
**MINUTES
LANDMARK COMMISSION**

January 27, 2015

MEMBERS PRESENT:

Stacie Flood, Chairperson
Andy Lee
Cindy Cotton
Michele Derr
Cindy Ramirez
Andy Lee
Michael Koen
Kevin Bazner

■ Members
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Karen Montgomery-Gagné, Planning Administrator
Loren Shapiro, Planner III
Leo Mantey, Planner I
Peter Scott, Assistant City Attorney II
Bobby Teague, Building & Code Administrator/Assist. Com. Dev't Dir.
Rita Miller, Code Enforcement & Housing Administrator
Kristina Close Hoover, Code Enforcement Officer

■ Staff
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Ann Clarkson

■ Guest

ABSENT:

Jackie Lebow
Johnny Combs
Councilor Michael Smith

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■ Council Liaison

I. Call to Order, Introductions and Swearing In New Commission Members

Chairperson Flood called the meeting to order at 12:08 p.m. and introduced members of the Commission. The Commission welcomed the guest attending - Ms Ann Clarkson, representative from the proposed West Brook Village historic district. Ms Gagné informed the Commission that City Council has appointed two new members to serve on the Landmark Commission. They are: Ms Cindy Ramirez, one of the architectural representatives, and Mr. Johnny Combs, the Planning and Zoning Commission (P&Z) representative.

Ms Flood asked Ms Gagné to continue with the swearing in of new members. She said Mr. Combs had a conflict and could not attend the meeting. Ms Gagné administered the oath of office for Ms Ramirez by guiding her to recite and sign her oath.

II. Election of Landmark Commission Chairperson & Vice Chairperson for 2015

Ms Gagné stated the historic preservation ordinance stipulates the Commission will elect a new chairperson and vice chairperson annually. She gave a copy of the Landmark Commission roster to members of the Commission. It contained contact information on all

members, along with appointment dates and term limits. Ms Gagné opened the floor for nomination of a member for the chairperson position.

Mr. Koen introduced a motion to nominate Mr. Lee for chairperson. Mr. Bazner seconded the nomination. Mr. Lee declined stating he had lots of responsibilities on other boards. Mr. Koen rescinded his motion. Ms Derr made a motion to retain Chairperson Flood. Ms Cotton seconded the nomination. Nominations for chairperson were closed and, Ms Flood was appointed chairperson for 2015 with a unanimous vote.

Ms Gagné also opened the floor for nominations for a vice chairperson position. Mr. Koen introduced a motion to nominate Mr. Lee for vice chairperson. The motion was seconded by Ms Cotton. Nominations for vice chairperson were closed and Mr. Lee was appointed vice chairperson for 2015 with a unanimous vote.

III. Review & Approval of Minutes from December 16, 2014

Chairperson Flood called for review and approval of minutes from the December 16, 2014 Landmark Commission meeting. Ms Derr made a motion to approve the minutes from the December 16, 2014 Landmark Commission meeting. Mr. Koen seconded. The Commission voted on the motion; motion passed unanimously

IV. Application for Design Review – 1314 Buchanan – Request to Demolish Accessory Building

Staff presented the Commission with architectural drawings and photos provided by the applicant. Mr. Mantey informed the Commission that the design review application is a request to demolish an accessory structure at 1314 Buchanan. The applicants are Mr. Scott Potter and Henry Hernandez. He stated the primary house at 1314 Buchanan is in very good shape and was even presented a preservation award. However the accessory structure in the rear is in a bad shape and very visible from Avenue E. Mr. Mantey stated that, as shown in the pictures provided, the roof of the building is deteriorated, the supporting walls looks to be falling apart. He said the applicants informed staff they do not have the funds to renovate the building at the moment. They also informed staff they had issues with Code Enforcement division in the past and feel the best way to avoid future problems with the City is to demolish the building. Mr. Mantey called on staff from code enforcement to give a brief history on the case and the reason for recommending demolition.

Ms Hoover from code enforcement informed the Commission that the accessory structure at 1314 Buchanan is in a bad shape and poses a life, health and safety threat to residents and the community. She said there are holes in the roof and need repair both internally and externally. She said code enforcement initially recommended repair of the building but the applicants wanted to demolish.

