

ORDINANCE NO. 2007-10-23

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING CITY OF PLANO ORDINANCE NOS. 98-2-26, AND 98-8-35, CODIFIED AS ARTICLE VI, HISTORIC LANDMARK PRESERVATION, OF CHAPTER 16 OF THE CODE OF ORDINANCES OF THE CITY OF PLANO; AND ADOPTING NEW AND AMENDED PROVISIONS FOR HERITAGE RESOURCE PRESERVATION FOR THE CITY; PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, by Ordinance Nos. 79-12-13, 81-12-10, Subsection (d) of Section II of Ordinance No. 83-10-10, and Ordinance No. 88-10-12, the City Council of the City of Plano established provisions for historic landmark preservation for the City of Plano for the purpose of protecting and preserving places and areas of historical and cultural importance to the City of Plano, and such Ordinances were collectively codified as Article VI, Historic Landmark Preservation, of Chapter 16 of the Code of Ordinances of the City of Plano; and

WHEREAS, by Ordinance No. 98-2-26, the above ordinances were subsequently repealed and replaced by the City Council of the City of Plano on February 23, 1998, and

WHEREAS, Ordinance No. 98-8-35 creating Section 16.301 and amending Sections 16-112 and 16-116 of Ordinance No. 98-8-35 was adopted by the City Council of the City of Plano on August 24, 1998; and

WHEREAS, upon the recommendation of the Heritage Commission, the City Council now finds that it is necessary to adopt updated provisions for heritage resource preservation within the City of Plano and that such provisions are in the best interest of the city and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinance No. 98-2-26, duly passed and approved by the City Council of the City of Plano, Texas, on February 23, 1998, and Ordinance No.98-8-35, duly passed and approved by the City Council of the City of Plano, Texas, on August 24, 1998, are each hereby repealed in their entirety.

Section II. Article VI, Historic Landmark Preservation, of Chapter 16 of the Code of Ordinances of the City of Plano is hereby revised to read in its entirety as follows:

ARTICLE VI. HERITAGE RESOURCE PRESERVATION

Sec. 16-101. Purpose.

The City Council of the City of Plano hereby finds and declares as a matter of public policy that the preservation of the city's heritage, including the recognition and protection of historic landmarks and icons, promotion of the historic culture, enhancement of the public's knowledge of the city's historical past, and development of civic pride in the beauty and noble accomplishments in the past, is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the people. The purposes of this article are to:

- (1) Safeguard the city's history and culture by promoting the value and importance reflected in recognizing founders of the city, establishing historic landmarks teaching the evolution of the area and fostering general heritage preservation;
- (2) Protect, enhance, and perpetuate historic resources which represent or reflect distinctive and important elements of the city's cultural, social, economic, political, archaeological and architectural history;
- (3) Promote the city's heritage by educating and attracting tourists and visitors while providing incidental support and stimulus to business and industry;
- (4) Promote the city's heritage by encouraging the use of historic resources;
- (5) Increase historical awareness, including educating the youth of the city, in order to strengthen the culture, prosperity and welfare of local citizens and visitors to the city; and
- (6) Provide input and advice to the City Council regarding matters of heritage preservation.

Sec. 16-102. Prohibited acts, penalty for violation, enforcement, appeals.

- (a) It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, or maintain any heritage resource in violation of the provisions of this article. In addition to other remedies, the city may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing, or maintenance, to restrain, correct or abate such violation.
- (b) Any person, firm, or corporation violating any of the provisions or terms of this ordinance shall, upon conviction thereof, be fined a sum not exceeding two thousand dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

(c) All work performed pursuant to a certificate of appropriateness issued under this article shall conform to all its requirements. It shall be the duty of the Heritage Preservation Officer to inspect periodically to assure such compliance.

(d) The decision of the Heritage Commission to approve or deny a Preliminary Certificate of Appropriateness, Certificate of Appropriateness, demolition, or demolition delay shall be final and binding unless an appeal of the decision is made to the City Council. The applicant, the Director of Planning, or two members of the City Council may appeal the decision of the Commission with regard to said items by filing a Notice of Appeal in the office of the Director of Planning, no later than ten (10) days after the date on which the Commission notifies the applicant of its decision. Such notification may take place by means of an oral ruling by the Commission at a public meeting. Written notice of any appeal shall be sent to the property owner. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than 45 days after the date on which the Notice of Appeal is filed. The City Council may affirm, modify, or reverse the decision of the Commission and may, where appropriate, remand the item to the Commission for further proceedings consistent with City Council's decision.

Sec. 16-103. Definitions.

Archeology means the science or study of the material remains of past life or activities and physical site, location or context in which they are found, as delineated in the Department of the Interior's Archaeological Resources Protection Act of 1979.

Area means a specific geographic division in the City of Plano.

Building means any structure created to shelter people or things, such as a house, barn, church, hotel or similar structure.

Certificate of appropriateness means a signed and dated document evidencing the approval of the Heritage Commission and/or Heritage Preservation Officer for work proposed by an owner or applicant.

