity and a harmonious appearance of structures.

The City Commission intends that, to the extent possible, the cost of such actions, including justification studies, be paid by the individual and/or collective property owners in the area.

Purpose

The purpose of this Section is to permit property owners to request that the City impose additional regulatory requirements upon their general geographic areas in order to help conserve the design and visual characteristics that give the area a distinct identity and a harmonious appearance.

Objectives

Encourage property owners to take responsibility for regulating development within their general geographic areas.

Encourage the use of existing buildings through adaptive rehabilitation.

Enhance the diversity of the City's housing stock.

Encourage construction that will lead to continuation, conservation and improvement that complements the scale and physical character of the original buildings.

Promote the educational, cultural, economic and general welfare of the people.

Protect neighborhoods' distinct identities.

Effect of Classification

The Heritage Overlay District classification is an overlay district classification. When the Heritage Overlay District is applied to any property, the underlying zoning district categories are neither abandoned nor repealed. The existing regulations remain in effect, and development is further restricted because no building permit shall be issued for regulated work items without the approval of the City Manager or designee.

Regulated work items are defined in the adoption ordinance of each Heritage Overlay District.

Whether or not the regulated work item is consistent with standards of the applicable Heritage Overlay District shall be determined by either the City Manager or designee, or the Historic Preservation Board.

The adoption ordinance of each Heritage Overlay District shall describe which regulated work items can be approved by the City Manager or designee, and which regulated work items require approval of the Historic Preservation Board.

The Heritage Overlay District classification shall not modify existing zoning requirements, unless specifically provided for in the ordinance applying the Heritage Overlay District to a specific area (the adoption ordinance). If there is a conflict between

the provisions of the Heritage Overlay District and the underlying zoning, the Heritage Overlay District prevails.

Actions, elements and items not regulated by The Heritage Overlay District

The following actions, elements and items shall not be regulated by The Heritage Overlay District classification:

Interior layout or interior construction;
Demolitions, in whole or in part;
Colors;
Vegetation;
Power generating solar panels; and
Television satellite dishes or antennae.

Administration

The Heritage Overlay District shall be applied only to residential uses within the RSF-1, RSF-2, RSF-3, RSF-4, and RC zoning districts. Changing the zoning of a parcel to a zoning district other than RSF-1, RSF-2, RSF-3, RSF-4, or RC automatically removes the parcel from the Heritage Overlay District.

Decisions concerning whether or not regulated work items within a Heritage Overlay District are consistent with the District's regulations are made by the Staff Reviewer or Historic Preservation Board. Decisions of the Staff Reviewer can be appealed, by the applicant, to the Historic Preservation Board.

The Historic Preservation Board can approve, approve with conditions, approve with changes, deny or continue a project.

The Historic Preservation Board can continue a project only 1 time.

At Historic Preservation Board meetings, public comment regarding Heritage Overlay District projects shall be limited to whether or not the project is consistent with the District's regulations.

District Criteria

An area must meet all of the following criteria to be eligible for designation as a Heritage Overlay District:

It shall consist of at least 25 compact and contiguous parcels, as defined in this chapter;

The area shall not cause the creation of an enclave or pocket within the area, as commonly defined in annexations;

Residences within the area shall consist only of one- and two-family houses;

All land within the area must have the RSF-1, RSF-2, RSF-3, RSF-4, or RC zoning district;

Each boundary of the area shall be one of the following identifiable landmarks: a street, alley, publicly owned right-of-way, platted subdivision boundary, or a creek; and

No area boundaries shall overlap the boundary of an existing Heritage Overlay District or Historic District.

In addition, an area must meet one of the following criteria to be eligible for designation as a Heritage Overlay District:

Its visual characteristics give it a distinct identity;

It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials; or

It has character as a geographically definable area possessing a significant concentration of buildings or structures united by its plan or physical development.

Designation of Districts

Procedures

The procedures for application and designation are as follows herein:

Any owner of property within a proposed Heritage Overlay District may apply to have that area designated a Heritage Overlay District and impose special regulations on that area.

Except that a Design Standards Analysis and Design Standards shall be included with the application, the process for the imposition of the overlay district is as provided in Article X of this chapter for zoning changes (including application fees, neighborhood workshops, public notice, and public hearings before the Plan Board and the City Commission).

Design Standards Analysis

The applicant shall submit proposed design standards and a design analysis of the proposed Heritage Overlay district as follows:

Clearly define and map the proposed area.