Ms Cotton stated the accessory structure is in a bad condition and poses a safety threat. She also informed the Commission that the main house was presented with a Phoenix Award by the Wichita County Heritage Society for preserving the house. Chairperson Flood said it was disappointing for the owners to preserve the main house and leave the accessory structure in a deplorable state. Ms Cotton stated the owners did an awesome job with the restoration of the main house but she understands if the applicants claim they do not have enough funds for renovating the accessory structure. Ms Miller, Code Enforcement and Housing Administrator, stated initially code enforcement recommended

they renovate the building but the owners didn't do anything about it. Ms Cotton said she drives by the area most of the time and the sight of the building from the street is not pleasant.

Chairperson Flood asked if the property was purchased in the same deplorable condition. Ms Cotton answered in the affirmative stating the previous owner sold it for a dollar (\$1) as she was afraid the City might issue a citation and force her to demolish it. Mr. Koen asked if demolitions were prohibited in the West Floral Heights historic district; Ms Cotton replied saying no, and feels that will be the best option for the building, considering the fact that the owners do not have the funds to renovate it. Chairperson Flood stated she was afraid allowing a demolition might set a precedent for future demolition requests in the neighborhood. She said residents would allow their properties to go into a state of disrepair instead of renovating it, knowing there is an option for demolition. Ms Cotton answered saying there have been previous demolitions in the district in order to rebuild, but most people are first encouraged to renovate their properties.

Mr. Koen informed the Commission that, he would have objected to the request if the building in question was the primary structure. However in this case he has no objection to demolishing the accessory building. Ms Gagné informed the Commission the applicant would have to be informed that, if the Landmark Commission approves the demolition of the accessory building, that accessory structure will lose its grandfather status for setbacks when demolished. Mr. Bazner asked if the property owners were aware of that provision in the ordinance. Mr. Mantey answered saying he hasn't had the opportunity to explain it to them. He said the applicants informed staff they do not have plans of rebuilding the accessory structure anytime in the future. Mr. Bazner stated he prefers a letter be sent to them explaining the loss of grandfather status on setbacks should the building be demolished.

Mr. Koen made a motion to approve the demolition of the rear accessory structure, with the condition that the applicant is made aware of the grandfather status clause and that future rebuilding would have to comply with all City setbacks and development regulations. Mr. Bazner seconded. Ms Ramirez asked if there are any existing drawings or designs that can be used for reference should they decide to rebuild the accessory structure in the future. Mr. Mantey replied saying staff do not have any of such documents on file for the property. In the absence of any further discussion, the Commission voted on the motion; the motion was unanimously approved.

V. Application for Design Review – 701 Ohio – Request to Establish an Outdoor Food Court

Staff presented the Commission with architectural drawings and photos provided by the applicant. Mr. Mantey informed the Commission that the design review application is a request to establish an outdoor food court at 701 Ohio Street in the Depot Square historic district. The applicant is Mr. Martin Groves. Mr. Mantey explained that City Council has approved an ordinance to allow for the establishment of outdoor food courts within the city limits. This project is the first of its kind since the ordinance was adopted. He said the food court would be established at 701 Ohio Street in the empty construction yard adjacent to Gidget's restaurant. The project will change the empty construction yard that has storage containers, semi-trailers and construction materials into a food truck yard that will bring citizens to an outside venue for different foods and also serve as an entertainment venue. Mr. Mantey stated the project will change the conex tri storage container into a bar serving

area with a patio on the roof; as well as another conex into a covered seating area. He said the applicant informed staff that sample food courts of such nature are "Chicken Scratch" and "The Foundry" all located in Dallas Texas.