Citizen means a legal resident of the City of Plano.

Contributing Resources means a property located within a designated heritage resource district (overlay) that is typical of the district, is an integral part of the historic and/or architectural fabric of the district, and retains a significant portion of its architectural or design integrity. A structure built outside of the district's period of significance may be deemed by the Heritage Commission as contributing if it is compatible with existing architecture and contributes to the overall architectural fabric of the district.

Demolition delay means suspension by the City of Plano of an application for removal or demolition of a structure for a period not to exceed 240 days invoked to allow the Commission to pursue a salvage plan for the structure.

Demolition means an act or process (not withstanding acts of God, criminal activity, etc.) which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

Design guidelines means guidelines which are adopted by the Heritage Commission for property designated as a heritage resource or heritage resource district to protect, perpetuate and enhance the historical, cultural, architectural or archeological character of an object, site or structure.

Development review means processing of proposed development requests and zoning ordinance amendments.

District means a geographically definable area, urban or rural, possessing a significant concentration, linkage or continuity of objects, sites or structures united by past events or aesthetically by plan or physical development.

Heritage Commission or commission means the Heritage Commission of the City of Plano, established in accordance with section 16-107 of the Code of the City of Plano.

Heritage Preservation Officer (HPO) means a staff person for the City of Plano whose duties encompass all heritage preservation activities for the city as established in accordance with section 16-109 of the Code of the City of Plano.

Heritage resource preservation plan or preservation plan means a document established by the Heritage Commission and adopted by the City Council to provide a current inventory of heritage resources and policy recommendations to guide heritage preservation activities for the City of Plano.

Heritage preservation means the identification, evaluation, recordation, documentation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of historic structures or property, or any combination of the foregoing activities.

Heritage property means full range of properties identified in the heritage resource survey and/or special studies which are significant in history, pre-history, architecture, engineering, archeology and culture, including properties significant to the whole nation or those significant at the state, regional or local level.

Heritage resource means a structure, site or landmark which satisfies one (1) or more of the criteria set out in section 16-105 and which is designated as such in accordance with that section.

Heritage resource district means an area which includes two (2) or more structures or sites which satisfy one (1) or more of the criteria set out in section 16-105, together with their accessory buildings, fences and other appurtenances, and which is designated as such in accordance with that section. A heritage resource district may have within its boundaries other structures that, while not of such historical, cultural, architectural or archeological significance as to be designated as a heritage resource nevertheless contribute to the overall visual setting of or characteristics of the district.

Heritage resource survey means the survey of heritage resources published by the Heritage Commission, as amended from time to time.

Individually Designated Resources means an individual property designated under the criteria of this ordinance by a single designating ordinance and assigned the "H" zoning prefix and a number in the zoning atlas. It may consist only of a single property (not a district overlay), but may be located within a separately designated historic district.

Landmark means a structure or property which is of value in preserving the historical, cultural, architectural or archeological heritage, or an outstanding example of design or a site closely related to an important personage, act or event in history.

Minor in-kind repairs means small scale repairs to correct minor problems or damage to the exterior. Minor in-kind repairs do not include a change in design, material or outward appearance, only in-kind replacement or repair. Examples of minor in-kind repair include, but are not limited to: touch up painting, replacement of a window pane, caulking, securing loose boards, etc.

Pending designation means a structure or site for which a notice of nomination for designation as heritage resource or demolition delay, or for inclusion in a heritage resource district, has been mailed by the Heritage Preservation Officer or his/her designee by certified mail, return receipt requested, to the owner or owners.

Preliminary Certificate of Appropriateness means a signed and dated document evidencing the preliminary design concept approval of the Heritage Commission and/or Heritage Preservation Officer for work proposed by an owner or applicant. This is not a final approval (Certificate of Appropriateness).

Reasonable rate of return means a reasonable profit or capital appreciation which may accrue from the use or ownership of a structure or property as the result of an investment or labor.

Reconstruction means the act or process of reassembling, reproducing, or replacing by new construction, the form, detail and appearance of a structure or property and its setting as it appeared at a particular period of time by means of

the removal of later work, the replacement of missing earlier work or the use of original materials.

Rehabilitation means the act or process of returning a structure or property to a state of utility through repair, remodeling or alteration that makes possible an efficient contemporary use while preserving those portions or features of the structure or property which are significant to its historical, cultural, architectural or archeological values.

Relocation means any change of the location of a structure, object or material thing in its present setting to another setting.

Resource means a source or collection of objects, sites, structures, or property which exemplifies the cultural, social, economic, political, archeological or architectural history of the nation, state or city.

Restoration means the act or process of accurately recovering the form and details of a structure or property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Routine maintenance means any work, the purpose and effect of which is to correct any deterioration or decay of or damage to a structure or property, or any part thereof, and to restore the same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same materials or those materials available which are as close as possible to the original and all of which must comply with applicable codes and ordinances. Routine maintenance does not include a change in design, material or outward appearance, but does include in-kind replacement or repair. Examples of routine maintenance include, but are not limited to: repainting (in previously approved palette), replacement of roofing materials or other minor architectural features, etc.

