

MINUTES
CITY OF DRIPPING SPRINGS
HISTORIC PRESERVATION COMMISSION
Monday, November 3, 2014, Regular Meeting – 5:30 p.m.
City Hall, 511 Mercer Street, Dripping Springs, Texas

I. MEETING CALLED TO ORDER AND ROLL CALL

Commission:	Ted Lehr – Chair	John McIntosh-Vice Chair	Kathryn Chandler
	Kristi Graham	Charlie Haydon	John Holdridge
	Karl Seelbach		

Staff: Michelle Fischer, City Administrator
Natasha Martin, Assistant City Attorney
Keenan Smith, Exterior Design, Architectural and Land Planning Consultant

Commission Chair Ted Lehr called the meeting to order at 5:31pm. All members were present except Commissioner Karl Seelbach.

II. PRESENTATION BY CITIZENS

Floor open to discussion on any subject. No action may be taken by law. Citizens wishing to speak shall do so after being recognized by the Chair. The Chair may establish a time limit on each citizen wishing to speak.

Rex Baker – Would like us to lift the Temporary Moratorium and re-consider the properties on 290; his clients with properties on 290 are concerned about restrictions on their businesses and transactions. Consider leaving the zoning in 290 area alone.

Miles Mathews – Represents the Friends of the Pound House which pre-dates Dripping Springs by 25 years. They support the concept of the Historic Overlay District, but would like to know why the Pound House was excluded in Eugene Foster’s recommended boundaries of the historic district. Mr. Foster explained that the Pound House is too far away from the rest of the proposed district. Mr. Matthews would like the Commission to postpone any action until they work with the Pound House on inclusion.

Linda Carter – Representative and wife of land owner H. C. Carter. Says she has lived in Dripping Springs for 42 years and the Historic District Overlay is not in the best interest of their property on 290, nothing there is historical, and they do not wish to be included. This hinders the city from attracting local businesses.

Scott Daves, represents the Rippy family, Stanberry Commercial – Would like to know if their property is in the proposed Historic Overlay District. City Administrator Michelle Fischer confirmed that it is not included. Daves asks if it is subject to the Temporary Moratorium. They do not want their property included. Please leave 290 alone. This will impact property values and is a taking.

Danny Hubbard – Represents Central Garage. Does not want his property included in the Historic District Overlay because it will put restrictions on his ability to sell his property. Existing architectural guidelines/restrictions are enough. Would like to know how the Overlay

will limit their property architecturally. It limits how much and to whom he will be able to sell his property.

W.B. “Bill” Howell – He represents a client who wants to be on property in the 290 area but was told it was part of the temporary moratorium. He states that there is a differential in tax revenues for the city when the moratorium is done without consulting citizens. The City’s responsibility is to the citizens of Dripping Springs. He states that tax implications are at least 50% more in revenue without the moratorium/overlay because more and different businesses can locate here. 290 is not a historic district in his opinion.

Cody Coe – He would like clarification of the two proposed district and overlay maps.

Joanne Inscore, Short Mamas – Reminds everyone of why preserving our history is important. Both sides of this issue have good points. The size of the overlay is small so it would not obliterate the use of 290; there is a lot of room in other places on 290. Commission and City Council should be sensitive to monetary issues, but be cautious about lifting the moratorium. The area south of 290 should be preserved as well. We need to look at this in a more expansive way, rather than at individual properties.

Gay Lynn Wilson – Represents the Pound House Board. Will the Historic Preservation Commission be doing any work around the Pound House? What is the HPC’s role in that area.

III. BUSINESS

Discussion and Possible action regarding:

- A. Application for a Certificate of Appropriateness for Butterfly Gallery Signage, located at 330 Mercer Street, *Marsha and David Young*
 1. Presentation-David Young gives a presentation on the signage and shows Commissioners a rendering of it.
 2. Staff Report-Ms. Fischer states that she recommends approval of the COA.
 3. Public Hearing-no one speaks.
 4. Certificate of Appropriateness-Commissioner Haydon makes a motion to approve the COA, seconded by Commissioner Chandler. VOTE: all in favor. The motion is carried.

