
MINUTES
LANDMARK COMMISSION
April 25, 2017

MEMBERS PRESENT:

Andy Lee, Chairperson
Barney Brock
Michele Derr
John Dickinson
Christy Graham
Jim Johnson
Stacie Flood
Michael Smith

■ Members
■ P&Z Liaison
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■ Council Liaison

Karen Gagné, Planning Administrator
Matt Prouty, Planner II
Bobby Teague,
Assistant Director of Community Development/Building Official
James McKechnie, Senior Assistant City Attorney

■ City Staff
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■
■ Legal Dept.

ABSENT:

Cindy Ramirez
Jackie Lebow

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I. Call to Order, and Introductions

Chairperson Andy Lee called the meeting to order at 12:00 p.m.

II. Review & Approval of Minutes from March 28, 2017

Chairperson Lee called for review and approval of minutes from the March 28, 2017 Landmark Commission meeting. Mrs. Michele Derr made a motion to approve the minutes. Mrs. Christy Graham seconded the motion. The motion was taken to a vote and passed unanimously.

III. Application for Design Review – 1500 Grant Street (West Floral Heights) – Request to replace a 12’x20’ covered deck in the back yard, ornamental fence and foundation and brick repair.

Mr. Matt Prouty stated the homeowner, Mr. Larry Fox, was requesting to place a covered patio in the rear yard, adjacent to an existing concrete pad. The covered deck would be constructed out of yellow cedar with a metal roof. The applicant was also proposing to replace the existing chain link fence, located in the side and rear yard, with an ornamental fence. Mr. Prouty stated the applicant was also proposing to do masonry repair to the foundation.

Mrs. Christy Graham pointed out that the covered deck would not be very visible based on the tree growth surrounding it. Mr. Fox confirmed that the deck would be obscured. Mr. Barney Brock made the motion to approve the application as presented. Mrs. Christy Graham seconded the motion. The commission voted on the motion; motion passed unanimously.

IV. Application for Design Review – 1314 Buchanan Street (West Floral Heights) – Request to place a wood framed carport and attached storage building at the rear of the property.

Mr. Matt Prouty stated the applicant, Mr. Henry Hernandez, was requesting to place a wood framed carport and attached storage building at the rear of the property, along the alley. Mr. Hernandez stated there had previously been a garage at the proposed location, but the City had required him to tear it down. He did not have the funds to restore the building at the time because he had put so much toward restoring the home.

Mr. Prouty stated the applicant would not be taking direct vehicle access off of the alley, hence was allowed to locate 1 foot from the rear property line. He stated the carport and storage building would be setback 15 feet from the exterior side property line, therefore it would not require a conditional use permit. He stated vehicle access would be taken from the existing curb cut located on the exterior side of the property.

Mrs. Christy Graham asked if the roof was going to be asphalt shingles similar to those on the house. Mr. Hernandez confirmed that the roof would be similar to what was on the house. Chairperson Lee stated that the proposed structures appeared to be in order with the design guidelines, and that the existing privacy fence would limit visibility from the public right-of-way. Ms. Stacie Flood made the motion to approve the application as presented. Mr. John Dickinson seconded the motion. The commission voted on the motion; motion passed unanimously.

V. Discussion Item: Local Landmark Properties/Historic Districts and the Existing Building Code

Chairperson Lee stated that with all the new and upcoming development focused in the downtown area, many questions had arisen regarding how to address building code for restoration projects on historic buildings. He introduced Bobby Teague, Assistant Director of Community Development and Building Official, and stated he was there to clear up some of those questions.

Mr. Teague stated one of the main problems people were encountering with older buildings was trying to restore them for a use different from the original use. He stated that with the change in use there would typically be a change in occupancy, and with each different type of occupancy there were a separate set of requirements. He stated that each type of occupancy had a square footage threshold at which a sprinkler system would be required. Mr. Teague stated that, because of the expense involved, the installation of sprinkler systems tended to be one of main issues people encountered when restoring older buildings.

Mr. Teague stated the State had adopted the 2015 Energy Code, but Wichita Falls was still operating under the 2006 Energy Code. He stated because Wichita Falls was considered an attainment area based on air pollution levels, the city was allowed to adopt

whatever version of the energy code it chose to adopt. Mr. Teague stated that Wichita Falls would be moving to the 2015 Energy Code for residential, but there were some changes that were going to be made. He stated the city would be adopting the 2009 Energy Code for commercial properties, but that the flexibility granted to the city also made it possible for them to consider developing a separate energy code specifically focused on the downtown area. He stated this could be an opportunity to alleviate some of the cost involved with rehabilitating older buildings.