Secretary of the Interior's Standards for Rehabilitation means the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, reported at 36 Code of Federal Regulations 67.7, or as recodified.

Site means the location of a significant event, a prehistoric or historic occupation or activity, or a structure or cluster of structures, whether standing, ruined or vanished, where the location itself maintains historical or archeological value, regardless of the value of any existing structure.

Stabilization means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated structure or property while maintaining the essential form as it presently exists.

Structure means anything constructed or erected which requires location on the ground, or is attached to something having a location on the ground, including, without limitation, buildings.

Sec. 16-103.1. Pre-designation of heritage resource.

An existing building or structure for which an application for designation has been filed by the property owner and approved by the Heritage Preservation Officer using the criteria found in section 16-105 shall be subject to the same benefits (other than tax exemptions or abatements) and conditions as apply to designated heritage resources under this article.

Once an application for designation has been filed and approved by the Heritage Preservation Officer, it cannot be withdrawn without the consent of the Heritage Commission after notice and public hearing.

Sec. 16-104. Designation of heritage resource -- Generally.

The City Council may designate certain buildings, land, areas, sites, and districts in the city as heritage landmarks and/or resources and define, amend and delineate the boundaries thereof. The suffix "H", as established in section 4-400 of the comprehensive zoning ordinance, shall indicate the zoning district designation of those buildings, land, areas, sites, and districts which the City Council has designated as heritage resources. Such designation shall be in addition to any other zoning district designation established in the comprehensive zoning ordinance. All zoning district maps shall reflect the designation of a heritage landmark and/or resource district by the letter "H" as a suffix. Listed structures should typically remain on the original construction site. In the event that a listed structure is moved, the commission shall determine if the structure can be designated. The commission shall adopt guidelines for making such a determination.

Sec. 16-105. Designation of Heritage Resource -- Criteria.

As set forth in section 4-400 of the comprehensive zoning ordinance, the city council shall consider one (1) or more of the following criteria when making a heritage resource designation:

- (1) Character, interest or value as a part of the development, heritage or cultural characteristics of the city, the state or the United States;
- (2) Location as the site of a significant historic event;
- (3) Identification with a person who significantly contributed to the culture and development of the city;
- (4) Exemplification of the cultural, economic, social, or historical heritage of the city;

- (5) Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
- (6) Embodiment of distinguishing characteristics of an architectural type or specimen;
- (7) Identification as the work of an architect or master builder whose individual work has influenced the development of the city;
- (8) Embodiment of elements of architectural design, detail, materials, or craftsmanship;
- (9) Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif;
- (10) Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city;
- (11) Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest;
- (12) Value as an aspect of community sentiment or public pride; and
- (13) Input from affected property owners.

Sec. 16-106. Designation of Heritage Resource -- Removal.

The designation of a heritage resource district may be amended or removed using the same procedure as provided in this article for the original designation. Application for removal of the heritage resource, heritage resource district or demolition delay designation shall be submitted to the Heritage Preservation Officer. Application may be made by the property owner or his authorized representative, the Planning & Zoning Commission, or the City Council. The same procedure that is followed in designation of such categories shall apply to removal of the designation, including approval by the Heritage Commission, the Planning & Zoning Commission, and the City Council. In the case of owner initiated applications, all owners of an individual site or structure must sign the application for removal.

Sec. 16-107. Heritage Commission -- Organization.

- (a) *Creation; membership; terms; officers.* There is hereby created a commission to be known as the Heritage Commission of the city, referred to as the "commission" in this article, composed of seven (7) members appointed by the City Council. The seven (7) members shall be appointed from the citizens at large, and, if possible, consideration should be given to historic property owners. All members shall have knowledge and experience in the field of history, art, or architecture of the city. The members shall serve for staggered terms of two (2)

years ending on October 31. Vacancies shall be filled by appointment for the unexpired term only. The commission members shall serve without compensation for their service. The City Council shall appoint the chairperson of the commission. The commission shall designate a vice-chairperson from the appointed members.

(b) *Meetings; quorum; voting; minutes.* The commission shall meet at least once each month, with additional meetings upon call by the commission chairperson or upon petition of a simple majority of commission members. Four (4) members present shall constitute a quorum, and issues shall be decided by a simple majority vote of the members present. The minutes of each meeting shall be filed in the planning department.

All meetings of the Heritage Commission are open to the public (with the exception of Executive Sessions as allowed by the Texas Open Meetings Act). Both applicants and remonstrators may give testimony in accordance with these rules. Notice of meetings is published by the Commission in accordance with the Texas Open Meetings Act.

(c) *Ex officio members.* In addition to the seven (7) members appointed by the City Council, the Heritage Preservation Officer and the Chief Building Official or his representative shall sit on the commission as ex officio members. Ex officio members from different segments of the community may also be appointed by the City Council to assist the commission in its official duties. None of the ex officio members shall have voting power but shall assist the commission in its various functions.