Mr. Mantey called on Mr. Loren Shapiro, who worked on the outdoor food court ordinance, to provide the Commission with any additional information pertaining to the project. Mr. Shapiro informed the Commission that, the applicant proposes to provide restrooms on site and will keep the metal fence on the south side of the property along Ohio Street. He said as shown on the site plan provided, the project would be basically a seating area with a bar, that will accommodate a number of food trucks. Ms Cotton asked how many food trucks will be on site. Mr. Shapiro answered saying that information had not been provided yet. Mr. Lee informed Commission members the site can accommodate about eight (8) trucks. He said the applicant was able to locate the 6" water and sewer lines for the property in the La Salle alley. Mr. Koen asked if the applicant proposes to establish permanent restrooms. Ms Derr answered in the affirmative and stated it is shown on the site plan. Ms Gagné stated that the applicant provided pictures of similar food court styles in Dallas that he intends to emulate for his site. She said the pictures are included in the meeting packet. She stated the food court would have an eclectic, rustic look. She said the applicant also provided sample pictures of the proposed signage.

Mr. Koen asked if the project has already been approved by City Council. If that is the case, can the Landmark decide otherwise? Ms Gagné answered that City Council approved the ordinance to allow and regulate outdoor food courts but not the specific project proposed for 701 Ohio. Mr. Bazner stated that we need such a project in the downtown area but it is also critical that such projects are developed in accordance with the design guidelines. He said the proposed corrugated steel building materials will not be a perfect fit as stipulated in the design guidelines. Ms Ramirez stated she had some issues with the building materials, she believes the development can be done in a tasteful manner. She said the applicant needs to provide more detailed drawings to give more information on the proposed project. Chairperson Flood agreed and stated she believes more information needs to be provided especially since the applicant was not present at the meeting. She asked if it was possible to table the request. Mr. Koen stated the project should have a curb appeal design to make the site conducive and attractive to the neighborhood. He stated there should be some elements of screening to make the site compatible with the neighborhood.

Mr. Lee stated it is relevant to note that the property in question is non-contributing in the Depot Square district. It has been vacant for some years and has no historic significance. He stated the location of a food court in that location is very ideal. He said it will serve as a market source for the farmers market which is a block away. He also stated that in general food courts have contributed positively to lots of cities in Texas and the United States. He therefore believes Mr. Groves' proposal will be a thriving project that will lead to other development in the downtown. Mr. Scott, legal staff, informed the Commission that it would be better to reject the application than to table it. He said tabling it may imply submitting the same agenda item and documents for the next meeting. Legal stated it would be more appropriate to deny it and allow the applicant to reapply.

Mr. Bazner made a motion to deny the application. Mr. Lee stated that he did not like the negative connotation associated with denying the application for a food court in the downtown area. He believes a negative connotation might discourage future development proposals for the downtown. Chairperson Flood suggested a motion to table the application

because it does not have enough details. Mr. Bazner stated everybody would like to see the project become a reality but feel more information needs to be provided.

Mr. Bazner made a motion to deny the application due to lack of specific information. Mr. Koen seconded. In the absence of any further discussion, the Commission voted on the motion; the motion was unanimously approved.

VI. Review, Discussion & Recommendation to Consider Revising the Text in the *Landmark & Historic Districts Procedural Manual* (Section 3 – Application Procedures – Residential Historic District)

Ms Gagné requested members refer to the staff research memo included in the meeting packet. She discussed the memo and gave a brief history on the case, and outlined staff's recommendation and justification. Staff explained this item was discussed thoroughly at their December 2014 meeting included a directive motion to staff. However, the agenda item posted for the meeting did not specifically address historic district nomination procedures as an action item. Staff verified with the city attorney that the Commission's action was not legal and would need to be readdressed at this meeting. Key items addressed were the following:

Background and Research

Significant research, collaboration and work were conducted in 2002/2003 to address the nomination of historic districts and to revise the City's historic preservation ordinance. The City's existing nomination procedures focused on nomination of individual property (landmarks) and lacked sufficient detail to adequately address creation of historic districts. This was realized when the Southland neighborhood group submitted minimal paperwork nominating 600-properties for designation from Brook-Harrison and Huff to Kell without verification of property owner interest.

City Council appointed a preservation subcommittee to work with the Landmark Commission, city manager, city attorney and planning staff to address any outstanding preservation issues including development of historic district nomination procedures. Council also passed a 180-day moratorium on the acceptance of any applications for landmark district designation until the preservation subcommittee and staff was able to thoroughly address all preservation issues.

Staff researched 21 municipalities across the state to address four key items:

- 1) CLG designation – yes/no;
- 2) preservation classification – traditional or overlay zoning;
- 3) minimum percentage of commitment or owner participation required for nomination; and
- 4) procedures to allow for property owner opt-out or opt-in.

By September 2003 a consensus was reached on revisions to the historic preservation ordinance and new procedures for nominating a historic district. Originally the Landmark Commission had recommended a minimum commitment level of 67% of property owners' written consent in order to nominate a district and then agreed to consider 75% with no opt-out clause. In the end, Council established the requirement for a minimum commitment of 75% of property owners' consent but with an opt-out clause.

Staff updated the 2003 research and contacted all 21 communities to verify their nomination procedures. The following were staff's initial observations:

- 18 communities had CLG designation;
- 16 cities (76%) still utilize the same preservation policies/standards as in 2003;
- 11 communities utilized historic overlay zoning to create districts;
- 8 cities require a petition with majority (over 51%) property owner signature/consent;
- 6 cities do not require a minimum owner percentage – all cities with overlay zoning;
- 5 cities offer some form of 'opt-out' clause – owner's written objection to district

Focused on 6 cities based on owner commitment and opt-out provisions being similar to Wichita Falls – Bryan, Dallas, Houston, San Marcos, Tyler and Waxahachie.

Tyler and Waxahachie updated their policies to be more stringent and now require approval from 75% and 80% (respectively) of the property owners in an area proposed for historic district designation. In 2003 these communities had either not previously had a minimum percentage or required 51% or more. Bryan opted to reduce their requirements from 75% to 60% but offered no opt-out provision. San Marcos opted not to set a minimum but expect really strong participation from almost all owners. Dallas is considering raising minimum commitment to 75% but offer no opt-out provision. Houston still requires 67% owner approval but allows community development director the option to modify boundaries to achieve that requirement. Overall, staff found the requirements vary across the state and are based on local circumstances and realities unique to each community.

Staff Recommendation

Based on the experiences of working with the West Floral Heights Historic District group in the 10 years since designation, it is staff's opinion the minimum 75% property owner commitment/approval to nominate a historic district is logical for Wichita Falls and needs to remain in place. In addition, the 'no-response' category results in too many unknowns regarding owners' opinion – recommend it remain classified as opposed.

Staff outlined the following reasons for their recommendation to maintain the existing district nomination criteria:

- Balance important between preservation & daily function of property;
- Regularly receive complaints/concerns regarding designated district(s) even with current 75% owner interest requirement;
- Many owners in West Floral Heights do not recall agreeing to nominate/create the district and now want to be removed;
- Reduced owner commitment may result in higher volume of complaints, particularly from non-resident owners;
- Difficult to administer basic design standards with lower interest level;
- Owners not interested in designation may request opt-out provision;
- Direct impact on property - determination by owner not a staff or commission interpretation regarding interest level.

After Ms Gagné's presentation, Mr. Koen stated that it looks like the City of Wichita Falls' regulations are more restrictive because most of the comparison cities have less percentage requirements. Ms Gagné said staff is concerned about City Council's stand on the request because they considered all the cities mentioned prior to setting the city's requirement at 75%. Chairperson Flood referred members to a news article in the meeting book about a citizen and her issues with being in the historic district in Austin and not wanting the designation. She said the problem that arose in that situation could also

happen in Wichita Falls and so the Commission should thoroughly deliberate on the issue before making a recommendation. Ms Cotton, West Floral Heights representative, stated most home buyers are usually not informed their properties are located in the historic district and therefore becomes problematic when the owners find out after closing or purchase. She said properties/owners that did not approve to be in the historic district automatically become part of the district when the house is sold or transferred to a different owner. Mr. Lee stated that he had issues with the 75% requirement and felt it is a little high compared with the comparable cities. He said the high percentage will limit the promotion of history of Wichita Falls. Mr. Koen seconded that and said he felt the high percentage is hindering progress in the creation of historic districts in the city.