Establish a clear, decipherable set of area features to describe the character of individual building types. This set shall define the relationships among features and shall serve as a tool to identify common elements in the area.

Conduct architectural surveys to define the previous, current and likely future character of the area. The applicant shall conduct a field survey containing, but not limited to, the following information: distinctive building features; represented building styles; typical building components; finishing materials; siting of buildings; degree of visual continuity; and degree of compatibility of new structures with architectural context.

Based on data gathered, develop a design goal or goals for the area and identify important characteristics and features by comparing the degree of change between early and present-day character.

Identify and project future character, based on potential change from present-day trends and regulations. Based on the present scenario, determine whether or not the area is likely to meet the proposed design goal or goals.

Design Standards

The following criteria for new construction or additions shall be based on the design standards analysis for each area. The following are categories of design standards that shall be eligible for overlay regulations and may modify existing zoning or subdivision regulations as conditional zoning restrictions. Any construction, installation, addition, enlargement, relocation, removal, or demolition associated with the following may be a regulated work item. It is not required that each of the following be addressed; rather, address only those elements that are applicable or desirable to conserve the character of the area as determined in the design standards analysis. All design standards should be specific and measurable. Design standards shall not prohibit demolitions, in whole or in part. Design standards shall apply only to lot and building exteriors, and thus, not regulate interior layout or interior construction.

Exterior building materials

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Roof lines, shapes and materials
Excluding power generating solar panels
and television satellite dishes or antennae

Front Porches
Are they required, allowed or prohibited?
Width and depth

Balconies
Are they required, allowed or prohibited?
Width and depth

Size, shape, style, material, and spacing of windows
and doors

Size, location, and orientation of garage doors

Lot widths

Building orientation

Building heights

Building setback and build-to lines

Building height-to-width ratio

Percent of the lot covered by buildings

Accessory structures
Size, number, materials, style
Excluding power generating solar panels

Screening mechanical equipment
Including heating and cooling equipment

Bulk plane restrictions; and
Off-street parking design
including the amount and location

The Plan Board and the City Commission may approve the overlay district boundaries and regulations only with a finding, supported by data and analysis, that the area has unique and decipherable features and characteristics, that those characteristics are threatened, and that the proposed regulations are related to protecting those features and characteristics.

The petition for imposition of the overlay district shall be considered by the Plan Board for its recommendation to the City Commission. In order to impose the overlay district upon parcels within an Area, an affirmative vote of the City Commission is required. If the petition or ordinance fails, a subsequent petition for imposition of the overlay district on an Area that includes any of the same parcels may not be brought sooner than one year following the date of denial of the previous petition for imposition of the overlay on an Area.

Amendments to HOD regulations

Any property owner within a HOD may apply for an amendment to the district's regulations which shall be subject to review and consideration according to the

applicable terms of this section and shall be processed as a text amendment in accordance with Article X of this chapter (including application fees, public notice, and public hearings before the Plan Board and the City Commission). The City Commission may amend the district's regulations from time to time in accordance with the same standards and procedures as for the original district.

Extension of district boundaries

Any property owner whose land is contiguous to a HOD may apply for inclusion in the district through extension of the district's boundaries. Such an extension shall be subject to review and consideration according to the applicable terms of this section, and shall be processed as a rezoning in accordance with Article X of this Chapter (including application fees, neighborhood workshops, public notice, and public hearings before the Plan Board and the City Commission). The City Commission may extend the boundaries of a HOD from time to time in accordance with the same standards and procedures as for the original HOD.

DRAFT

ARTICLE 29

NEIGHBORHOOD DESIGN CHARACTER
OVERLAY (ND-1) ZONE

29-1 INTENT - In order to promote the economic and general welfare of the people of Fayette County and of the general public; and to ensure the complementary, orderly and efficient growth and development of Fayette County, it is deemed essential by the Lexington-Fayette Urban County Council that the qualities relating to the visual characteristics that give a distinct identity to an area and a harmonious appearance of structures which stabilize neighborhoods and maintain their character, be protected, conserved and preserved.

29-1 (a) PURPOSE - It is the purpose of this Article to permit neighborhoods the opportunity to request that the Lexington-Fayette Urban County Government impose additional regulatory requirements upon their neighborhood areas in order to help conserve those visual characteristics. It is the finding of the Lexington-Fayette Urban County Council that the individual nature and character of this county cannot be properly maintained or enhanced unless its distinctive neighborhoods and areas are protected, conserved and preserved.