(d) *Committees.* Committees shall be appointed on an as needed basis for the purposes of assisting the commission with their appointed duties.

Sec. 16-108. Heritage Commission -- Functions.

(a) The commission shall thoroughly familiarize itself with the buildings, land, areas, and districts within the city which may be eligible for designation as heritage resources and shall prepare a heritage resource preservation plan referred to as the "preservation plan" which shall:

(1) Identify and catalog buildings, land, areas, and districts of historical, architectural, archaeological, or cultural value, along with statements of fact which verify their significance;

(2) Establish criteria to be used in determining whether certain buildings, land, areas, and districts should be designed as heritage resources;

(3) Establish guidelines to be used in determination of whether to grant or deny certificates of appropriateness for proposed alterations to the exterior of a designated heritage resource;

- (4) Formulate a program for private and public action, which will state the role of various city agencies in the preservation of heritage resources;
 - (5) Suggest sources of funds for preservation and restoration activities and for acquisitions, to include federal, state, municipal, private, and foundation sources; and
 - (6) Recommend incentives for preservation.
- (b) The preservation plan shall be presented to the Planning & Zoning Commission and City Council in preparing and updating the comprehensive plan of the city.
- (c) The commission shall recommend to the Planning & Zoning Commission that certain buildings, land, areas, and districts in the city be designated as heritage resources. Each recommendation shall include:
- (1) Those premises, lots or tracts to be designated;
 - (2) Any additional uses to be permitted in the specific "H" district; and
 - (3) Specific criteria for the required preservation of the exteriors of premises within the designated district, which shall follow the United States Secretary of the Interior's Standards for Rehabilitation.
- (d) If the commission finds that certain buildings, land, areas, or districts cannot be preserved without acquisition, the commission shall recommend to the City Council that the fee or a lesser interest in the property be acquired by gift or purchase, using private and/or public funds available for preservation or restoration.
- (e) Where there are conditions under which the required preservation of a heritage resource would cause undue hardship to the owner, use changes may be recommended by the commission. Changes must be adopted by the City Council upon recommendation of the Planning & Zoning Commission in accordance with current zoning procedures. Such changes shall be in keeping with the spirit and intent of this article.
- (f) Periodically, the commission shall review the status of designated heritage resource districts and include in the commission minutes a report of such review.
- (g) The commission shall direct the action of committees.
- (h) The commission shall receive, review and recommend grant applications from area historic preservation agencies, groups or organizations and make a recommendation to the City Council on the recipient's grant and amount to be awarded.

Sec. 16-109. Appointment of Heritage Preservation Officer.

The City Manager shall provide for the appointment of a qualified staff person to serve as the Heritage Preservation Officer. The Heritage Preservation Officer shall administer this article and advise the Heritage Commission on matters submitted to such commission.

In addition to serving as representative of the Heritage Commission, the Heritage Preservation Officer is responsible for coordinating the city's heritage preservation activities with those of local, state, and federal agencies and with local, state, and national nonprofit preservation organizations, as well as other municipal departments and the general public. The Heritage Preservation Officer shall maintain the heritage resource survey and shall update such survey from time to time. The Heritage Preservation Officer shall also have the authority to set deadlines for submittals in order to assure adequate staff review time and notification of the commission and general public.

Sec. 16-110. Action by Planning & Zoning Commission.

(a) The Planning & Zoning Commission shall hold public hearings as provided in the comprehensive zoning ordinance of the city to consider any heritage resource or district designation recommended by the commission.

(b) At the conclusion of a hearing, the Planning & Zoning Commission shall set forth in writing its recommendation, including the findings of fact that constitute the basis for its decision, and shall transmit such recommendation to the City Council.

Sec. 16-111. Action by City Council and recording of designation.

(a) After notice and public hearing as required by law in a zoning case under the comprehensive zoning ordinance, the City Council may enact a heritage resource district designation.

(b) Upon passage by the City Council of a heritage resource district designation ordinance, the City Secretary shall file a copy of the ordinance with the Collin County Clerk and the Collin County Tax Assessor, together with a notice briefly stating the fact of the designation and shall send a copy of such notice by certified mail to the owner of the affected property.

Sec. 16-112. Certificate of appropriateness review.

(a) A certificate of appropriateness for routine maintenance shall be issued by the Heritage Preservation Officer.

(b) No building permit or site plan approval for proposed work to the exterior of an existing building or for new construction in a designated heritage resource district shall be issued to any applicant by the building inspection or planning departments unless the application has first been reviewed by the Heritage Commission and a certificate of appropriateness has been issued by the commission.

(c) When applying for such a permit or site plan approval, the applicant shall comply with all necessary requirements as defined by the building inspection or planning departments, who shall forward such application to the Heritage Preservation Officer within five (5) business days of receipt thereof. Any applicant may request a meeting with the commission before submitting an application and may consult with the commission during the review of the permit application.