- B. Historic Overlay District: Ordinance No. 1220.99: An Ordinance of the City Of Dripping Springs, Amending the Zoning Ordinance, Chapter 30 of the Code Of Ordinances, Altering the Zoning Classifications of Certain Real Property in the City Limits by Creating and Applying a Historic Overlay District upon certain Historic Areas, upon request of the Historic Preservation Commission; Adding the Zoning Designation Historic Overlay (HO) to the Use Chart; Amending the Official Zoning Map to Reflect Changes of the Zoning Classification of Certain Properties; and Providing for the following: Findings of Fact, Enactment, Repealer, Severability, Codification, Effective Date, and Proper Notice & Meeting.
 1. Staff Report: City Administrator Michelle Fischer gives a timeline of the overlay and proposed historic districts. – Report on File. Commission Chair Lehr summarizes why the Overlay came into existence, and that the HPC is a

recommending body only and does not have the authority to take action on the Moratorium. City Administrator Fischer states that applicants can ask for a waiver and raise the issue with City Council. Keenan Smith, Architectural and Land Planning Consultant, discusses his and Eugene Foster's involvement, what has been done and his recommendations.

2. Public Hearing: In response to Cody Coe's question about what the maps represent, Keenan Smith reviews the maps in detail, clarifies that the types of guidelines that currently apply to the Mercer Street District would apply generally to the Historic District, however they are still being defined, and states that the overlay properties that are not in the historic district will not have to comply with the guideline for historic districts, but the overlay restricts certain land uses. In response to questions about the Pound House, Commission Chair Ted Lehr states that the City's consultants and City staff recommended that the Pound House not be included, however they City may have alternate ways to recognize the Pound House as a protected, historic property. Assistant City Attorney Natasha Martin clarifies that either the HPC or the property owner can initiate historical preservation actions but the owner has to approve landmark designation.

Commission recesses to Executive Session at 6:23pm to consult with the Assistant City Attorney on the overlay ordinance. Returned at 6:40pm

Commission continues discussion and response to questions posed during public comment. Commission Chair Ted Lehr asks Assistant City Attorney Natasha Martin to define "taking". Assistant City Attorney Martin states that the Moratorium is not a "taking" as long as the City is taking steps toward the Moratorium regulatory goal. Restriction of uses might be seen as unlawful restriction of a business such as an arbitrary situation with no basis or "finding" that gives purpose to why the Moratorium is in place. The Commission discusses how the overlay impacts 290. Commissioner Haydon asks how the overlay would benefit property owners. Commissioner Chandler states that it would have a positive impact long term to prevent big box stores from moving in and losing our unique appeal. Commission Chair Ted Lehr asks Keenan Smith and Eugene Foster to discuss property value/tax-related issues relating to the overlay. Keenan Smith says he is not prepared to discuss property value/tax-related issues. Eugene Foster states that it is established that there is a demonstrated history of stability and potential increase in property tax values where an entity is created and the owners work together to build the value/quality of the whole area. Foster states that if a property owner is on the margin of a district like this, they wonder about their future value because they can't predict what will be built outside of it, such as a McDonalds. Foster states that it has been shown that there are economic tax benefits from having a historical district, and that there is a federal program that helps property owners in historical districts to develop their property and get tax credits in return, but they have to apply to those programs. Keenan Smith lists items for consideration: a) are the use restrictions designed to protect the existing district, b) what should the geographic boundaries of the over be, c) how does it expand/retract to allow for the right uses, d) are the uses listed in the land use

matrix appropriate or not for the areas involved, and e) need to clarify which uses will apply to which areas. Commission Chair Lehr asks everyone present to review the land use chart included in the agenda, says that he believes people think the City has imposed terrible restrictions but can't really say which ones they don't like, and states that the overall desire is to ensure that certain business types are not allowed to build downtown such as trash dumps, sexually oriented businesses, and such. Commission Chair Lehr states that the City Council expanded the overlay beyond what the Commission originally recommended. Commission Chair McIntosh asks City Administrator Michelle Fischer about the current zoning of properties in the overlay. City Administrator Fischer states that the overlay area has a mixture of zoning: most of the 290 area is CS, Old Fitzhugh to the east is CS, some to the west of Fitzhugh are LR and residential. Properties still have to comply with their base zoning if in the overlay and the most restrictive zoning will apply. The Commission reviews each section of the land chart to determine if changes should be made. Rex Baker and Danny Hubbard both question why the Armed Services Recruiting Center would not be permitted. W.B. "Bill" Howell suggests the Commission meet with all property owners in the overlay to discuss changes; if you don't then it is exclusionary. City Administrator Michelle Fischer states that all property owners have been notified of these changes and have been given the opportunity express their opinions/concerns to City staff, the Commission, and City Council, and to make public comment. Commission Chair Lehr tells the public to review the land use chart and make suggestions/recommendations to staff if they so choose. Changes made to the presented land use chart by the Commission include:

Agriculture: No changes

Residential: No changes

Office: All uses that were permitted in the past will now be permitted, except check cashing is conditional.