Mr. Scott informed the Commission that their role is to make a recommendation to City Council. It is up to City Council to either agree or disagree with the Commission's recommendation - Council will make the final determination. Ms Cotton informed the Commission she supports the reduction of the 75% requirement based on past experiences and challenges they faced during the creation of the West Floral Heights historic district.

Ms Gagné called on Mr. Mantey to give a brief presentation on the alternative scenarios for the creation of the West Brook historic district. Mr. Mantey presented the commission with three mapping scenarios. Mr. Mantey stated that staff believes it would be better to reduce the size of the area in the initial stages and allow for expansion if other blocks in the neighborhood want to join. He said looking at the cropped out areas in all three scenarios, it will be easier to obtain the 75% required by the ordinance. He also said other cities such as Houston delegate the Planning Department to reduce the size of an area if the required response rate is not achieved. Mr. Mantey stated staff still recommends reducing the size of the area, retaining the 75%, and allow for the historic district expansion in the future.

Ms Cotton asked if the clause that allows for the property owners that do not respond in favor to have their houses automatically included in the district should they sell or change ownership. Ms Gagné replied in the affirmative and said that is a standard policy for the 'opt-out' clause properties that upon sale it reverts to being in the district, unless City Council decides to change it. Chairperson Flood informed the Commission she also played with the numbers as shown on the response map provided and believes the reduction of the size of the area will help the district attain the 75% approval rate. Ms Clarkson stated they are seeking a reduction because most of the houses in the neighborhood are occupied by renters and therefore makes it difficult to get approvals from the actual owners. Mr. Mantey replied saying based on research, it seems like the proposed area or size of the historic district looks bigger than most historic neighborhoods within the State of Texas that is why staff recommends the reduction in the size of the area.

Mr. Koen made a motion to recommend City Council consider reducing the minimum owner approval rate from 75% to 65% for nominating a historic district. Mr. Lee seconded. In the absence of any further discussion, the Commission voted on the motion; six members present voted in favor, Chairperson Flood voted opposed; the motion passed. Mr. Scott informed the Commission that the ultimate decision lies with City Council but they will take into consideration the recommendation of the Landmark Commission.

VII. Update THC Annual CLG Report – due February 28, 2015

Ms Gagné informed the Commission, staff is in the process of commencing work on the annual report for THC. She said the deadline was pushed back to the end of February, due

to the absence of a Certified Local Government (CLG) coordinator. She stated the report is completed through an online survey, and it involves a basic update of design reviews, administrative reviews and general activities of historic preservation in the past year.

VIII. Other Business:

a) Monthly Report – Depot Square & West Floral Heights Historic Districts

Ms Derr indicated the Ohio/8th Street intersection is a mess due to ongoing projects downtown but it's going to be pretty when the projects are completed. She is excited about it and looking forward to the completion of the utility/intersection improvements.

Ms Cotton informed the Commission everything looks good in the neighborhood. She said the previously approved ramp project in the district was well done by Atmos.

b) 2015 Commission Roster

c) Design Review – Staff Authorized – Minor Alteration/Repairs:

- 1713 Buchanan – electrical service reconnection – falling tree

Articles & Periodicals - 1) Preservation – winter 2015

2) TRN – Jan. 4/15 “Still Standing” article – Austin

IX. New Business:

Ms Gagné informed the Commission staff had a discussion with a home owner whose house is located in the Morningside historic district. She said the owner has been trying to find replacement tile for their home which has proved futile. They are therefore planning a different type of material for the roof replacement. She said they are considering a hail resistant composition roof. The roofing company contacted staff hoping planning could administratively authorize; however staff informed them, they would have to submit an application to the Landmark Commission. Ms Gagné indicated staff proposes to include the case on next month's agenda. Ms Cotton stated she has been to the area and agrees the roof is in a bad shape. Members of the Commission agreed it should be presented at next month's meeting on February 24, 2015. Ms Gagné stated she will contact the contractor and owner and work with them to submit their application.

Next Mtg. – February 24, 2015 - 12pm

X. Adjourn

Meeting adjourned at 1:16 pm

Stacie Flood
Stacie Flood, Chairperson

March 3, 2015
Date