29-Kb) POLICIES The Lexington-Fayette Urban County Council hereby declares that it is necessary as a matter of public policy to preserve, protect and conserve the beauty and heritage of the county; to improve the quality of its environment through identification, conservation and maintenance of neighborhoods, areas, or places which constitute or reflect distinctive features of the architectural or cultural traditions of the city. The protection of these areas is essential in promoting the public welfare by making the city a more attractive and desirable place in which to live and work.

29-1(c) GOALS - The goal of this Article is to effect the purpose and policy, as set forth in the above findings; and specifically, but not exclusively, to:

- (I) Give such designations and to enact such regulations as are needed to protect against destruction, degradation, or encroachment upon neighborhoods.

areas or places having a special, unique or distinctive character of aesthetic, architectural or cultural significance which serves as the identity of a neighborhood.

- (2) Encourage the use of existing buildings through adaptive rehabilitation so as to enhance the diversity and interest of the county. Such encouragement shall not imply a particular zoning designation.
- (3) Encourage construction that will lead to continuation, conservation and improvement in a manner appropriate to the scale and physical character of the original buildings. Assure that new construction is in harmony with the scale and physical character of the original buildings of the neighborhood through the use of design standards.
- (4) Prevent the creation of environmental influences adverse to such purposes.
- (5) Foster civic pride in the value of accomplishments of the past.
- (6) Promote the educational, cultural, economic and general welfare of the people.

29-2 APPLICATION REGULATIONS - The classifications and regulations hereunder shall be established in addition to the zone classifications and regulations as shown on the zoning map atlas for the subject areas. These regulations are intended to preserve, protect and conserve neighborhoods and areas. The uses, dimensions and other requirements for said zones, as provided in the Zoning Ordinance, shall apply, except where modified as conditional zoning restrictions determined under these regulations. ND-1 regulations shall only apply to residential zones and non-conforming residential uses. The rezoning of an underlying zone does not automatically remove ND-1 standards, and the applicant would need to request that the overlay restrictions either be removed or revised as conditions appropriate to the non-residential use. Where there are conflicts between the procedures and regulations within the Zoning Ordinance, the more restrictive shall apply.

29-3 OVERLAY DISTRICT DESIGNATION CRITERIA -- An area, neighborhood or place meeting one or more of the following criteria shall be eligible for designation as a Neighborhood Design Character (ND-1) District:

- (1) It is an older area that, if placed under an ND-1 classification, may result in sufficient improvement to qualify it as an H-1 District in the future. H-1 District properties and designated National Register Historic Districts are not eligible for ND-1 designation;
- (2) It is a newer area that does not have historic significance. In this case, the overall character of the neighborhood would be maintained;
- (3) There is a need to protect the visual characteristics that give a neighborhood its distinct identity;
- (4) The existing neighborhood is characterized by a variety of building types that establish a significant and distinguishable identity;
- (5) It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;
- (6) It has character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development; or
- (7) It has character as an established and geographically definable residential neighborhood, agricultural area or business district, united by culture, architectural style or physical plan and development.

29-4 DESIGNATION OF ZONES PROTECTED BY NEIGHBORHOOD DESIGN CHARACTER OVERLAYS

29-4(a) PURPOSE - To further the goals and purposes of this Article and the preservation, protection, conservation and use of neighborhood design character districts, the Urban County Council shall have the authority to designate zones protected by a neighborhood design character overlay.

29-4(fb) PROCEDURE - The procedure for application and designation are as follows herein:

29-4(b)(1) DESIGN STANDARDS ANALYSIS — The applicant shall prepare a design

analysis of the proposed overlay district as follows:

- (a) Establish a clear, decipherable set of neighborhood features to describe the character of individual building types. This set shall define the relationships among features and shall serve as a tool to identify common elements in a neighborhood.
- (b) Conduct architectural surveys so as to define present character of the neighborhood. The applicant shall conduct a field survey containing, but not limited to, the following criteria: distinctive building features; represented building styles; typical building components; finishing materials; siting of buildings; landscape treatment; degree of visual continuity; degree of density; and degree of compatibility of new structures with historical context.
- (c) Conduct architectural surveys so as to define early character of neighborhood. The applicant shall conduct a field survey containing, but not limited to, the following criteria: distinctive building features; represented building styles; typical building components; finishing materials; siting of buildings; landscape treatment; degree of visual continuity; degree of density; and degree of compatibility of new structures with historical context.
- (d) Develop preservation goals for the neighborhood and identify important characteristics to be respected by comparing the degree of change between early and present-day character.
- (e) Identify and project future character, based on potential change from present-day trends and regulations. Based on the present scenario, identify if the neighborhood will preserve its integrity and meet its design goals for the community.

