

**CITY OF RICHARDSON
CITY PLAN COMMISSION MINUTES – DECEMBER 17, 2013**

The Richardson City Plan Commission met on December 17, 2013, at 7:00 p.m. at City Hall in the Council Chambers, 411 W. Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: Barry Hand, Chairman
Gerald Bright, Vice Chair
Janet DePuy, Commissioner
Marilyn Frederick, Commissioner
Thomas Maxwell, Commissioner
Eron Linn, Commissioner
Randy Roland, Commissioner
Stephen Springs, Alternate

MEMBERS ABSENT: Bill Ferrell, Alternate

CITY STAFF PRESENT: Sam Chavez, Assistant Director – Dev. Svcs – Planning
Israel Roberts, Development Review Manager
Chris Shacklett, Senior Planner
Kathy Welp, Executive Secretary

BRIEFING SESSION

Prior to the start of the regular business meeting, the City Plan Commission met with staff to receive a briefing on staff reports and agenda items. No action was taken.

MINUTES

1. Approval of the minutes of the regular business meeting of December 3, 2013.

Motion: Commissioner Linn made a motion to approve the minutes as presented; second by Commissioner DePuy. Motion passed 7-0.

CONSENT AGENDA

All items listed under the Consent Agenda are considered to be routine by the City Plan Commission and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless desired, in which case any item(s) may be removed from the Consent Agenda for separate consideration.

2. Bush Central Station Addition, Lot 1, Block E; Lot 1, Block F; Lot 1, Block G, Lot 1, Block H; and Open Space Lot 1, Block X: A request for approval of a final plat for four (4) lots, one (1) open space lot, and dedication of rights-of-way within 11.69 acres, located north of CityLine Drive, west of Plano Road.

Motion: Commissioner Frederick made a motion to approve Consent Agenda as presented; second by Commissioner Roland. Motion approved 7-0.

PUBLIC HEARINGS

- 3. Townes of Buckingham Addition:** Consider and take necessary action on a request for approval of a replat of Lots 10 and 11, Block A and Lots 16 and 17, Block B of the Buckingham Estates Addition, Lot 12C, Block B of the Buckingham Addition, and previously abandoned Willingham Drive right-of-way into an 81-lot townhome neighborhood with six (6) common areas. The 7.04-acre site is located on the east side of Whitehall Drive, between Centennial Boulevard and Buckingham Road.

Chairman Hand advised the applicant was requesting a continuation to the January 7, 2014, City Plan Commission meeting, and opened the public hearing to give anyone in attendance who could not be at the January meeting a chance to voice their opinion.

No comments were received in favor or opposed and Chairman Hand closed the public hearing.

Motion: Vice Chair Bright made a motion to continue Item 3 to the January 7, 2014, meeting; second by Commissioner Roland. Motion approved 7-0.

- 4. Zoning File 13-17:** Consider and take necessary action on a request for approval of a City-initiated amendment to the Comprehensive Zoning Ordinance (Appendix A), Article XXII-F (Residential Exterior Construction Standards), Section 1 of the *Code of Ordinances* relative to orientation of garages on single family residential lots.

Mr. Chavez stated the City-initiated amendment to Comprehensive Zoning Ordinance (CZO) was a request to establish regulations for the orientation of garages for single family residential lots. He added that re-orientation of garages on reconstructed, remodeled, or replacement residential dwellings have come to the forefront recently of the neighborhood vitality discussion.

As a part of the discussion on neighborhood vitality, concerns had been expressed about the issue of garages being changed from alley access to street access and the affect that type of change would have on the existing characteristics of the neighborhoods.

Mr. Chavez presented pictures of homes where the garage orientation had been changed from alley to street access.

Mr. Chavez said their recommendation would require reconstructed, remodeled or replacement garages to be oriented in the same manner and direction as the dwelling's original garage. He added that the recommendation for the proposed amendment began during a work session held with City Council and their concern that the change in orientation was adversely impacting the characteristics of some neighborhoods.

Mr. Chavez acknowledged that a definition of remodel, reconstructed and replacement dwelling unit was included in the proposed ordinance to make it clear to anyone under what situations the amendment would apply.

Mr. Chavez concluded his presentation stating that an appeal process would be available for homeowners and/or builders, but it would be more of a special exception as opposed to a variance and would be heard by the Board of Adjustments. He added there could be two ways to address a special exception: 1) establish criteria that would qualify as a special exception; or 2) leave it open ended to allow the applicant to prove, on a case by case basis, why the orientation should be changed.

Chairman Hand asked if any motion on the item, either in favor or to deny, would move the item forward to City Council.