Personal and Business Services: No changes

Transportation and Auto Services: No changes

Amusement/Recreation: No changes

Institutional/Government: No changes except the Emergency Care Clinic will be permitted

Comm. & Wholesale Trade: No changes

Light Industrial/MFG.: No changes

Commission Chair Ted Lehr asks City Administrator Michelle Fischer to review all changes, which she does. Danny Hubbard asks if you could sell a grandfathered business in the overlay area? City Administrator Fischer states that the business would have to cease operations for six months in order to lose its grandfather status.

3. Ordinance No. 1220.99

Commissioner John Holdridge motions to approve Ordinance No. 1220.99 with staff recommendations on the boundary and the changes to the use chart the Commission just made because he feels the issue has been well studied and will benefit the community.

Commission. Vice Chair John McIntosh seconds. Vote 5-1 in favor, Commissioner Charlie Haydon votes Nay because he believes the overlay is larger than it needs to be, motion passes.

- C. Creation Old Fitzhugh Road Historic District: Ordinance No. 1295.11: An Ordinance of the City of Dripping Springs, Amending Chapters 24 and 30 of the Code of Ordinances, Creating the Boundaries of the Old Fitzhugh Road Historic District Upon Determination of Additional Historic Areas; Amending the Official Zoning Map to Reflect the Creation of the Old Fitzhugh Road Historic District Boundaries; and Providing for the following: Findings of Fact, Enactment, Repealer, Severability, Codification, Effective Date, and Proper Notice & Meeting
1. Staff Report: City Administrator Michelle Fischer – Report on file. Commission Chair Ted Lehr clarifies that this is not an expansion of the Mercer Street Historic District, but an entirely separate proposed district. Keenan Smith describes how they first looked at expanding Mercer into the Old Fitzhugh area, but determined that Old Fitzhugh is its own type of district and needed to stand on its own. Commission Chair Lehr states that the restrictions that apply to Mercer may not entirely fit Old Fitzhugh, so they will be modified in the future. Lehr asks City Administrator Fischer to explain what will happen if the Commission approves this ordinance. City Administrator Fischer states that the ordinance will be presented to the Planning and Zoning Commission and then City Council for approval. City Council can approve, change or deny the ordinance. If approved, guidelines will apply to the part of the property that is visible from the public right-of-way, only the exterior of the building. Keenan Smith states that this ordinance does not affect 290, only properties in the proposed district that front onto Ranch Road 12 and Old Fitzhugh. Staff recommends approval of the ordinance as presented.
 2. Public Hearing : Ben Sorrell states that he believes making Old Fitzhugh an historic district will limit the growth and appeal of Dripping Springs, and prevent development of a potential eclectic area similar to sections of Austin, Texas. For example, Pink West, and existing business in the Old Fitzhugh area would probably not be allowed to have a pink building. City Administrator Michelle Fischer states that she has spoken to the owner of Pink West, Deborah Carter, and that Ms. Carter supports the proposed Old Fitzhugh Historic District and understands how her property will be impacted. She states that Ms. Carter said that she has no problem complying with the Historic Preservation Ordinance. She knows she will be grandfathered and allowed to keep her building pink. Marvin Lehr states that unless our zoning is updated to control the growth in old Dripping Springs, we will lose our old west character and the uniqueness of having most homes with lots of space between them, rather than close built home-site neighborhoods with recreation centers. Fabienne Bollom, owner of Rolling in Thyme and Dough restaurant, states that people stop in Dripping Springs because of its uniqueness and charm, and preservation is a good idea, but she wonders if it should be called historical. Scott Daves states that this could be fixed with architectural guidelines, that there are no historical homes on Old Fitzhugh except one or two, and asks why we can't just use our current guidelines with a few modifications rather than a full historical district with strict regulations. Commission Chair Ted Lehr asks if we could just use new architectural regulations. City Administrator Fischer states that we could but Keenan Smith feels what we have in place is adequate.

Keenan Smith states that he feels he could work within the guidelines with no problem; however it isn't just the buildings that make Old Fitzhugh unique; it is the trees, lots, etc. and there is enough reason to make a historical district in the Old Fitzhugh area. Commission Chair Lehr asks about Ms. Bollom's question about why we have to use the word "historical." Keenan Smith states that it is just one option; we are saying that there are enough historic buildings to make "historic" a good choice.

At this point, the Commission deviated from the agenda and moved to item D to hear Eugene Foster's Historic Resource Survey Update.

Commissioner Kathryn Chandler asks why the Pound House isn't included in the proposed Old Fitzhugh Historic District. Eugene Foster responds that there are too many subdivisions/properties separating the Pound House from the rest of the area. The Pound House could be included in a different type of discontinuous historic district. Commission Chair Lehr asks what the consequences would be if we included it? Eugene Foster states that locally we could do it, but it would not meet national and state standards. Keenan Smith states that the Pound House is already recognized as a federal historic site and that we could change our ordinance to make the Pound House a local landmark. Miles Mathews states that the biggest concern of the Pound House Foundation is that they are recognized as historical by federal and state, but locally have no protection so they are worried about the properties surrounding them if they are not included in the historic district and overlay. Commission Chair Lehr states that we need to find a way to protect the Pound House. City Administrator Michelle Fischer states that they can request to be designated as a landmark at a future meeting. Commission Chair Lehr recommends that the Pound House apply to be recognized as a landmark. Commissioner Haydon asks how this will protect from multi-family housing. City Administrator Fischer states that the area zoned CS, LR and Residential where apartments are not allowed, such as on the east side. The City does not allow more than 40 feet in building height, so that eliminates three story apartment buildings. Keenan Smith points out that the way it stands now, aesthetic guidelines that exist apply to commercial properties only; making it a historic district would make it restrictive. Commissioner Holdridge asks for confirmation that the Pound House will not be included. Commission Chair Lehr confirms that it will not be included, but the Commission wants to be very clear that the Pound House is very important to the Commission and the City, so we need to work with them to get recognized as a landmark on a future agenda. Commission Vice Chair McIntosh states that he isn't sure historic district regulations will really work in the Old Fitzhugh area. Commissioner Holdridge states that, as an example, the San Antonio Missions are 30 miles apart but part of the same system, and that the Pound House could be included here in the same way with other farmsteads. Commissioner Haydon states that the Pound House could be a landmark, or grouped with other noncontiguous properties like the Elsner Place. Keenan Smith states that keeping the Mercer and Old Fitzhugh Historic Districts separate allows for us to treat them individually with their own unique guidelines. Commissioner Haydon says we can be more lenient as far as restrictions go with Old Fitzhugh. Commission Chair Lehr agrees that making Old Fitzhugh its own district allows them to be more flexible with that area.

3. Ordinance No: 1295.11

Commissioner Kristi Graham motions to approve with staff recommendations.
Commissioner Charlie Haydon seconds. Vote 5-1 in favor, Commission Vice Chair John McIntosh votes Nay, motion passes.

D. Historic Resource Survey Update, *Eugene Foster, Principal, Roark-Foster Consulting, LLC*

Mr. Foster presents his survey update and recommendations regarding the proposed Old Fitzhugh Road and Hays Street historic districts. Report on file; No action taken.

E. Public Hearing on Creation of Hays Street Historic District

1. Staff Report – Report on file. Commission Chair Lehr asks what actions are being recommended. City Administrator Michelle Fischer states that no action is required, however the Commission may want to initiate the designation process and an ordinance for this. If initiated, the City will do public notifications and hold hearings. Commissioner Haydon asks if this includes properties north of 290. City Administrator Fischer replies No. Commissioner Haydon asks if the properties are not included in the historic district but in the overlay, they wouldn't have the more strict regulations. City Administrator Fischer replies Yes.
2. Public Hearing – Ben Sorrell states that he doesn't want the restrictions on the proposed Hays Street District and that historic district regulations may be too strict.

Commission Chair Ted Lehr states that they do not have to take action on this yet and they would like an ordinance they can vote on at the next meeting.

Commission Chair Ted Lehr motions to initiate the creation of the Hays Street Historic District and for City staff to prepare an ordinance for review at the next possible Historic Preservation Commission meeting. Commissioner Kathryn Chandler seconds. Vote 5-1 in favor, Commissioner Charlie Haydon votes Nay, motion passes.

F. Mercer Street Improvement Project Phase 2 – Report on file.

1. Giving Tree
2. Pedestrian Enhancements & Landscaping
3. Cost Estimates
4. Fundraising
5. Special Events
6. Publicity

G. Potential use of Boardbook for Commission meeting agendas and packet materials

Commission agrees to start using Boardbook for agenda preparation.

IV. ANNOUNCEMENTS

- A. Regular City Council Meeting, Nov. 11, 2014, 5:30 p.m.
- B. Regular Planning & Zoning Commission Meeting, Nov. 18, 2014, 7:00 p.m.
- C. Regular Historic Preservation Commission Meeting, Dec. 1, 2014, 5:30 p.m.

V. ADJOURN

Commissioner Kathryn Chandler motions to adjourn. Commission Vice Chair John McIntosh seconds. Vote 6-0 in favor, motion passes. Meeting adjourns at 8:50pm.