Mr. Teague stated the 1998 New Jersey Code was the predecessor to the International Existing Building Code. He stated he spoke with a gentleman from the International Code Council (ICC), who informed him that the 1998 New Jersey Code had been used as a primary document when developing the International Existing Building Code. He stated that the International Existing Building Code, which the city had adopted, contained provisions that allowed deviation from various sections. Mr. Teague stated that Fire Code had to be met, but Chapter 14, Compliance Alternatives, gave the building owners the option to hire a fire protection engineer who can rate the building and potentially provide alternative solutions for some requirements. Mr. Teague stated Wichita Falls did not have the Property Maintenance Code adopted, hence it is not required but can be used because it is referenced in the International Existing Building Code. He stated the Property Maintenance Code had been adopted for use regarding minimum housing standards.

Mr. Prouty stated that several of the architects who he spoke with at the Preservation Texas Summit in Waco indicated that any time they had utilized the Compliance Alternatives section of the code, a fire protection engineer had been involved in the process. He stated that in these instances, it was at the discretion of the authority having jurisdiction and the fire chief to determine whether the proposed alternatives could be engaged, or whether they would need to be deviated from, or abandoned. Mr. Prouty stated that the architects he spoke with indicated that when they undertook a project involving a change of occupancy in a historic building, they tended to sprinkle the building rather than deal with all of the complicated variables that could arise during the course of a project. He stated that installing a sprinkler system could be expensive, but it could also provide relief from other parts of the code such as providing protective corridors or enclosed fire stairs.

Mr. Teague pointed out that if you are rehabilitating a building that is being utilized for the same use as it was originally intended, sprinklers would not be required, even though a new building with the same use would require a sprinkler system. He stated that it was only when changing to a more intensive use with a higher occupancy classification that the building would have to be brought up to current standards.

Mrs. Christy Graham asked if a non-historic building in the downtown area were to change to a more intensive use, would they be required to meet the current energy code requirements for windows. Mr. Teague stated in the case of a non-historic building they would be legally required to meet the standards of the current energy code. However, because of the flexibility allowed to attainment cities, Building Inspections had taken the stance that if the glass is not being changed, it could be kept, but if the glass is being changed out, it would have to be replaced with glass that meets the requirements of the Energy Code. Mrs. Graham asked what would be required of the business owner if some

of the windows were to be broken due to vandalism. Mr. Teague stated if replacing just the pane of glass, the owner would not be required to meet the current energy code, but if the entire unit is being replaced, it would need to be up to code. He reiterated that this was only an option due to the adoptions to the code that were currently being developed for Wichita Falls exempting both historic and non-historic buildings from certain requirements of the Energy Code. He stated the adoptions would have to be approved by the City Council, but the council's current focus on revitalizing downtown gave support to the idea that it would be well received. Ms. Stacie Flood asked when these new adoptions would go into effect. Mr. Teague stated it could still be a few months before the changes went before the City Council.

Mrs. Christy Graham brought up the example of the Bank One building in Ft. Worth, which was damaged in a tornado. She stated the building could not be torn down because it would cause damage to some of the surrounding structures. When the building was purchased, the new owners changed the use from offices to an apartment building. Due to the change in occupancy, they were told the stairwell was 6 inches too narrow and a second stairwell would need to be installed. She asked if there would be a possible exemption should a similar situation occur in Wichita Falls. Mr. Teague stated these situations would be evaluated on a case by case basis, and this would be one of those instances where the expertise of a fire protection engineer would be required. He stated that fire safety and egress requirements were issues of life, health, and safety and ultimately the requirements of Fire Code would have to be met.

Chairperson Lee pointed out that due to the age of the utility systems in place in the downtown area, property owners were encountering problems when attempting to service their buildings in order to install sprinkler systems. He stated in many cases the existing utilities were insufficient to support some of the necessary updates. Mr. Lee asked Mr. Teague where he saw things going in regard to utilities downtown. Mr. Teague stated that the demand would have to be met. He stated that whether the costs involved would need to be covered by the developer, or whether City Council would choose to set aside funds for these projects was at this stage unknown.

Chairperson Lee asked how Building Inspections would be addressing the Historic Building Code, Section 3400. Mr. Teague stated that in the 2015 International Building Code, Chapter 34 no longer existed because it was replaced by the Existing Building Code, which was taken directly from Chapter 34. Chairperson Lee asked if there were exemptions for historic buildings in the Existing Building Code. Mr. Teague stated historic buildings were already exempt from the Energy Codes. He stated Chapter 14, Compliance Alternatives, would also provide some relief for historic buildings. He stated there was a section in the Existing Building Code dealing with exemptions for historic buildings from requirements that would change the historic character of the structure.