(d) Upon review of the application, the commission or the Heritage Preservation Officer (if applicable) shall determine whether the proposed work is of a nature which will adversely affect any historical, architectural, archaeological, or cultural feature of the heritage resource district, and whether such work is appropriate and consistent with the spirit and intent of this article and the designating ordinance. The commission shall deny, with or without prejudice, or approve a certificate of appropriateness and forward such action to the building inspection department within ten (10) business days of the last regular meeting of the Heritage Commission. The building inspection department shall immediately notify the applicant of the commission's action. If the commission has denied the certificate of appropriateness, the applicant may file in writing a notice of appeal to the City Council with the city secretary within ten (10) business days after receiving notice from the building inspection department. The city secretary shall place the appeal on the City Council agenda for a hearing, and the applicant shall be notified by the city secretary of the date of the hearing. The City Council utilizing the above criteria, shall deny, with or without prejudice, or approve a certificate of appropriateness.

(e) If no action has been taken by the commission within sixty (60) business days of original receipt by the building inspection department or planning department, the building permit shall be issued by the building inspection department or the planning department shall continue the review of the application.

(f) No change shall be made in the application for any building permit after issuance of a certificate of appropriateness without resubmittal to the commission and approval thereof in the same manner as provided in subsection (c) of this section.

(g) After a decision is reached by the commission denying, with prejudice, an application for certificate of appropriateness, where no appeal is made to the City Council, a resubmittal of application will not be accepted for additional hearing within a twelve-month period from the date of final decision except upon written request by the applicant, indicating the incorporation of changes in plans and specifications to the original application as recommended by the commission. Denial of a certificate of appropriateness without prejudice permits reapplication immediately.

(h) Each certificate of appropriateness issued pursuant to this section shall expire and be void after one year unless construction/alteration has begun and is substantially completed (80%). Requests for extensions should be addressed to the Heritage Preservation Officer prior to the date of expiration and should include the following:

- a. Reason for requesting the extension;
- b. A timetable for starting and completing work; and
- c. Information regarding work completed, work still to be done, and any amendments requested to the work as originally proposed.

If there are no amendments to the originally proposed work, extensions may be granted by the Heritage Preservation Officer for any time period up to one year provided no combination of extensions exceeds a total of one year from the original expiration date. Failure to complete the work within the required time, including any extension, may result in the revocation of the certificate of appropriateness. The holder of an expired Certificate of Appropriateness or a Certificate of Appropriateness that the Heritage Preservation Officer finds inappropriate to extend may appeal the request for extension to the Heritage Commission. The requested extension shall be scheduled to be heard at the next public meeting.

(i) An applicant may request a Preliminary Certificate of Appropriateness (PCA) at any stage of the design process. The PCA process is generally applied to proposed new construction and/or significant renovation or restoration projects. The application may include, but is not limited to, the following:

1. Site Layout – a dimensional scale drawing showing lot lines, street(s), buildings (existing and proposed), setbacks, driveways, parking areas, and other information necessary to define the layout of the property.
2. Plans – dimensioned scale drawings showing the layout of proposed new construction and the existing building if the new construction is to be an addition.
3. Elevations – dimensioned scale drawings showing each side of the proposed new construction and existing building if the new construction is to be an addition.

4. Sketches – artistic drawings or renderings illustrating the proposed changes and/or new construction. Sketches may be substituted for elevations for purposes of PCA approval.
5. Illustrations – conceptual drawings or sketches for elements such as doors, windows, architectural elements, and other elements as they are available in the design process.
6. Photographs of existing buildings and/or examples of architectural elements to be incorporated into the design.
7. Other materials deemed necessary by the Heritage Preservation Officer for adequate review.

A complete, detailed set of drawings is not necessary. The review will be based on the concept only. Review should include form, scale, massing, general architectural design and compatibility with the character of the heritage district or resource. The Commission may approve, approve with stipulations, deny or deny without prejudice all or part of the PCA. Upon approval, the applicant may continue design work on the basis of the approval, considering any stipulations.

Approval of a PCA by the Heritage Commission shall constitute authorization by the city for the applicant to submit an application for a final CA provided that the final submittal conforms to the PCA and any stipulations attached to its approval.

As long as the PCA remains valid, elements of the project specifically approved in the PCA, including the site layout, remain fixed, except as to permit minor adjustments resulting from subsequent architectural or engineering improvements or to prevent a condition affecting public health or safety which was not known at the time of PCA approval. A PCA may not be used to approve an exception to development regulations. Where an approved plan conflicts with an adopted regulation and no variance or exception is expressly approved, the regulation shall apply.

A partial building permit may be issued on the basis of the approval and work may begin only on the portion of the project specifically approved by the Commission in the PCA (e.g. site layout). A final Certificate of Appropriateness (CA) must be obtained for work to progress beyond the scope of the PCA approval and before the project is completed.

- (j) Approval of a Preliminary Certificate of Appropriateness or a Certificate of Appropriateness, including the site layout, shall not be deemed as conforming to the requirements for Concept Plan, Preliminary Site Plan and Site Plan approval in the Zoning Ordinance. Likewise, approval of such plans by the Planning & Zoning Commission does not waive the CA approval requirement by the Heritage Commission.