29-4(c) DESIGN STANDARDS - The following criteria for new construction or additions shall be based on the design standards analysis within each district. The following are categories of design standards that shall be eligible for overlay regulations and may modify existing zoning or subdivision regulations as conditional zoning restrictions. It is not required that each of the

following be addressed; instead, to utilize only those elements as applicable or desirable to conserve the neighborhood character and as determined in the design standards analysis. All proposed standards should be specific and measurable.

- (1) Exterior building material restrictions
- (2) Roof lines and shape requirements
- (3) Repeating elements
- (4) Landscaping requirements
- (5) Minimum window and door opening requirements
- (6) Front building features
- (7) Garage door restrictions
- (8) Lot widths
- (9) Building orientation
- (10) Building heights
- (11) Building setbacks
- (12) Rear yard building setbacks
- (13) Accessory structures
- (14) Bulk plane restrictions; and
- (15) Off-street parking design

29-4(d) APPLICATION - An application for the establishment of a neighborhood character overlay district may be filed only by the Lexington-Fayette Urban County Council, Planning Commission, or the owners of the subject properties. The Board of Architectural Review, the Historic Preservation Commission, or an individual Lexington-Fayette Urban County citizen may request that the Lexington-Fayette Urban County Council or the Planning Commission initiate a zone map amendment. The application shall demonstrate significant neighborhood support to be regulated as an ND-1 overlay district.

Said application shall be filed with the Planning Commission and transmitted to the Historic Preservation Division for its review and consultation.

29-4(e) OWNER NOTIFICATION -- Specific design standards shall be included in property owner notifications as determined desirable and recommended for each proposed district.

29-5 BUILDING PERMIT REVIEW PROCESS - All building permit applications will be required to comply with adopted design standards for applicable building improvements on property located within a designated neighborhood design character overlay district and/or as approved by the Planning Commission.

29-6 COMPLIANCE WITH OTHER CODES.

STATUTES AND REGULATIONS - In order to prevent purposeful neglect of structures within zones protected by neighborhood design character overlays, all properties shall comply with the BOCA, adopted Basic Property Maintenance Code, as well as all other applicable codes, statutes and regulations. To accomplish this, the Division of Code Enforcement shall quarterly compile and forward to the Planning Commission a list of those properties in zones with neighborhood design character overlays which have been found to be in violation of the BOCA Basic Property Maintenance Code.

City of Dallas - Department of Development Services Conservation District Enabling Ordinance

SEC. 51A-4.505. CONSERVATION DISTRICTS.

(a) Definitions. In this section:

(1) **ARCHITECTURAL ATTRIBUTES** means those physical features of buildings and structures that are generally identified and described as being important products of human thought and action characteristic of a population or community.

(2) **BLOCK** means an area bounded by streets on all sides.

(3) **BLOCKFACE** means all of the lots on one side of a block.

(4) **CD** means conservation district.

(5) **CD FEASIBILITY STUDY** means a study conducted by the director to determine whether or not a particular area of the city is eligible for conservation district classification.

(6) **CD ORDINANCE** means the ordinance establishing a particular conservation district.

(7) **CULTURAL ATTRIBUTES** means all of those physical features of an area that, either independently or by virtue of their interrelationship, are generally identified and described as being important products of human thought and action characteristic of a population or community. Accordingly, the term "cultural attributes" necessarily includes "architectural attributes" as that term is defined in this section. The term "cultural attributes" does not refer to the characteristics or beliefs of people who may reside in or frequent a particular area.

(8) **STABLE** means that the area is expected to remain substantially the same over the next 20 years with continued maintenance of the property. While some changes in structures, land uses, and densities may occur, all such changes are expected to be compatible with surrounding development.

(9) **STABILIZING** means that the area is expected to become stable over the next 20-year period through continued reinvestment, maintenance, or remodeling.

(b) **Purpose.** Article 1011a, Vernon's Texas Civil Statutes, authorizes the city of Dallas to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures in "designated places and areas of historic, cultural, or architectural importance and significance." Whereas the city has historic districts containing such regulations and restrictions for historic places and areas, the conservation district is established to provide a means of conserving an area's distinctive atmosphere or character by protecting or enhancing its significant architectural or cultural attributes.