Mr. Chavez replied that was correct, the item would move forward with a recommendation from the Commission either in favor or opposed.

Commissioner Springs asked if a house that was already remodeled from an alley access to a street access was again remodeled, would it have to revert to an alley access or was it vested in a street access.

Mr. Chavez replied that the proposed ordinance would not create any non-conforming structures and therefore, in the situation described, the structure could maintain its street access.

Chairman Hand asked to confirm that if a property, such as one on a creek, currently had a "J" configuration or swing driveway, could they rebuild in the same configuration.

Mr. Chavez replied the homeowner could rebuild in the same configuration.

Commissioner Linn thanked staff for preparing some additional data showing that 13% of the homes in the City that have alleys are accessed from the street. He also pointed out that one of the statements in the staff's report mentioned the term "character, as it defines a neighborhood" and asked staff if the City had a definition of the term "character".

Mr. Chavez replied that he did not think there was a formal definition of character other than what already exists in a particular neighborhood and could be subjective in nature.

Commissioner Linn asked what the relationship between "character" and "desire" was as it pertained to the proposed ordinance; was a neighborhood or area with a perceived high character more desirable than an area with a perceived low character.

Mr. Chavez stated he did not have an answer for Mr. Linn's question.

Commissioner Linn stated that in supply side economics when a great number of people demand an object with a limited supply then the value of that object increases substantially. He added that taking that definition to its logical conclusion would mean that character would equate to monetary value and, based on the data requested, 75% of the homes in quadrant E have front entry garages and alleys, but with the proposed ordinance, the City was making the argument that the reorientation of a garage decreases the character of a neighborhood, therefore, an assumption could be made that one quadrant has more character than another.

Commissioner Linn read a comment from the staff's report regarding meetings that had been held with area home builders that *"Although most homes could be reconstructed with the garage orientation in the same manner and direction as the original garage, this would not meet the needs of most buyers who want to maximize the home site, construct a 3-car garage and maximize the backyard area."* He asked why the City was pursuing the adoption of the proposed ordinance when experts in the industry were opposed.

Mr. Chavez replied that the direction to proceed with the proposed ordinance was received from City Council and part of the public hearing process would allow those opposed to voice their opinions and/or objections allowing the Commission to make an informed decision.

Commissioner Linn asked what other items would be considered "elements" that did not previously exist that would be covered under the proposed ordinance.

Mr. Chavez replied that the driveway and garage opening, in addition to lead sidewalks, landscaping, etc. could be considered elements. He added that a second story could be considered an element, but the entrance or a driveway would be more of what would be covered under the proposed ordinance.

Mr. Linn gave a hypothetical situation where a homeowner had an 8-foot fence around their property giving them a sense of privacy and the next door neighbor decided to tear down their one-story home to build a two-story home that would add a new element and wondered if that would be an issue in the future.

Mr. Chavez replied that he did not think it would be an issue because the zoning ordinance already allows up to 40 feet or two-story homes by right, and what was currently being discussed was whether or not street access has a negative impact on the existing character of a neighborhood.

Commissioner Linn stated the inference of the ordinance was that anything that detracted from the character of the neighborhood, or value of the neighborhood, would be reflected in the appraised value of a home; however, in researching three of the 20 homes listed as an example only one reconstructed house negatively impacted surrounding homes (decrease in value according to Dallas County Appraisal District). He added the other two homes increased in value by \$438,000 and \$753,000, respectively.

Chairman Hand asked if the increased value could be considered a “better and higher use” of the land.

Mr. Linn replied that he personally thought it was a “better and higher use” of the land.

Commissioner Roland asked when the staff was developing the ordinance, why it was not simplified and focused on the orientation of the garage door.

Mr. Chavez replied that staff looked at two elements: 1) the orientation of the garage, whether parallel or perpendicular to the street; and 2) the access point, curb cuts to driveways. He added that one of the things the ordinance did not try to address was value, but was more interested in the perceived character of the neighborhood.

With no further questions for staff, Chairman Hand opened the public hearing.

No other comments were received in favor; therefore, Chairman Hand called for comments in opposition.

Mr. Jeff Stegich, 413 Fall Creek, Richardson, Texas, stated he had been part of the community for over 22 years as a homeowner, realtor and home builder and most of the buyers he has been working with were willing to pay big dollars to reconstruct homes in the City, which in turn has had a large impact on the City’s tax base.

Mr. Stegich recounted a sale earlier in the year of an interior lot in the Prairie Creek subdivision that was most likely one of the highest sale values of an interior lot and if the proposed ordinance had been in place that sale would not have gone through. He added that people were willing to pay a lot of money to live in the City and to limit the options for potential home buyers/builders did not make any sense.