Mrs. Graham asked if a structure had to be a designated landmark, or built before a certain year in order to qualify for the exemptions. Mr. Teague stated that Chapter 14 of the Existing Building Code did not apply to any structures built after 1945 and the properties had to be registered landmarks in order to qualify for exemptions. He stated that they could provide no relief from State mandated handicap accessibility requirements. The only option in regard to handicap accessibility is to apply for a waiver from Texas Accessibility Standards through the State.

Chairperson Lee stated improving sidewalks and making them more accessible based on ADA requirements was important to the healthy growth of downtown. Mr. Teague stated that Public Works worked on sidewalk repair projects and could be a potential source of assistance in this area. Mrs. Christy Graham stated one of the problems in downtown was that the wrong type of trees had been planted. She stated the roots of the Live Oaks were tearing up the sidewalks. Mr. Teague stated there was an ordinance prohibiting the removal of the trees, but it was the property owner's responsibility to maintain the sidewalks. Mrs. Derr pointed out that repairing the sidewalks was made difficult by not being able to remove the trees. She stated you could not repair the sidewalk without cutting the roots, which could in turn kill the tree. Mr. Prouty suggested that a root barrier might be able to alleviate the problem. Mr. Teague stated that as the trees die they should be replaced with trees better suited to the environment.

Mr. Ken Dowdy, 1005 9th Street, asked if there had been any discussion regarding adopting a property maintenance ordinance to protect historic buildings. Mr. Teague stated that two attempts had been made, but had been turned down by City Council. He stated that a property maintenance code was needed to protect what remained of the City's historic structures. He stated that one of the goals of the new City Council was to improve downtown, and there would be further attempts to get a property maintenance code approved.

Mr. John Hirschi asked if there had been any consideration of allowing curved sidewalks on larger properties. Mr. Teague stated the sidewalk ordinance states that a sidewalk has to be 1 foot off the property line, other than that it would have to be a determination by the Public Works Department.

Mr. Rick Graham referred to the City of Wichita Falls' requirement for the involvement of a fire protection engineer in order to utilize Chapter 14 of the Existing Building Code, Compliance Alternatives. He asked if this was something that other cities required. Mr. Teague stated it was not written into the Existing Building Code as a requirement, but that several other cities had also adopted it as a requirement. He stated that the majority of architects would not take on such a project without the aid of a fire protection engineer. Mr. Graham stated he felt this requirement created an unnecessary added expense when dealing with smaller, one story structures.

Mr. Henry Hernandez asked if the City had ever considered having a competition where local artists created sculptures used as bike racks in order to beautify the downtown sidewalks. Ms. Cynthia Laney stated one of the projects Downtown Wichita Falls Development had identified as a potential arts project for downtown had been one focusing on bicycles. Mr. James McKechnie advised Chairman Lee that the discussion was veering away from the meeting agenda.

Ms. Stacie Flood stated that Chapter 14 of the Existing Building Code did not address properties built after 1945, but a property built in 1947 was still 70 years old. She asked when the date threshold for historic properties would be updated. Mr. Teague stated that Chapter 14 states that it is recommended by ICC to adopt the year that the first building codes were adopted in the city, and this was how the year 1945 was arrived at. After that point there were building codes in place to govern how things were built.

Ms. Carolyn Looney asked what section of the code dealt with historic residential structures. She stated there was a home in the West Floral Heights Historic District with boarded windows that are visible from the right-of-way. She stated she had reported it to the Landmark Commission multiple times, but nothing had been done. Mr. Teague stated that code enforcement would be the enforcement mechanism for these issues, and there was nothing specifically written in the code for historic residential structures. He stated that as long as the house is boarded up and secured it is not in violation of code.

Mr. Syd Litteken stated that some of the dilapidated structures downtown were causing deterioration to the party walls of neighboring structures. He asked what needed to be done in order to generate some form of enforcement to protect property owners from negligent neighbors. Mr. Teague stated a property maintenance code would provide the City with the legal right to enforce the maintenance of these deteriorating structures.

Councilor Smith stated that in the past, when the Council had considered the proposed property maintenance codes, it had received support, but when considering the ultimate consequences of adopting such a code, the proposition came up against opposition. The Council had to consider whether it felt it was appropriate to send someone to jail because they could not afford to replace a roof. He stated that common sense showed that the City needed a property maintenance code, but the potential fall out of such a code had to be considered.

Ms. Amber Schacter asked how the City planned to address the issue of enforcement when proposing a new property maintenance code for adoption. Mr. Teague stated that coming up with a way of enforcing the code that would not be overly punitive, yet maintain the safety of our structures would be one of the primary challenges when crafting a new property maintenance code. He stated that some options were limited due to lack of financing.

Mr. Marvin Groves stated these deteriorating structures could be dangerous and something should be done before someone gets hurt or killed. Mr. James McKechnie stated that fines could be issued to owners of buildings that endanger health, life and safety. Mr. Teague pointed to situations like the one at 713 Indiana where the building is owned by a corporation, and the corporation has no money. Mr. John Dickinson stated there had been attempts at having the building located at 713 Indiana demolished, but resources had been limited and the City had decided to focus resources in another area of the city. He stated the façade of the building was now falling down and there would likely be another push to have the structure removed.

Ms. Cynthia Laney stated that the City Council had adopted a resolution to put together a downtown steering committee in order to focus on downtown revitalization. She stated the Mayor would head up the 11 member steering committee consisting of 2 representatives of the City Council, 2 voting board members from Downtown Wichita Falls Development, 2 voting board members from the Chamber of Commerce, 2 downtown business/property owners who are not on the Downtown Wichita Falls Development board, and 2 representatives from the 4B board. The advisory board will consist of City staff from multiple departments. She stated the maintenance code and design guidelines for downtown would be some of the issues they would be addressing.

VI. Discussion and Action Item: Wichita Falls Association of Realtors (WFAR) - Sample Letter – West Floral Heights Historic District Designation

Mrs. Karen Gagné stated letters had been drafted for distribution to the Wichita Falls Association of Realtors as well as the local title companies in order to insure that everyone was aware that West Floral Heights is a registered historic district. The letters included a copy of the recorded ordinance, as well as the updated map of the area designated. She asked the commission to review the letters and provide any feedback they might like included.

Mr. Jim Johnson asked if a buyer would have legal recourse against the realtor and the title company if they failed to disclose the historic status of the neighborhood. Mrs. Gagné stated she was not exactly sure where the breakdown in the process had occurred, but historically there had been a seller's disclosure form included in a buyer's closing documents that outlined the historic status of the neighborhood. If that form was, indeed, not being included, and the historic status was not being in any other way disclosed, then the buyer would have legal recourse.

Ms. Carolyn Looney stated she had thought at the time the district was established that it would be replatted as a separate district. Mrs. Gagné explained that replatting only occurred when property lines are being altered and there was nothing in the registration process that would trigger a replat because property lines were not being changed. The process of registering the district included recording the district with the county so that when a title search is done it will appear as a registered historic district. She explained that if the historic status of the homes being sold was not appearing during a property search, it could be because the district was recorded by metes and bounds, rather than by individual lot and block. She stated the Property Administrator was looking into cost effective ways to have the district re-recorded by lot and block.

Mrs. Christy Graham made the motion to approve the letters as drafted. Mrs. Michele Derr seconded the motion. The commission voted on the motion; motion passed unanimously.

VII. Other Business:

a) Monthly report: Depot Square Historic District, West Floral Heights Historic District, Morningside Historic District

Mrs. Michele Derr stated Cajun Fest was coming up on May 14th, and the After Hours Art Walk would be on May 4th. She stated the Downtown Farmer's Market was officially opening up on their regular season schedule. The Wichita County Heritage Society is having its preservation awards banquet on May 11th at the Kemp Center for the Arts.

Mrs. Jan Phipps stated there had been discussions with Property Management regarding the possibility of acquiring 4 city owned lots on Buchanan Street and replatting them into 1 lot in order to create a community garden or pocket park. Ms. Carolyn Looney stated that 15 trees had been planted in West Floral Heights as part of the ongoing tree project.

b) Design Review—Staff Authorized—Minor Alterations/Repairs:

Mr. Matt Prouty reported on the two staff authorized minor alterations/repairs:
- 1611 Hayes – replace roof with same – Cornerstone Roofing
- 126 Pembroke – install new sprinkler system – Longo Landscape

c) HB 3418 Update, related to municipal zoning affecting places or areas of historical, cultural, or architectural importance and significance.

Mrs. Karen Gagné stated House Bill 3418, which would significantly reduce the authority of local preservation commissions and cities, was still in committee.

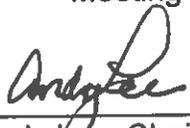
d) Articles & Periodicals: Zoning Practice, April 2017 American Planning Association, Issue Number 4: Practice Historical Preservation

VIII. New Business:

a) **Next Mtg.** – Tuesday, May 23, at 12 pm

IX. Adjourn:

Meeting adjourned at 1:25 pm



Andy Lee, Chairperson



Date