(c) General provisions.

(1) Each conservation district must be established by a separate CD ordinance. Before adopting a CD ordinance, the city council shall approve a conceptual plan for the district in accordance with this section. Each CD ordinance must be consistent with the conceptual plan approved for the district by the city council.

(2) If the director determines that, due to the sensitivity of the area, or due to the nature of the proposed regulations for the area, a special administrative procedure should be established for the review of proposed work in a conservation district, he/she may recommend that such a procedure be incorporated into the conceptual plan for the district. Unless such a procedure is considered by the commission and approved by the city council as part of the conceptual plan for the district, there shall be no administrative review of proposed work in a conservation district other than the customary review for compliance with all applicable city codes, ordinances, rules, and regulations which occurs at the time a person makes application for a building permit.

(3) For purposes of determining the applicability of regulations in this chapter triggered by adjacency or proximity to another zoning district, an identifiable portion of a conservation (CD) district governed by a distinct set of use regulations is treated as though it were a separate zoning district. If the CD district or a portion of the district is limited to those uses permitted in an expressly stated zoning district, the CD district or portion of the district is treated as though it were that expressly stated zoning district; otherwise it is treated as though it were:

(A) a TH-3(A) zoning district if it is restricted to single family and/or duplex uses;

(B) an MF-2(A) zoning district if it is restricted to residential uses not exceeding 36 feet in height and allows multifamily uses;

(C) an MF-3(A) zoning district if it is restricted to residential uses and allows multifamily uses exceeding 36 feet in height; or

(D) a nonresidential zoning district if it allows a nonresidential use.

(d) initiation.

(1) A CD feasibility study may be initiated by a group of persons who collectively own:

(A) more than 50 percent of the land, excluding streets and alleys, within the area of request; and

(B) more than 50 percent of the building sites within the area of request.

(2) An agent of a group that satisfies the requirements of Subsection (d)(1) may file an application for a CD feasibility study with the director on a form

City of Dallas - Department of Development Services Conservation District Enabling Ordinance

furnished by the department. Each person in the group must sign the application.

(3) An application for a CD feasibility study must include the following:

(A) *The application fee.*

(B) *Map(s) showing the existing zoning and land uses on all of the land in the area of request, and on all of the land within 200 feet, including streets and alleys, measured from the boundary of the area of request.*

(C) *A list of the names and addresses of all property owners and residents in the area of request.*

(D) *A list of all neighborhood associations or other organizations representing the interests of property owners in the area of request. This list should include information as to the number of members and the officers' names, mailing addresses, and phone numbers.*

(E) *A statement of justification. This statement should:*

(i) *point out the factors which render the area of request eligible for CD classification; and*

(ii) *explain in detail how and why such a classification would be in the best interest of the city as a whole.*

(F) *A description of the prevalent architectural and cultural attributes of the area.*

(G) *Any additional information that the director determines to be necessary for the study.*

(4) A CD feasibility study may also be initiated by the commission or the city council.

(e) Determination of eligibility.

(1) When a CD feasibility study is initiated under Subsection (d), the director shall determine the eligibility of the area for CD classification in accordance with this subsection.

(2) The director's determination of eligibility must be based on a consideration of the standards in this subsection. An area is not eligible for CD classification unless it satisfies all of the following criteria:

(A) *The area must contain at least one blockface.*

(B) *The area must be either "stable" or "stabilizing" as those terms are defined in this section.*

(C) *The area must contain significant architectural or cultural attributes as those terms are defined in this section.*

(D) *The area must have a distinctive atmosphere or character which can be conserved by protecting or enhancing its architectural or cultural attributes.*

(3) If the director determines that the area is not eligible for CD classification, he/she shall notify the applicant of this fact in writing. Notice is given by de-

positing the notice properly addressed and postage paid in the United States mail. The notice must be sent to the address shown on the application. The decision of the director that an area is not eligible for CD classification may be appealed to the commission by the applicant.

(4) An appeal under Subsection (e)(3) is made by filing a written request with the director. The request must be filed within 30 days of the date written notice is given to the applicant of the director's decision. In considering the appeal, the sole issue shall be whether or not the director erred in his/her determination of eligibility, and, in this connection, the commission shall consider the same standards that were required to be considered by the director in making his/her determination.