Chairman Hand asked if the speaker was also a home builder in addition to being a realtor. He also wanted to know if the ordinance passed, would it put a premium on front entry lots.

Mr. Stegich replied that he had been remodeling homes for over 15 years and building new homes since 2006.

Regarding the ordinance putting a premium on front entry lots, Mr. Stegich said that it was a possibility, but most of the existing front entry neighborhoods were not in the areas where the remodeling or reconstruction was taking place.

Commissioner DePuy asked how many of the new homes the speaker had built had three car garages.

Mr. Stegich replied that almost 100% had three car garages.

Vice Chair Bright asked if the speaker knew if the deed restrictions in the Prairie Creek subdivision covered any changes to garage orientation.

Mr. Stegich replied that he did not think they did.

No other comments in favor or opposed were received and Chairman Hand closed the public hearing.

Vice Chair Bright asked if a front driveway that curved around to a rear facing garage would be covered under the new ordinance.

Mr. Chavez said that as long as the orientation of the garage stayed the same, based on the proposed ordinance, the remodeling or reconstruction of the home could proceed.

Commissioner Roland asked if a tear down and rebuild was to have a drive through into a courtyard to park in the garage, would the orientation of the garage still dictate whether or not the remodeling of the home could proceed.

Mr. Chavez replied that was correct, the orientation of the garage door would determine if the remodeling could proceed. He added that a special exception could be requested based on the treatment of how the entrance was designed.

Commissioner Springs asked if the intent of the proposed ordinance was to reduce the amount of alley access lots from turning into street access lots.

Mr. Chavez replied that the goal was to maintain the existing neighborhood character and with the re-orientation of the garages and points of access, the Council felt it was a significant enough change to warrant review of the current ordinance.

Chairman Hand stated that he was a part of groups that were involved in some of the Neighborhood Vitality Ordinances (NVOs) that were put in place as a defense against blight and asked staff if their presentation was addressing blight and bulky trash.

Mr. Chavez replied no.

Chairman Hand commented that it was his personal opinion that many of the ordinances referenced by the staff were smart defense mechanisms to stop potential blight in the City. He added that he did not see the currently proposed ordinance in the same light and asked the staff if they that was a fair statement in their opinion.

Mr. Chavez agreed that it was a fair statement.

Commissioner Linn asked if any of the cities surrounding Richardson have a similar ordinance.

Mr. Chavez replied that the City of Carrollton did not allow front entry; the City of McKinney – unless an alley waiver is approved, everything was alley access; so typically wherever a city requires alleys, they are all alley access.

Commissioner Frederick said she had driven around the City looking at some of the examples of remodel and reconstructed homes, and that her observation was that while some of the garages are setback and different than the original home, in no way did that reorientation impact the character of a street or neighborhood. She added that the redesigned homes brought in elements of newness and more modern design showcasing economic growth in the City.

Ms. Frederick closed her comments stating the ordinance would not be beneficial for the City and she would not be voting in favor.

Commissioner Maxwell said he thought the idea of the ordinance had merit and was written to prevent one or two homes in a neighborhood from “sticking out” from the rest, but felt the way it was written was too severe. He thought giving the Board of Adjustment the control over special exceptions was correct, but suggested criteria should be added as guidelines.

In addition, Mr. Maxwell felt the restriction on the orientation of the garages would not impact the value of the homes and, if the ordinance was passed, individuals would still find a way to tear down and rebuild in desirable neighborhoods.

Chairman Hand asked if Mr. Maxwell was concerned about having the Board of Adjustments handle the special exceptions.

Commissioner Maxwell replied that it was a little subjective.

Vice Chair Bright said he supported the spirit of the proposed ordinance and agreed with adding criteria for the Board of Adjustments, but asked staff if the criteria listed on page 4 of the staff report was all inclusive or were there more.

Mr. Chavez replied there were other criteria that would allow the Board of Adjustments to grant special exceptions, plus the request for exceptions would have to be made during a public hearing to allow input from other interested parties.

Commissioner Maxwell said he thought what was missing from special exceptions was the impact the remodel/reconstruct had on the neighborhood; if the majority of homes on a street had alley access that should be taken into consideration.

Commissioner DePuy stated that most new, larger homes were being built with three car garages and if the previous garage orientation had street access, there would be no options to reorient one or more of the new garages. She added that the proposed ordinance was too restrictive making it difficult for renovations or rebuilds to take place and felt that neighborhoods had the option of regulating their neighborhoods via the City's overlay process.