- (k) The Heritage Commission may establish a date of expiration for each PCA or CA at the time of its approval.
- (l) The Heritage Commission may delegate to the Heritage Preservation Officer the authority to issue Certificates of Appropriateness on minor changes to the exterior of an existing structure where the commission has approved criteria for making determinations on certain matters and where the parameters under which those criteria may be utilized are clearly established by the commission.

All denials made by Heritage Preservation Officer shall be deemed as without prejudice and reapply within one year. The applicant may appeal the decision of the Heritage Preservation Officer to the Heritage Commission by filing a written request with the Heritage Preservation Officer within ten (10) working days of the receipt of a written notice of the action taken by the officer. The Heritage Preservation Officer shall schedule the appeal for the next available Heritage Commission Meeting. Matters upon which the Heritage Commission may delegate the authority to issue Certificates of Appropriateness may include, but are not necessarily limited to the following:

- (1) Colors for painting the exterior of a structure including siding, trim, doors, steps, porches, railings, and window frames (does not include painting or otherwise coating previously unpainted masonry);
- (2) The placement and screening, if necessary, of mechanical units of various types;
- (3) The placement and design of screening treatments for trash and recycling receptacles on commercial properties;
- (4) Privacy fences and semi-privacy fences to be installed in the rear and/or side yard;
- (5) Ground lighting;
- (6) Accessories attached to a façade of any building, garage or carriage house including mailboxes or incandescent light fixtures;
- (7) Repairing or replacing non-historic roof materials with that of a different type or color;
- (8) Installation of handicap ramps;
- (9) Replacement of historic windows and doors when deteriorated beyond repair and provided the replacement matches the original in dimension, material and style; and

- (10) Exterior storm windows and doors, provided: no alteration to the opening is required; they are not attached to and do not cover any exterior trim and they are prefinished or painted.

Sec. 16-113. Activities requiring certificate of appropriateness.

No person shall carry out any of the following work without obtaining a certificate of appropriateness issued by the Heritage Commission in accordance with the provisions of this article:

- (1) Demolition or relocation of a designated heritage resource or a structure or property pending designation as a heritage resource or demolition delay or of a structure or property located in an area designated or pending designation as a heritage resource district;
- (2) Repair (other than routine maintenance), reconstruction, alteration, addition, stabilization, restoration or rehabilitation of a structure or property designated or pending designation as a heritage resource or located in an area designated or pending designation as a heritage resource district;
- (3) New construction on real property which is located in an area designated or pending designation as a heritage resource district or on land necessary for access to and use of a structure designated or pending designation as a heritage resource; or
- (4) Material changes in any doors, roofs, windows, masonry work, woodwork, light fixtures, signs, sidewalks, fences, steps, paving and/or other exterior elements visible from a public right-of-way which affect the appearance and compatibility of any structure or property designated or pending designation as a heritage resource or located in an area designated or pending designation as a heritage resource district.

Sec. 16-114. Routine maintenance.

Nothing in this article should be construed to prevent routine maintenance or repair of any exterior architectural feature of a property designated as a heritage resource or within a heritage resource district. In addition, repairs shall be made in accordance with the standards established by the Heritage Commission for heritage resources. The Heritage Preservation Officer shall be the officer in charge of making the decisions as to what is "routine maintenance."

Sec. 16-115. Minor in-kind repairs.

Nothing in this article shall be construed as prohibiting minor in-kind repairs as long as the said repairs comply with applicable codes and ordinances and are made in accordance with the standards established by the Heritage Commission for heritage resources. Examples of minor in-kind repairs include, but are not limited to: touch-up painting, spot replacement of shingles, or replacement of a pane of glass. If there is

doubt that a repair is a minor in-kind repair, the Heritage Preservation Officer should be consulted.

Sec. 16-116. Demolition or removal of heritage resources.

- (A) Purpose. Demolition or removal of any heritage property, pre-designated heritage resource, designated heritage resource, or structure located within a designated heritage district constitutes an irreplaceable loss affecting the quality of life and character of the city. Therefore, a demolition or removal of heritage property shall be allowed only in limited situations.
- (B) Procedure. An owner seeking demolition or removal of a structure shall submit a complete application to the Chief Building Official. The Building Official shall immediately forward the application to the Heritage Preservation Officer (HPO). The HPO shall forward a completed application to the Heritage Preservation Commission.
- (C) Application. An application for demolition of any structure located within a designated heritage district must be signed and sworn to by all the owners of the property or their duly authorized representatives. Applicants for demolition or removal of individually designated resources shall state one of the following reasons for removal or demolition, and shall provide the corresponding documentation to substantiate the request for removal or demolition. If the applicant seeks to demolish or remove a structure for more than one reason, he/she shall provide all documentation required for each reason. Applicants for demolition or removal of a heritage resource property other than an individually designated resource shall solely be required to provide the documentation listed in 16-116(C) (1)(a).