(5) The commission's determination of eligibility on appeal is final. If the commission determines that the area is not eligible for CD classification, no further applications for CD classification may be considered for the area of request for two years from the date of its decision. A property owner in the area of request may apply for a waiver of the two-year limitation pursuant to Section 51A-4.701(d)(3).

(6) If the director determines that the area is eligible for CD classification, he/she shall proceed to formulate a conceptual plan for the area in accordance with Subsection (f). The decision of the director that an area is eligible for CD classification may not be appealed.

(f) Conceptual plan formulation and review.

(1) If the area is determined to be eligible for CD classification pursuant to Subsection (e), the director shall schedule a public meeting for the purpose of informing property owners in the proposed district of the nature of the pending request. The director shall send notice of the time and place of the meeting by mail to all addresses of property owners and residents shown on the application, and to any additional addresses of properties in the proposed district shown on the last approved city tax roll.

(2) The director shall prepare a conceptual plan for the proposed district and schedule a public hearing before the commission to receive public comment regarding the plan. The director shall send written notice of the public hearing to all owners of real property in the proposed district and within 200 feet of its boundaries. The measurement of the 200 feet includes streets and alleys. The notice must be given not less than 10 days before the date set for the hearing. Notice is given by depositing the notice properly addressed and postage paid in the United States mail to the property owners as evidenced by the last approved city tax roll.

City of Dallas - Department of Development Services Conservation District Enabling Ordinance

(3) After the public hearing, the commission shall make a recommendation regarding the plan and forward it to the city council for further action.

(4) The city council shall hold a public hearing before it makes a decision regarding the plan. The city secretary shall give notice of the public hearing in the official newspaper of the city at least 15 days before the hearing.

(5) After the city council holds the public hearing, it shall make a decision regarding the plan. The council may make minor changes in the plan without sending it back to the commission; however, if the changes are substantial, the council shall send the plan back to the commission for another public hearing.

(6) No conservation district may be established in the city unless the city council first approves a conceptual plan for the district in accordance with this subsection.

(g) CD ordinance preparation and review.

(1) The director shall hold public meetings as necessary for the purpose of receiving input from property owners regarding the content of the CD ordinance.

(2) The city attorney shall prepare a CD ordinance based on the approved or proposed conceptual plan, the reports and recommendations of the city staff, and input received from property owners at the public meetings held by the director. The ordinance must contain regulations governing permitted uses, heights of buildings and structures, lot size, floor area ratio, density, setbacks, off-street parking and loading, environmental performance, signs, landscaping, and nonconforming uses and structures, and may further contain any additional regulations, special exceptions, or procedures that the city council considers necessary to conserve the distinctive atmosphere or character of the area, or to minimize potential adverse impacts which could result from creation of the district.

(3) After preparation of the ordinance by the city attorney, the commission shall hold a public hearing to allow all citizens to present their views regarding the proposed ordinance. If the commission so desires, it may hold this public hearing on the same day that it holds the public hearing on the conceptual plan. Notice of this public hearing must be given as required by law for a change in zoning district classification.

(4) After the public hearing, the commission shall make a recommendation regarding the proposed ordinance. The commission shall not recommend approval of the ordinance unless it determines that the ordinance is consistent with the conceptual plan.

(5) After the commission makes its recommendation on the proposed ordinance, the director shall forward the recommendation and ordinance to the city council for further action. The city council shall hold a

public hearing before taking any action on the ordinance. If the city council so desires, it may hold this public hearing on the same day that it holds the public hearing on the conceptual plan. Notice of this public hearing must be given as required by law for a change in zoning district classification.

(6) Each CD ordinance must be approved by the affirmative vote of a majority of city council members present; except, the favorable vote of three-fourths of all members of the city council is required if:

(A) the commission recommends against adoption of the ordinance; or

(B) a written protest against adoption of the ordinance has been signed by the owners of 20 percent or more of either the land in the area of request or land within 200 feet, including streets and alleys, measured from the boundary of the area of request and the protest has been filed with the director.

(h) Board of adjustment fee waiver. The board of adjustment may waive any filing fee for an appeal from a decision of the building official interpreting a CD ordinance, or for a variance or special exception to a CD ordinance requirement when the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement as part of his appeal or request that the matter be placed on the board's miscellaneous docket for predetermination. If the matter is placed on the miscellaneous docket, the applicant may not file his appeal until the merits of the request for waiver have been determined by the board. (Ord. Nos. 19455; 19930; 20037; 20308)

CITY OF TAMPA LAND DEVELOPMENT REGULATIONS**Sec. 27-459. Residential overlay districts.**

(a) *Purpose.* The purpose of the residential overlay district is to preserve original precedent patterns of development in areas where the underlying zoning regulations could potentially disrupt the existing, desired scale, spatial pattern and character of an area. The residential overlay district is also intended to stabilize and improve property values and foster civic pride.

(b) *Scope of the residential overlay district regulations.* The provisions of the overlay district apply to new construction, additions or structural alterations on all land within the designated overlay district. These provisions shall serve to supplement underlying zoning regulations in order to support the stated purpose of the district, and shall control in the event of conflict. Depending on the existing character of the specific area and the recommendation of the Tampa City Council, overlay regulations may include, but are not limited to, items such as:

- Height
- Floor area ratio
- Setbacks
- Lot dimensional regulations
- Parking
- Building orientation and separation

(c) *Starting the designation process.* Any resident of the city, any owner of property in the city or any organization in the city may request the Tampa City Council to consider the designation of a residential overlay district. City council may direct the department of business and housing development to analyze the request and make a recommendation.

(1) *Recommendation.* The department of business and housing development shall make a recommendation to city council regarding the designation of a residential overlay district. The recommendation must document the existence of distinct and precedent development patterns of an area that justify the establishment of special development regulations. The BHD recommendation shall include a boundary map of the district along with such other documentation which may include:

- a. A staff report verifying that the area is of sufficient compactness and exhibits a distinctive development pattern or character.
- b. A staff analysis of the existing historical building pattern of the area.
- c. Evidence that property development or redevelopment consistent with the original precedent pattern in the area may require variances to development regulations in order for new construction, alterations or rehabilitation to occur.
- d. The presence of a neighborhood organization or other such localized group civic group demonstrating an interest in such an overlay district.

(d) *Report to the planning commission.* The Department of Business and Housing Development shall forward to the Hillsborough County City-County Planning Commission the recommendation of the establishment of a residential overlay district. The Hillsborough County City-County Planning Commission shall report within sixty (60) days to the city council, with information on the relationship between the proposed designation and the adopted Tampa Comprehensive Plan.

(e) *Public hearing by the city council.* The city council shall hold a public hearing on a proposed designation of an overlay district within ninety (90) days after the receipt of the recommendation from the department of business and housing development staff. Notice of the hearing on the proposed historic conservation overlay district shall be given pursuant to the requirement for a text amendment and area rezoning contained in this chapter.

(f) *Discussion by the city council.* The city council shall approve, modify or disapprove the proposed designation of the overlay district within sixty (60) days after its public hearing. The city council may reduce the size of the proposed overlay district, and it may add additional properties to the proposed overlay district provided it holds a further public hearing with notice on the additional properties in accordance with this chapter. If a designation is made, the official zoning atlas shall be amended to contain the overlay district designation.

(g) *Effect of the overlay district designation.* After designation by the city council, no building or site development permit involving any building or other structure shall be erected, rehabilitated or moved into the overlay district in conflict with the established district regulations. It is the responsibility of the zoning administrator to ensure that development within the designated area complies with those regulations established for the district.

(h) *Appeal of decision on designation.* Any appeal to city council action within the procedures established in this article shall be to the circuit court, and shall be in the form of a petition for writ of certiorari.

(i) *Application for variance.* A variance may be allowed by the variance review board when substantial evidence is presented through the public hearing process established in section 17.5-75.

(Ord. No. 96-105, § 46, 5-23-96; Ord. No. 2001-158, § 27, 7-19-01; Ord. No. 2006-169, § 43, 7-13-06)

Petition PZ-09-17 TCH City of Gainesville. Amend the City of Gainesville Land Development Code to establish and describe a Heritage Overlay District and procedures.

John Wachtel, Neighborhood Planning Coordinator stated that this petition is a request to create a Heritage Overlay District with criteria and procedures. Mr. Wachtel further stated that the existing regulations that are currently in place within special districts will remain; and exterior aesthetics and designs regulations will be added as an extra layer. Mr. Wachtel added that HODs are:

- usually in single family areas
- the applicant must own property within that district
- concurrence of the other property owners would not be required but there will be public participation through public hearings and neighborhood workshops
- a justification study would be required to document the conditions of the area and findings of architectural uniqueness
- each district will be different and will have their own set of rules; however if there is conflict between the existing regulation and the overlay district, the overlay district rules would apply.
- the minimum size of a district would be 25 parcels

Mr. Wachtel further added that staff is recommending approval of this petition.