Ms. DePuy said she was not in favor of having the Board of Adjustments handle the special exceptions and felt it should come under the review of the Commission. She added that the proposed ordinance was too subjective and was trying to dictate character and she would not vote in favor.

Commissioner Roland said he might be in favor of an ordinance that was simpler in nature, and pointed out that some of homes in question had neighbors with horseshoe driveways out front. In addition, he did not have a problem with the Board of Adjustments handling the requests for special exceptions.

Commissioner Linn stated that with the limited amount of open land left in the City, an ordinance was being proposed that he felt would restrict reinvestment in the neighborhoods. He suggested the Commission should start embracing the idea of reinventing neighborhoods and if the City wanted to establish criteria to define neighborhoods, then they should look to the examples in the City of Dallas with development standards (i.e., Swiss Avenue).

Mr. Linn said he was concerned and cautioned that if the proposed ordinance was approved, it might force people to move into areas of the City of Dallas that are in the Richardson School District so they can build the type of home they want. He felt the tax dollars should stay within the City of Richardson.

Chairman Hand commented that he had done at least 120 home renovation designs over the past years that included reorientation of garages to improve the land use on the lots, and agreed with comments that the City's current housing stock did not meet the current market demands. He also felt the following points should be considered:

- Positive economic impact to the City of rebuilds and/or renovations.
- Lot coverage from a sustainability perspective – would it be wise to pave the entire lot to get to a rear entry garage when a front entry might be less intrusive.
- The uncertainty of requesting a special exception and what impact that would have on the redevelopment of a lot.
- There is an overlay process already in place that could maintain the character of a neighborhood and puts the responsibility on the area residents to request.

In closing his comments, Mr. Hand said he was not in favor of the proposed ordinance and would be voting in opposition.

Commissioner Maxwell noted that some of the comments made by the Commission were to improve or reword and suggested giving staff another opportunity to rewrite the ordinance and bring it back at another time.

Chairman Hand said that tabling the item was a possibility, but suggested giving the staff some guidance on what the Commission would want to see in the next edition.

Commissioner DePuy stated that she would still be against any similar type of ordinance.

Vice Chair Bright asked if most neighborhoods had deed restrictions that covered orientation on rebuilds or reconstructs.

Mr. Chavez replied that he was not aware of any and staff usually only checked deed restrictions if an issue was made known.

Commissioner DePuy asked if a home was in a mandatory Homeowners Association (HOA), would the association regulations cover any remodel or reconstruct issues.

Mr. Chavez replied that if the mandatory HOA had deed restrictions, which they usually do, and it was covered but the City's ordinance did not, the City could issue the permit and it would be up to the HOA to enforce any deed restrictions.

Chairman Hand concurred and said that deed restrictions were a civil issue and the City usually did not look at those during land use or permit review.

Motion: Commissioner Frederick made a motion to recommend denial of Zoning File 13-17 as presented; second by Commissioner DePuy.

Commissioner Roland asked if the ordinance was voted down by the Commission would it go forward "as is" to City Council or should the Commission offer some suggestions to make it better.

Chairman Hand said that if the Commission recommended denial, the item would go to City Council in its present form. However, the Commission could make some suggestions during the discussion section of the motion as to what changes the Commission would want when the Council reviews the item.

Commissioner Maxwell said his neighborhood would be in jeopardy if the ordinance did not pass and he would vote against the motion because he felt there was room for improvement before moving the item forward to Council. He added that an ordinance might be based on the number of homes in a neighborhood that had either front or alley access.

Vice Chair Bright concurred and said he would vote against the motion and thought a simpler ordinance could work with the Board of Adjustments handling any special exceptions.

Commissioner Linn pointed out that the information provided by staff in the Commission's packets regarding the breakdown of the number of lots with either alley or street access had taken staff over 10 hours to put together and trying to maintain a database with that information would be very time consuming.

Mr. Chavez acknowledged that he had to go through aerial maps to try and determine whether the lots mentioned in the staff report had alley or street access, and it would be a time consuming task for staff to go through the 353 residential subdivisions in the City to get the percentages of front entry versus alley entrance for each subdivision.

Mr. Chavez asked if the Commission would allow the staff the opportunity to go back and rework the ordinance, simplify it, and bring it back at a later date.

Commissioner Frederick asked Mr. Maxwell to clarify his comments about his neighborhood being in jeopardy.

Commissioner Maxwell replied that in his neighborhood of Duck Creek, he did not think there was one house with street access and if one of the homes in his neighborhood burned down and had to be reconstructed, he did not want someone to have the option of reorienting a garage to face the street instead of the alley.