If the information requested is not available or cannot be provided, the applicant must state the item that is unavailable and provide an explanation regarding its absence from the application.

- (1) Replacing an existing structure with another structure.

An application for demolition or removal for the purpose of replacing the existing structure with another structure and all other Heritage resource property application for demolition or removal for any purpose shall include the documentation listed below.

- a. Records depicting the original construction of the existing structure, including drawings, pictures, or written descriptions.
- b. Records depicting the current condition of the existing structure, including drawings, photographs, or written descriptions.
- c. Estimated cost of restoration and/or repair.

- d. Any conditions the applicant proposes to place on the proposed structure that would mitigate the loss of the existing structure.
 - e. Architectural drawings of the structure that is proposed to replace the existing structure and approval of a Certificate of Appropriateness.
- (2) No economically viable use of the property exists – Individually Designated Resource Heritage Property.

An application for demolition or removal of property for Individually Designated Resource Heritage Property based on lack of economic viability shall include the documentation listed in a to j below for all properties and additional information in k and l below for commercial properties. The information in this section shall not be required of Heritage Resource Property other than individually designated resources. A permit under this section shall not be denied if the owner cannot realize a reasonable rate of return on his property. The City shall retain an economic expert knowledgeable in the area of valuation, renovation, redevelopment, and rehabilitation of real estate. The expert shall review the documentation submitted by each applicant and provide a written report to the commission regarding the economic viability of each property.

- a. The amount paid for the property and date of purchase;
- b. Remaining balance on any mortgage or other financing secured by the property and annual debt service;
- c. Real estate taxes for the previous three years and assessed value of the property according to the most recent valuation;
- d. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;
- e. The fair market value of the property at the time the application is filed as determined by a licensed appraiser;
- f. Any listing of the property for sale or rent, name of broker/agent, price asked and offers received, if any, for the previous two years, including relevant documents or affidavits;
- g. The price or rent sought by the applicant;
- h. Any advertisements placed for the sale or rent of the property;

- i. A report from any one or more of the following: an architect, engineer, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation of historic property as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
 - j. Any other evidence that shows that the affirmative obligation to maintain the structure or property makes it impossible to realize a reasonable rate of return;
 - k. Form of ownership or operation of the property. (i.e. sole proprietorship, partnership, corporation, joint venture, for profit, not for profit, etc.);
 - l. A documented report attested to by a Certified Public Accountant that includes the annual gross and net income, if any, from the property for the previous three years; itemized operating and maintenance expenses, depreciation deduction, and annual cash flow before and after debt service, if any, during the same period.
- (3) The structure poses an imminent threat to public health or safety – Individually Designated Resource Heritage Property.

If a disaster renders a structure an immediate threat to health and public safety, the Chief Building Official upon agreement with the Heritage Preservation Officer, may approve a Certificate of Appropriateness for demolition without the necessity of an application.

An application for demolition or removal of an Individually Designated Resource Heritage Property structure that poses a threat to public health or safety shall include the documentation listed below. The information in this section shall not be required of Heritage Resource Property other than Individually Designated Resources.

The owner has the burden of proof to establish by a preponderance of the evidence the necessary facts to prove demolition is necessary to alleviate a threat to public health and safety.

- a. Records depicting the current condition of the structure, including drawings, pictures, or written descriptions.
- b. A study regarding the nature, imminence, and severity of the threat, as performed by a licensed architect or engineer.
- c. A study regarding both the cost of restoration of the structure and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer.

- d. An assessment of the property by the Property Standards Department may be requested by the Commission or applicant.

(4) Other evidence.

- a. The applicant may submit any other relevant evidence to support his application.
- b. City departments and private persons and organizations may submit relevant evidence.
- c. The Heritage Commission may request other documentation in order to fully consider a request.
- d. The Heritage Commission may consider evidence of the necessity of preserving the structure as an historic landmark, reasonableness of the cost of restoration or repair, and economic usefulness of the building, including existing and potential usefulness.

(5) Burden of proof.

The applicant has the burden of proof to establish the necessity of a permit by a preponderance of the evidence.

(D) Hearing.

- a. The Heritage Commission shall hold a public hearing on the application within forty-five (45) business days from the date the HPO receives a complete application from the applicant.
- b. The Heritage Commission shall review and consider all submitted documents and testimony of any interested parties.
- c. The applicant(s) shall be given ten (10) business days written notice of the hearing by certified letter, return receipt requested to the address provided in the application.

(E) Decision.

- a. The commission must render a decision within sixty (60) business days of the first public hearing. The applicant shall be notified by the HPO by mail within five (5) business days of the final decision.
- b. For individually designated heritage resource properties (individually designated resources), the commission shall render a decision to delay, deny, or grant a permit for demolition in accordance with this section.