Chair Cohen stated that at the last discussion for this petition there were two issues that the board had and inquired if staff has resolved those issues. Mr. Wachtel stated that those issues were interior design dealing with over occupancy, of which that the city attorney has stressed that any regulations has to relate to the purpose of the district; and the other issue was a requirement of concurrence with a certain percentage of property owners in that district of which the board said they did not want and staff did not include.

Chair Cohen disclosed for the record that he is on the UPNA Board of Directors and avoids attending sessions when topics are to come in front of the City Plan Board. Chair Cohen opened the floor for public comment and citizen comments and questions were:

- Removal of metal roofs should not be one of the items to be regulated by this proposed district.
- Would this new district apply to all the properties that are currently there?
- Can a property owner opt out of the proposed HOD?
- Is character defined by the way the area looks or by rental or owner occupied?
- Does this proposed HOD apply to parking plans that are currently in place?

Mr. Wachtel stated that as it is proposed that parking and parking layout would be something that could be regulated by a HOD. Mr. Wachtel further stated that where an overlay district will be in conflict with another overlay district, the board may want to put in a provision against this and may want to use the most restrictive district. Mr. Wachtel added that this petition is about aesthetics and visible impacts and not about occupancy or behavior; as currently there is not an opt out provision and it does apply to projects that require a building permit.

Chris Dawson stated that after seeing more implementation of what is to be proposed from staff, he has strong discomfort with the potential for not having property owner concurrence. Mr. Dawson further stated that in the staff report this new HOD will be processed as a rezoning and the Code requires that all property owners consent to an application for rezoning according to Section 30-347 (1) B (1); leaving if

open for someone to propose a rezoning of 24 other people's property without having to speak to any one of the property owners. Mr. Dawson added that one of the things that this board should require is that there be some professional study produced that gives competent substantial evidence why this group of properties should all be in a HOD and given that this will be a property owner initiated application the city should not be responsible for the fees associated with private applications and inquired what the determination factors for the ratio of the design standards if all of the homes within the district will need to have a unique design characteristic.

Adrian Taylor inquired as to why color and vegetation were excluded from the list of HOD regulations in the staff report; as well as if there was any consideration regarding different types, styles and height of fencing for this proposed HOD. Mr. Wachtel stated that staff considered colors, fencing and vegetation but they were not included because of the difficulty of enforcement; and that in other districts color and vegetation are not regulated. Mr. Taylor stated that he has great favor for HOD as they add value to our community and looking from a forward and progressive point of view, given that this petition is to establish the language for a an enabling ordinance, recommends including regulating color, vegetation and styles of fencing. Mr. Taylor further stated that color, vegetation and fencing are big visually impacting factors for a neighborhood and can have a great far reaching impact to our community as a whole. Mr. Taylor added that regulating interior renovation should not be considered when discussing HODs as it should deal with how the buildings look on the outside and not to even attempt to deal with how they look on the inside. Mr. Taylor further added that HODs should also not attempt to speak to how the people look on the inside of the dwelling.

Randy Wells stated that he concurs with the comments made by the board this evening and inquired from staff why they choose for the extension option to be so restrictive. Mr. Wachtel stated that it would be the same procedure as establishing it and if they wanted to get into this district they would have to go through the rezoning process.

Chair Cohen stated that Heritage Overlays has been touched upon time and again as they can add a sense of place and value to the city, and has worked well in other cities. Chair Cohen further stated that even if the rezoning is initiated by one neighbor, there will be full public participation because rezoning requires notification and does not see where it would be objectionable to enact an ordinance. Chair Cohen added that he approves of having the language "...to the extent possible..." as it is extremely reasonable.

Motion: Randy Wells	Seconded By: Adrian Taylor
Moved To: Approve with staff recommendations except to add vegetation, color and fencing to the list of elements that may be regulated.	Upon Vote: None taken.

Mr. Dawson stated that he will not vote for this petition because property owner concurrence is a big issue for him.

Motion: Randy Wells	Seconded By: Adrian Taylor
Moved To: Approve with staff recommendations; except to add vegetation, color and fencing to the list of elements that may be regulated.	Upon Vote: 5 – 1. (Nay: C. Dawson)