Commissioner Frederick asked Mr. Maxwell for clarification and if he thought that by supporting the proposed ordinance as written it would be alright to prohibit a neighbor the freedom of choosing either front or alley entry and would jeopardize the value of his home.

Commissioner Maxwell replied that he did not state anything about value and felt the issue before the Commission was about character, although the character of a neighborhood could affect value, the issue was about maintaining character.

Commissioner Springs suggested putting the responsibility for gathering data to support a special exception on the applicant as opposed to city staff.

Chairman Hand asked if the Commission did vote to deny the ordinance, did the City Council have to have a super majority to pass the item.

Mr. Chavez replied that the Council would need a 6 to 1 in favor vote to pass the ordinance.

Commissioner DePuy stated that her neighborhood was built in the 1950s and 1960 and had many different configurations of rear, front and side entry garages and those differences added to the character of the neighborhood as opposed to detracting from it. She added that for most of the City she did not feel there was an issue and was still not in favor of restricting the redevelopment of homes.

Commissioner Frederick stated she was a proponent of private property rights and explained that several years ago she was on a City architectural panel that met to study the idea of an overlay district would allow a neighborhood the option of setting parameters to fit the characteristics of their neighborhood. The panel forwarded their recommendations on to the City Council and she was not sure if the Council enacted the panel's recommendations, but she again stated she was not in favor of regulating her neighbors.

Chairman Hand stated he was also a part of the architectural panel and said he thought the Council had adopted an ordinance for overlay districts, but thought no one had taken advantages of that ordinance.

Mr. Chavez replied that overlay ordinance was adopted in 2008 and it has never been used by any neighborhood. He also requested that the Commission allow staff to rewrite the proposed ordinance and come back at a future date.

Chairman Hand stated that Ms. Frederick would have to rescind her motion and then someone would have to make a motion to table the item.

Commissioner Linn asked to view one of the photos of a remodeled home and stated that if someone wanted to reconstruct and/or remodel a home in his neighborhood to improve the appearance and value, he did not see any reason to restrict that process.

Commissioner Maxwell asked to view another photo showing the side view of one of the remodeled homes and noted that if that particular home was on a corner, those across the street would be looking at a less than desirable view.

Commissioner DePuy commented that the person living across the street from home depicted in the picture stated they were happy with the remodel and had no problems with the view.

Chairman Hand noted there did not seem to be much public support for the proposed ordinance and pointed out that the current circumstances were adding value to neighborhoods. He added that he was hesitant to change that, but was open to tabling the item to allow staff more time to consider and incorporate some of the ideas from the Commission.

Commissioner Frederick said that in the spirit of being a team player, she was withdrawing her motion to allow staff the time to provide more options to the Commission. She noted that when the item was brought back before the Commission, there still may be those who feel as passionate about opposing any restrictions, but there may also be additional information to help clarify some of the Commissioner's decisions.

Commissioner DePuy also withdrew her second of Ms. Frederick's motion.

Motion: Commissioner Maxwell made a motion to table Zoning File 13-17 to a future date to be established; second by Commissioner Roland.

Commissioner Roland asked if staff needed any further information from the Commission to revise the proposed ordinance.

Mr. Chavez replied that he understood the Commission's concerns: ease of interpretation; original orientation was important; and, elements for special exception.

Commissioner Linn asked staff to look at the homes on the Hill streets off Greenville Avenue as to how those would be impacted where the easements at the rear of the homes are unimproved.

Mr. Chavez replied that those homes have utility easements at the rear of the homes with all front entries and no curb and gutters. He added that there were a number of subdivision that had alley waivers and were all street access, but there were also subdivisions, mostly in the older section of town, that have alleys but most of the homes have street access.

Chairman Hand said he personally did not have a problem with taking a front entry garage and turning it into a swing entry because it was an improved condition. He also suggested that one of the issues that may be causing concern would be when the garage doors are parallel to the street and right on the front build to line, however, reorienting a garage that is back from the build to line or the possibility of a porte-cochere as suggested by Mr. Roland would be acceptable.

In addition, Mr. Hand stated that asking a homeowner on a creek lot who wants to reconfigure their lot to replicate a rear entry garage was not a good use of land or the views in the City.

Vice Chair Bright stated he agreed with Mr. Hand especially when it came to golf course or creek lots.

Motion to indefinitely table Zoning File 13-17 approved 6 to 1 with Commissioner DePuy opposed.

ADJOURN

With no further business before the Commission, Chairman Hand adjourned the regular business meeting at 8:46 p.m.

Barry Hand, Chair
City Plan Commission