- c. For heritage resources that contribute to a heritage district (contributing resources and pre-designated resources) but are not individually designated heritage resources, the commission shall render a decision to grant or delay a permit for demolition in accordance with this section and shall not render a decision to deny a permit for demolition.
- d. Failure of the commission to decide or suspend said application within the sixty (60) business day time limit described above shall be deemed to be approval of the application and the building official shall issue the necessary permits to allow the requested demolition or removal.

(F) Demolition Delay.

- a. The Heritage Commission may suspend an application for removal or demolition that proposes to replace an existing structure with another structure by determining that, in the interest of preserving historical values, the demolition of the structure may be delayed, and, in that event, the application shall be suspended for a period not exceeding ninety (90) calendar days from the date of application. Within the suspension period, the commission may request an extension of the suspension period by the City Council. If the City Council, after notice to the applicant and a public hearing, determines that there are reasonable grounds for preservation, the City Council may extend the suspension period for an additional period not exceeding one hundred twenty (120) calendar days, for a total of not more than two hundred forty (240) calendar days from the date of application for demolition. During the period of suspension of the application, no permit shall be issued for such demolition or removal, nor shall any person demolish or remove the building or structure.
- b. During the suspension time of the Demolition Delay, the commission may prepare and submit to the applicant a salvage plan which may suggest proposals to preserve the site for purposes consistent with this chapter. The plan may include complete or partial tax abatements, tax credits, authority for alteration or construction not inconsistent with the purposes of this article and other actions allowable by law. If a reasonable agreement for salvage cannot be obtained with the applicant, then the permits shall be issued for demolition at the end of the delay period.
- c. Demolition delay shall not be ordered for properties that request relief based on the fact that they are not economically viable or for properties that are a threat to public safety.

(G) Penalty.

Any person, firm or corporation failing to comply with the provisions to demolish or rebuild structures pursuant to the requirements herein shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with Section 16-102 (b) herein. Each and every day any person, firm, or corporation is in non-compliance with the provisions in this ordinance shall constitute a separate offense.

Sec. 16-117. Demolition by neglect.

No owner or person with an interest in real property which is designated a heritage resource or which is located in a heritage resource district, whether occupied or not, shall permit the structure or property to fall into a serious state of disrepair or to remain in a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Heritage Commission, produce a detrimental effect upon the character of the structure or property, or, if the structure or property is in a heritage resource district, upon the district. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roofs or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior treatments or finishes;
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors;
- (6) Deterioration of any structural component so as to create a hazardous condition which could make demolition necessary for the public safety as determined by the chief building official who may consult with other qualified entities and/or individuals in making the determination; or
- (7) Deterioration or removal of any unique exterior architectural feature which would detract from the original architectural style.

Sec. 16-118. Demolition by neglect of interior.

No owner or person with an interest in property which is designated a heritage resource, including a structure in a heritage resource district, whether occupied or not, shall permit the interior portions of such structure or property to fall into a serious state of disrepair which, in the judgment of the Heritage Commission, produces a detrimental effect upon the structural integrity of such structure or property which could make demolition necessary for the public safety.

Sec. 16-119. Provisions not to affect present uses.

Use classification as to all property that may be included in a heritage resource district shall continue to be governed by the comprehensive zoning ordinance of the city and the ordinance establishing the "H" district.

Sec. 16-120. Adoption of heritage resource preservation plan.

(a) The heritage resource preservation plan refers to that plan approved and adopted by the City Council of the City of Plano by Resolution No. 92-9-3(R) and as may be amended hereafter from time to time.

(b) The heritage resource preservation plan shall be utilized by the Planning & Zoning Commission, City Council, Heritage Commission, staff and developers, and such other appropriate city personnel and departments as a guideline to safeguard the city's historic and cultural heritage.

(c) Where a policy or recommendation of the heritage resource preservation plan requires the adoption or amendment of a code or ordinance for implementation, said item will not take effect until the passage of the necessary legislation.

Section III. All provisions of the Code of Ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

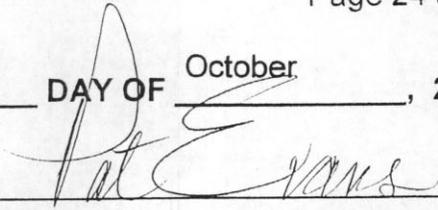
Section IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section VI. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

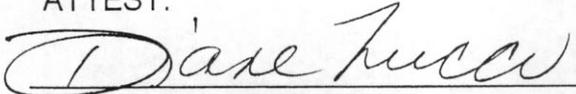
Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 8th DAY OF October, 2007.



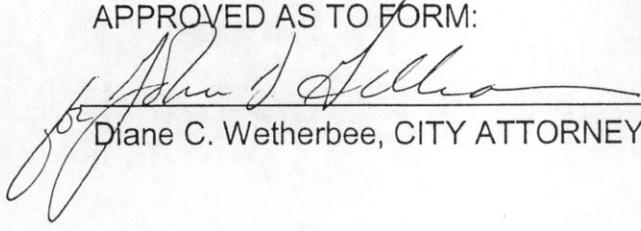
Pat Evans, MAYOR

ATTEST:



Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY