

MEMORANDUM
February 20, 1991

TO: Mayor and Members of the City Council

FROM: Members of the Planning and Zoning Commission and Members of the Historical and Cultural Preservation and Enhancement Committee

RE: Recommended Historic Overlay District Ordinance

As the Council is aware both the Planning and Zoning Commission (Commission) and the Historical and Cultural Preservation and Enhancement Committee (Committee) have been working on a Historic Overlay ordinance for a number of months. One of the charges in the resolution creating the Committee was to consider overlay districts as one means of preservation. The concept for this ordinance originated with the Committee's recommendation that such a district be created in order to provide for the preservation of the downtown area and any other areas that might be determined to be appropriate in the future. This ordinance has been reviewed by both the Commission and the Committee and is recommended for further action by the City Council.

The ordinance would function as an overlay district under the zoning ordinance, much like the 740 overlay district works. The underlying zoning would remain the same. This ordinance if adopted, provides for the appointment of a Historic Preservation Board (Board). The Board, in addition to other general duties, is charged with the responsibility of developing and administering a set of guidelines that would control development and redevelopment within an approved district. The Board may also recommend the boundaries of proposed districts. The application of this ordinance will affect the use of property within an established district in the following manner:

1. No work requiring a building permit or sign permit; work which involves the alteration, refacing, repainting, or exterior remodeling of a building front, construction or reconstruction of exterior awnings, new construction or demolition can occur without first being granted a Certificate of Appropriateness (CA) from the City Council after recommendation from the Board. As it is currently worded all requests will be considered by the Council.
2. Built into the ordinance is the ability to adopt special land use requirements that would not normally be permitted under the standard ordinances, such as historic signage plans, use of building materials not otherwise allowed, and authorization of specific land uses not otherwise allowed. This could, for example, allow consideration of the restoration of the Coke sign on the wall of the Flower Shop, or possibly allow a use such as the Mobil gas station on SH-66 to operate if it is restored to specific standards.

Historic Overlay District Memo Cont'd.

3. This ordinance could apply to both residential and non residential uses if a district is created that would include both types of uses. It is anticipated that the Board would initially be considering only the downtown area for such a designation, but future consideration residential of areas is not precluded.
4. There is a provision in the draft ordinance that would allow the development of guidelines that could permit the designated Historic Preservation Officer (Officer) to issue certain CA's. For example, if a range of colors is adopted as acceptable within a district, the Officer could then issue a CA for repainting within that range without requiring the applicant to go before the Board and Council.

If the Council is in agreement with the draft of the ordinance as submitted the next step would be to hold the required public hearings before the Commission and Council to amend the Zoning Ordinance to create the District. It is planned to mail information regarding the proposed ordinance to property owners in the downtown area that would potentially be affected by the adoption of this ordinance and to those individuals who have shown previous interest in the development of such an ordinance prior to the hearing.

Upon the adoption of this ordinance the Council would then appoint the Board, who would then begin work on developing the guidelines and formulating recommendations for the actual creation of specific districts. Hearings would also have to be held prior to the adoption of a specific historic district. The current draft does not require that hearings be held prior to adoption of the guidelines, as required in the proposed Architectural Review ordinance.

This ordinance would function separately from the proposed Architectural Review ordinance, which the Council is also considering. If property is located in a designated historic district this ordinance would regulate the issuance of a CA. If the property is developed non-residentially and is not located in a historic district the Architectural Review ordinance would regulate the issuance of a CA.

91-14

**CITY OF ROCKWALL
Planning and Zoning Agenda**

Agenda Date: November 8, 1990

Agenda No: VI.

Agenda Item: Hold Joint Worksession with the Historical/Cultural Preservation and Enhancement Committee to Discuss Proposed Historic Overlay District

Item Generated By: Staff

Action Needed: Hold joint discussion.

Background Information:

We have completed the first draft of the Historical Overlay District ordinance and are ready to review it with the Historical Committee and the Commission. This ordinance is a reflection of the elements that the Committee had recommended be included in such an ordinance and elements from other examples of Historic Districts. This ordinance would create the mechanism for establishing Historic Districts and the guidelines by which development would be regulated. It establishes the makeup of the permanent committee and outlines their duties and responsibilities. The ordinance also establishes a violation if a building is altered or changed on the exterior without receiving a Certificate of Appropriateness. Some of the issues we need to address on Thursday are as follows:

1. Should color be regulated.
2. The time frame for consideration of such requests needs to be discussed.
3. The ordinance is drafted to permit land uses or other development requirements within a particular district if it is deemed appropriate. Examples of this would be allowing a land use such as a gas station that might not otherwise be allowed within the underlying district, such as the Slaughter gas station, or a sign that might not otherwise be permitted by the sign ordinance such as the Coca Cola sign on the Flower Shop. This is an item that bears discussion.
4. The demolition and removal section will potentially affect property owners by not allowing them to remove a structure unless it is deemed appropriate by the Committee and Council. This section should be reviewed in some depth.

We will be ready to discuss the draft at the meeting. It is likely that some of the property owners on the Square may also be at the meeting. They are aware that this item will be discussed and have seen a copy of the draft ordinance.

Attachments:

1. Draft Ordinance

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 83-23 BY ADDING A NEW SECTION 2.20; PROVIDING FOR AN HISTORIC OVERLAY DISTRICT; PROVIDING FOR HISTORIC PRESERVATION DISTRICT REGULATIONS; PROVIDING FOR THE ADMINISTRATION OF HISTORIC DISTRICT PRESERVATION; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, in accordance with the guidelines established in the City of Rockwall's Comprehensive Zoning Ordinance the City Council has considered amending the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall, in compliance with the State law in reference to the adoption of amendments to comprehensive zoning ordinances have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners interested in the zoning regulations to be amended by the City, the governing body of the City of Rockwall is of the opinion that the Comprehensive Zoning Ordinance should be amended in the exercise of its legislative discretion, and

WHEREAS, the Legislature of the State of Texas has enacted Article 1011a, Vernon's Annotated Civil Statutes empowering cities of the State of Texas to adopt regulations and restrictions for the preservation and protection of historical places and areas of historical and cultural importance and significance, and

WHEREAS, the City Council of the City of Rockwall is aware that the City of Rockwall has certain areas, places, buildings and structures having significant historical value which reflect the heritage of the City, the State, and its people, and

WHEREAS, the rapid change in population, economic functions and land use activities in the City has increasingly threatened to uproot or destroy significant buildings, lands, areas, or districts having important historical, architectural, archaeological or cultural interest and values which reflect the heritage of the City and once uprooted or destroyed, their distinctiveness is gone forever, and

WHEREAS, commercial activity, residential stability and economic prosperity of the City is enhanced by the preservation of the City's character as portrayed by its historic places;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Rockwall, Texas:

SECTION 1. That the Comprehensive Zoning Ordinance No. 83-23 of the City of Rockwall as heretofore amended be and the same is hereby amended by amending Article II by adding a new section 2.20, Historic Overlay District, as set forth as follows:

Section 2.20 (HD) HISTORIC OVERLAY DISTRICT

A. Purpose

The City Council of the City of Rockwall, Texas hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that within the City of Rockwall numerous areas, sites and structures represent the distinguishing characteristics of a period style or method of construction that shaped the identity of generations of

citizens, collectively and individually, and produced significant historic, architectural and cultural resources that constitute their heritage, and therefore this act is intended to:

1. protect, identify and enhance distinctive historical and architectural characteristics and landmarks which represent distinctive cultural, social, economic, political, and architectural history of Rockwall;
2. foster civic pride in the accomplishments of the past;
3. protect and enhance Rockwall's attractiveness to visitors and the support and stimulus to the economy thereby provided;
4. insure the harmonious, orderly and efficient growth and development of the City;
5. promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and,
6. stabilize and improve values of such properties.

B. DEFINITIONS

Unless specifically defined below, words or phrases in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and so as to give this ordinance its most reasonable application.

1. Alteration - Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection construction, reconstruction, exterior remodeling other than painting, or removal of any structure.
2. Certificate of Appropriateness - A certificate issued by the City Council (which shall have the benefit of comment and recommendation from the Historic Preservation Advisory Board) indicating approval of plans for alteration, construction, removal, or demolition of a structure within a historic district, or a certificate issued by the Historic Preservation Officer in accordance with applicable guidelines for exterior restorations and renovations as provided for herein and approved by the City Council.
3. Council, City Council - The City Council of the City of Rockwall, Texas.
4. Construction - The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
5. Demolition - Any act or process that destroys in part or in whole a structure within a historic district.
6. Design Guidelines - A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.
7. Hearings - An opportunity for public input at a meeting of the Historic Advisory Board requiring no special publications or notice of requirements.
8. Historic District - An area designated as a "historic district" by ordinance of the City Council and which may have within its boundaries other properties or structures which meet the criteria for designation as a historic district as herein provided.
9. Preservation Board, Preservation Committee Historic Advisory Board, Board - The Historic Preservation Advisory Board of the City of Rockwall.

10. Public Hearing - Opportunity for public comment in accordance with the City of Rockwall's Comprehensive Zoning Ordinance if to be held by the Planning and Zoning Commission, or applicable laws and procedures if to be held by the City Council.
11. Removal - Any relocation of a structure on its site or to another site.
12. Repair - Any change that is not construction, removal, or alteration.
13. Structure - Anything constructed or erected, the use of which requires permanent or temporary location or in the ground, including, but without limiting the generality of the foregoing; buildings, fences, gazebos, advertising signs, billboards, backstops for sports courts or fields, radio or television antenna, including supporting towers, and swimming pools.

C. HISTORIC PRESERVATION ADVISORY BOARD

1. Created: There is hereby created a Historic Preservation Advisory Board which shall serve as an advisory body to the City Council. Such Board shall consist of seven (7) members to be appointed by the City Council.
2. Term of Office; Qualifications: The members shall be appointed for a term of two (2) years with staggered terms and shall be removable by the City Council. Their terms of office shall expire on the last day of July or when their successor is appointed. In the event that a vacancy occurs prior to the expiration of a full term the City Council shall appoint a new member to complete the unexpired term. Any member may be reappointed by the City Council upon completion of a term to which he has been appointed. The membership shall include:
 - a. an architect, planner or representative of a design profession;
 - b. a member of the Rockwall County Historical Foundation;
 - c. a member of the Rockwall City Council;
 - d. a general contractor;
 - e. an owner of property within a historic district;
 - f. two citizens of Rockwall interested in historic preservation.

All Board members, regardless of background, shall have a known and demonstrated interest, and knowledge of historic preservation within the City. All members must be residents of Rockwall County.

3. Powers and Duties:

The Preservation Committee shall have the following powers and duties:

1. To adopt its own procedural regulations;
2. To conduct an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, state, or city;
3. To investigate and recommend to the Planning and Zoning Commission and to the City Council the adoption of ordinances designating areas as having special historic, community, or architectural value as "historic districts";

4. To keep a register of all properties and structures that have been designated as historic districts, including all information required for each designation;
 5. To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one historic district to another;
 6. To review applications for construction, alteration, removal, or demolition affecting proposed or designated historic districts and recommend issuance or denial of Certificates of Appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
 7. To develop specific design guidelines for historic districts for recommendation to and approval by the Rockwall City Council;
 8. To develop specific design guidelines for the alteration, construction, or removal of property and structures within historic districts;
 9. To review proposed zoning amendments, applications for special use permits, or applications for zoning variances that affect proposed or designated historic districts. The Historic Preservation Officer shall send applications for special use or zoning variations to the Historic Preservation Advisory Board for comments prior to the date of the hearing by the Planning and Zoning Commission or Board of Zoning Adjustment;
 10. To testify before all boards and commissions, including the Planning and Zoning Commission, the Board of Zoning of Adjustment, and the City Council on any matter affecting historically and architecturally significant property, structures, and areas;
 11. To periodically review the City of Rockwall Comprehensive Zoning Ordinance and to recommend to the Planning and Zoning Commission and the City Council any amendments appropriate for the protection and continued use of property and structures within historic districts; and
 12. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this ordinance.
4. Officers: The Board shall elect a Chairman and Vice chairman at its first meeting and thereafter at its first meeting in August or at the first meeting thereafter for a term of one (1) year. The Historic Preservation Officer shall be Secretary of the Board and an ex-officio member.
 5. Voting; Meetings: Each member in attendance shall have one vote on plans submitted to the Board and the vote shall be reported to the Planning and Zoning Commission. Any member professionally or financially involved in matters pending before the Board shall abstain from any discussion, consideration or vote on that item and shall leave the room during such discussion and consideration and otherwise comply with the City of Rockwall Ethics Code and applicably State Statutes. Meetings of the Board shall be called as needed by the Historic Preservation Officer.

C. APPOINTMENT OF HISTORIC PRESERVATION OFFICER

The City Manager shall appoint a qualified staff person, to serve as historic preservation officer. This officer shall administer this ordinance and advise the Board on matters submitted to it.

In addition to serving as representative to the Board, the officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national non-profit preservation organizations.

Section 4. DESIGNATION OF HISTORIC DISTRICTS

- (a) The City Council may designate by zoning ordinance certain areas as historic districts. Such districts shall bear the word "historic" in their zoning designation.
- (b) The Board may recommend designation of qualified areas within the City to the City Council after conducting public hearings and determination that same is appropriate. Property owners within a proposed historic district shall be notified prior to the Board's hearing consider such designation. At the Board's public hearing, Board members, owners, and interested parties may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic district. The record also may contain staff reports, public comments, or other evidence offered outside of the hearing.

Upon recommendation of the Board, the proposed historic district shall be submitted to the Planning and Zoning Commission for review and recommendation. The Planning and Zoning Commission shall give notice, conduct a public hearing, and make recommendations to the Council according to the same procedures as specifically provided in other sections of this ordinance. The City Council shall give notice, follow the publication procedure, hold public hearings, and make a determination in the same manner as provided in the general zoning ordinance of the City.

If designation consideration has been requested by a citizen, property owner, or other interested party, the Board shall make its recommendation, to be forwarded to the Planning and Zoning Commission, within thirty (30) days from the date of submittal of designation request. If consideration has been initiated by the Historic Advisory Board, a recommendation may be made to the Planning and Zoning Commission upon completion of Board consideration. In either case, the Planning and Zoning Commission shall schedule a public hearing on the Board's recommendation to be held within forty-five (45) days of receipt of such recommendation from the Historic Advisory Board..

Upon designation of an area as a historic district by action of the Rockwall City Council, the designation should be recorded in the tax records of the City of Rockwall, and the City official zoning maps. All zoning maps should indicate the designated districts by an appropriate mark.

A historic district may be designated if an area:

- (i) Possesses significance in history, architecture, archeology, and/or culture.
- (ii) Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history.
- (iii) Is associated with the lives of persons significant in the City's past.
- (iv) Embodies the distinctive characteristics of a type, period, and/or method of construction.
- (v) Represents the work of a master designer, builder, and/or craftsman.
- (vi) Represents an established and familiar visual feature of the City.

- (c) The Board may recommend a district to the Council to be designated if it:
- (i) Contains properties which meet one or more of the criteria for designation of a historic district above.
 - (ii) Constitutes a distinct section of the City.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Secretary's office for public inspection.

Section 5. **CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION LOCATED WITHIN APPROVED HISTORIC DISTRICTS**

Any person carrying out any work which requires a building permit; which involves the alteration, refacing, or exterior remodeling of a building front; which includes construction or reconstruction of exterior awnings; new construction or moving or demolition of a structure within a historic district must first obtain a Certificate of Appropriateness approved by the City Council upon recommendation from the Historic Advisory Board.

The Board may recommend guidelines for approval by the City Council which, upon such approval, will enable the Historic Preservation Officer to issue a Certificate of Appropriateness for certain exterior restorations and renovations. Should no such guidelines be approved by Resolution by the City Council, all applications for Certificates of Appropriateness shall require approval by the City Council upon recommendation from the Historic Advisory Board.

Any addition of landscape materials or landscape design elements on privately owned property need not receive a Certificate of Appropriateness from the Council. It is recommended, however, that all proposed landscaping used in the District be extracted from the "Recommended Plant List" as provided in the Landscape Ordinance of the City of Rockwall. City staff shall maintain a list of plant material that is appropriate for all designated historic areas.

Any person wishing to paint a structure within a historic district may do so without receiving a Certificate of Appropriateness from the Council. City staff and/or the Board shall provide review and comment as requested by the property owner with regards to color selection and design. Such review and comment, however, shall not be binding.

Section 6. **CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS**

The Board shall follow the design guidelines as adopted by the City Council in its consideration of all applications for a Certificate of Appropriateness. These Standards shall be made available to the property owners within historic districts. The Historic Preservation Officer shall coordinate with the Chief Building Official, and other appropriate City Departments, all Certificate of Appropriateness applications.

Section 7. **CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE**

- (a) Prior to the commencement of any work requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Historic Preservation Officer. The application shall contain:

- (i) Name, address, telephone number of applicant, detailed description of proposed work.
- (ii) Location and photographs of the property and adjacent properties. (Historical photographs also may be helpful.)

- (iii) Elevation drawings of the proposed changes, if applicable, identifying proposed colors and materials.
 - (iv) Samples of materials to be used, if requested by the Board.
 - (v) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if applicable), and a plan showing the sign's location on the property.
 - (vi) Site plan in accordance with the Comprehensive Zoning Ordinance of the City of Rockwall, if applicable.
 - (vii) Any other information which the Board may deem necessary in order to visualize the proposed work.
- (b) No building permit shall be issued for such proposed work until a Certification of Appropriateness has first been issued by the Council. The certification of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the City of Rockwall.
 - (c) The City Council shall take action to approve or deny a complete application for issuance of a Certificate of Appropriateness within 30 days of its submission unless the proposal requires more than said amount of time due to the time requirements otherwise required by the Comprehensive Zoning Ordinance of the City of Rockwall in which case all applicable issues will be considered by the City Council simultaneously. The Board's recommendation shall state the reasons for recommending denial or modification of any proposal. Should the Board not take action within the time period prescribed, the application for the Certificate of Appropriateness shall be automatically referred to the City Council for consideration and action without Board recommendation.
 - (d) All decisions of the Board and City Council with regard to certificates shall be in writing. A certificate shall be sent to the applicant and a copy filed with the City Secretary's office for public inspection.

Section 8. CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OR REMOVAL

No structure or building within a proposed or designated historic district may be demolished or removed unless the City Council has approved a Certificate of Appropriateness for demolition or removal.

A permit for the demolition of a property within a historic district, including secondary buildings, shall not be granted by the Chief Building Official without the review of a completed application by the Board and issuance of a Certificate of Appropriateness for Demolition by the City Council.

An applicant for a proposed demolition may apply for a certificate of appropriateness for demolition on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish to the satisfaction of the City Council that:

- (a) the property or structure cannot be used or adapted for any use, whether by the current owner or by a purchaser in a manner which would result in a reasonable return, regardless of whether that return represents the most profitable return possible; and
- (b) efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or

- (c) the structure or property is in such condition as to be irreparably damaged and as such poses a nuisance to the surrounding area and is a "threat" to the health, safety and general welfare of the community.

Section 9. CONSIDERATION OF SPECIAL REQUEST IN FURTHERANCE OF HISTORIC PRESERVATION

The Board may consider special requests in furtherance of historic preservation within an established historic district. Such requests may include, but not necessarily be limited to, historic signage plans, use of building materials not otherwise allowed, authorization of specific land uses not otherwise allowed, or other requests submitted for consideration.

Upon receipt of such special requests, the Board shall review same and forward its recommendation to the City Council for consideration. The City Council may approve said requests by amendment of the ordinance designating such historic district. Any such amendment shall preempt any other underlying Zoning Restrictions. Such special requests may be denied by the City Council by passage of a motion to deny.

Section 10. ENFORCEMENT

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Inspection Department to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, the Building Inspection Department shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. A Certificate of Appropriateness may be reinstated, however, upon assurance that compliance will henceforth exist.

Section 11. ORDINARY MAINTENANCE

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a structure, building, or property within a historic district which does not involve a change in design or material. In-kind replacement or repair is included in this definition of ordinary maintenance.

Section 12. PENALTIES

Any person, firm or corporation violating any of the provisions of this ordinance shall be punished by a penalty of fine not to exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

Section 13. NO VESTED INTEREST

That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The Ordinance and regulations may be amended or repealed by the City Council of the City of Rockwall, Texas in the manner provided by law.

Section 14. SEVERABILITY CLAUSE

If any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the City of Rockwall, Texas, and the City of Rockwall, Texas, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions of this ordinance shall remain in full force and effect.

Section 15. EFFECTIVE DATE

That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such case provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS THE _____ DAY OF _____, 1990.

APPROVED:

Mayor

ATTEST:

City Secretary

CITY OF ROCKWALL
City Council Agenda

91-14

Agenda Date: June 3, 1991

Agenda No: V. C.

Agenda Item: Hold Public Hearing and Consider Approval of an Ordinance Amending the Comprehensive Zoning Ordinance to Provide an Historic Overlay District (1st Reading)

Item Generated By: Planning and Zoning Commission

Action Needed: Hold Public Hearing and Consider Approving or Not Approving the Proposed Ordinance.

Background Information: As the Council is aware, the Planning and Zoning Commission has been in the process of developing both the Architectural Review Ordinance and the Historic Overlay District Ordinance. The Architectural Review Ordinance would have regulated non residential development within the City except for development located within an historical district. The Historic Overlay District Ordinance was designed to regulate that development that might occur within a designated historic area. The review processes and development controls in the two ordinances are very similar.

The proposed Historic Overlay District ordinance establishes an Historic Preservation Advisory Board. This Board, once appointed, would have several responsibilities. These would include the drafting of guidelines for development within a designated district and also recommending specific districts for historic designation. This ordinance provides that development or redevelopment within a district would be reviewed by the Board with those recommendations going to the City Council.

While there was not as much expressed opposition to this ordinance as there was to the architectural review ordinance, several people voiced some of the same concerns at the hearing before the Commission. The Commission upon closing the public hearing did recommend that this ordinance be approved.

Given the discussion at the last meeting regarding the establishment of a task force to review architectural review and other corridor development recommendations of the Commission, the Council should consider including this ordinance in such a review prior to its adoption.

Attachments:

1. Proposed historic overlay district ordinance

Agenda Item: Public Hearing re: Ord. to Provide Historic Overlay District (1st Read)

Item No: V. C.

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL AMENDING THE COMPREHENSIVE ZONING ORDINANCES NO. 83-23 BY ADDING A NEW SECTION 2.20; PROVIDING FOR AN HISTORIC OVERLAY DISTRICT; PROVIDING FOR HISTORIC PRESERVATION DISTRICT REGULATIONS; PROVIDING FOR THE ADMINISTRATION OF HISTORIC DISTRICT PRESERVATION; PROVIDING FOR APPEAL; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, in accordance with the guidelines established in the City of Rockwall's Comprehensive Zoning Ordinance the City Council has considered amending the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall, in compliance with the State law in reference to the adoption of amendments to comprehensive zoning ordinances have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners interested in the zoning regulations to be amended by the City, the governing body of the City of Rockwall is of the opinion that the Comprehensive Zoning Ordinance should be amended in the exercise of its legislative discretion,

WHEREAS, the Legislature of the State of Texas has enacted Article 1011a, Vernon's Annotated Civil Statutes empowering cities of the State of Texas to adopt regulations and restrictions for the preservation and protection of historical places and areas of historical and cultural importance and significance, and

WHEREAS, the City Council of Rockwall is aware that the City of Rockwall has numerous areas, places, buildings and structures having significant historical value which reflect the heritage of the City, the State, and its people, and

WHEREAS, the rapid change in population, economic functions and land use activities in the City has increasingly threatened to uproot or destroy many significant buildings, lands, areas, or districts having important historical, architectural, archaeological or cultural interest and values which reflect the heritage of the City and once uprooted or destroyed, their distinctiveness is gone forever, and

WHEREAS, commercial activity, residential stability and economic prosperity of the City is enhanced by the preservation of the City's character as portrayed by its historic landmarks and places;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Rockwall, Texas:

SECTION 1. That the Comprehensive Zoning Ordinance No. 83-23 of the City of Rockwall as heretofore amended be and the same is hereby amended by amending Article II by adding a new section 2.20, Historic Overlay District, as set forth as follows:

Section 2.20 (HD) HISTORIC OVERLAY DISTRICT

A. Purpose

The City Council of Rockwall, Texas hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that within the City of Rockwall numerous areas, sites and structures represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and

produced significant historic, architectural and cultural resources that constitute their heritage, and therefore this act is intended to:

1. protect and enhance the district and landmarks which represent distinctive elements of Rockwall's historic, architectural and cultural heritage;
2. foster civic pride in the accomplishments of the past;
3. protect and enhance Rockwall's attractiveness to visitors and the support and stimulus to the economy thereby provided;
4. insure the harmonious, orderly and efficient growth and development of the City;
5. promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and,
6. stabilize and improve values of such properties.

B. HISTORIC PRESERVATION ADVISORY BOARD

1. Created: There is hereby created a Historic Preservation Advisory Board which shall serve as an advisory body to the City Council. Such Board shall consist of seven (7) members to be appointed by the City Council.
2. Term of Office; Qualifications: The members shall be appointed for a term of two (2) years with staggered terms and shall be removable by the City Council. Their terms of office shall expire on the last day of July or when their successor has been appointed. In the event that a vacancy occurs prior to the expiration of a full term the City Council shall appoint a new member to complete the unexpired term. Any member may be reappointed by the City Council upon completion of a term to which he has been appointed. The membership shall include:
 - a. an architect, planner or representative of a design profession;
 - b. a member of the Rockwall County Historical Foundation;
 - c. a member of the Rockwall City Council;
 - d. a general contractor;
 - e. an owner of property within a historic district;
 - f. two citizens of Rockwall interested in historic preservation.

All Board members, regardless of background, shall have a known and demonstrated interest, competence or knowledge of historic preservation within the City. All members must be residents of Rockwall County.

3. Duties: The duties of the Board are as follows:
 - a. Provide professional recommendations to the City Council in Planning and Zoning Commission as required, regarding site plans, building alternatives, and building plans proposed within the City (HD) Historic Overlay District. The Board shall review site plans and building elevations placed before them within the time frame allowed for processing applications prior to submission to the Planning and Zoning Commission or City Council. The Board shall prepare a written assessment of the proposed project regarding compliance with approved guidelines for development within the District, and its applicability in preserving and enhancing the history and culture of the District.

- b. Research, document and maintain in the official files of the City detailed information regarding the original construction and architecture of the District.
 - c. Develop and maintain guidelines regarding development and redevelopment within the District including architectural design, materials selections, building styles and other pertinent design considerations. The proposed guidelines shall be submitted to the Planning and Zoning Commission and City Council for approval.
 - d. Adopt rules and procedures as necessary to provide for the orderly conduct of Board meetings.
 - e. Recommend the boundaries of historic districts.
 - f. Increase public awareness of the value of historic, cultural, and architectural preservation by encouraging and participating in public education programs developed by the Historic Preservation office.
4. Officers: The Board shall elect a Chairman and Vice chairman at the first meeting in August or at the first meeting thereafter for a term of one (1) year. The Historic Preservation Officer shall be Secretary of the Board and an ex-officio member.
5. Voting; Meetings: Each member in attendance shall have a vote on plans submitted to the Board with that vote reported to the Commission. Any member professionally or financially involved in matters pending before the Board shall abstain from any discussion, consideration or vote on that item and shall leave the room during such discussion and consideration. Meetings of the Board shall be called as needed by the Historic Preservation Officer.

C. APPOINTMENT OF HISTORIC PRESERVATION OFFICER

The City Manager shall appoint a qualified staff person, to serve as historic preservation officer. This officer shall administer this ordinance and advise the Board on matters submitted to it.

In addition to serving as representative to the Board, the officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national non-profit preservation organizations.

Section 4. DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS

- (a) The City Council may designate by zoning ordinance certain areas as historic districts. Such districts shall bear the word "historic" in their zoning designation.
- (b) The Board may recommend to the Council a historic district. Property owners within a proposed historic district shall be notified prior to the Board's hearing on the designation. At the Board's public hearing, Board members, owners, and interested parties may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic district. The record also may contain staff reports, public comments, or other evidence offered outside of the hearing.

Upon recommendation of the Board, the proposed historic district shall be submitted to the Planning and Zoning Commission for its review and recommendation. The Planning and Zoning Commission shall give notice, conduct its public hearing, and make recommendations to the Council in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the City of Rockwall. The City Council shall give notice, follow the publication procedure, hold public hearings, and make its

determination in the same manner as provided in the general zoning ordinance of the City.

The Board shall make its recommendation, to be forwarded to the Planning and Zoning Commission, within thirty (30) days from the date of submittal of designation request. The Planning and Zoning Commission shall schedule a public hearing on the Board's recommendation to be held within forty-five (45) days of receipt of such recommendation.

Upon designation of an area as a historic district, the designation should be recorded in the tax records of the City of Rockwall, and the City official zoning maps. All zoning maps should indicate the designated districts by an appropriate mark.

A historic district may be designated if it:

- (i) Possesses significance in history, architecture, archeology, and/or culture.
 - (ii) Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history.
 - (iii) Is associated with the lives of persons significant in our past.
 - (iv) Embodies the distinctive characteristics of a type, period, and/or method of construction.
 - (v) Represents the work of a master designer, builder, and/or craftsman.
 - (vi) Represents an established and familiar visual feature of the City.
- (c) The Board may recommend a district to the Council to be designated if it:
- (i) Contains properties which meet one or more of the criteria for designation of a landmark.
 - (ii) Constitutes a distinct section of the City.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Secretary's office for public inspection.

Section 5. CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING HISTORIC DISTRICTS

Any person carrying out any work which requires a building permit for exterior alteration, restoration, reconstruction, new construction, moving or demolition of a property within a historic district visible must first obtain a Certificate of Appropriateness from the City Council.

The Board may recommend guidelines to enable the Historic Preservation Officer to issue a Certificate of Appropriateness for exterior restorations and renovations requiring a building permit.

Any addition or deletion of landscape materials or landscape design elements need not receive a Certificate of Appropriateness from the Council. It is recommended, however, that all proposed landscaping used in the District be extracted from the "Recommended Plant List" as provided in the Landscape Ordinance of the City of Rockwall. City staff shall maintain a list of plant material that is appropriate for all designated historic areas.

Any person wishing to paint a structure within a historic district may do so without receiving a Certificate of Appropriateness from the Council. City staff and/or the Board shall provide review and comment as requested by the property owner with regards to color selection and design. Such review and comment, however, shall not be binding.

Section 6. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS

The Board shall follow the design guidelines as adopted by the City Council in its consideration of all applications for a Certificate of Appropriateness. These Standards shall be made available to the property owners of historic landmarks or within historic districts. The Historic Preservation Officer shall coordinate with the Chief Building Official, and other appropriate City Departments, all Certificate of Appropriateness applications.

Section 7. CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE

- (a) Prior to the commencement of any work requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Historic Preservation Officer. The application shall contain:
- (i) Name, address, telephone number of applicant, detailed description of proposed work.
 - (ii) Location and photographs of the property and adjacent properties. (Historical photographs also may be helpful.)
 - (iii) Elevation drawings of the proposed changes, if available, and preferably in color.
 - (iv) Samples of materials to be used, if requested by the Board.
 - (v) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
 - (vi) Site plan in accordance with the General Zoning Ordinance, if applicable.
 - (vii) Any other information which the Board may deem necessary in order to visualize the proposed work.
- (b) No building permit shall be issued for such proposed work until a certification of appropriateness has first been issued by the Council. The certification of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the City of Rockwall.
- (c) The Board shall make its recommendations to the City Council, deny or approve with modifications within 30 days from receipt of the completed application. The Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Should the Board not take action within the thirty day period, the Certificate of Appropriateness shall be automatically approved.
- (d) All decisions of the Board shall be in writing. A certificate shall be sent to the applicant and a copy filed with the City Secretary's office for public inspection. The Board's decision shall state the reasons for denying or modifying any application.

Section 8. DEMOLITION PERMIT AND CERTIFICATE OF APPROPRIATENESS

A permit for the demolition of a property within a historic district, including secondary buildings, shall not be granted by the Chief Building Official without the review of a completed application by the Board and issuance of a Certificate of Appropriateness for Demolition by the City Council.

An applicant for a proposed demolition may apply for a certificate of appropriateness on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish to the satisfaction of the City Council that:

- (a) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (b) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (c) efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or
- (d) the structure or property is in such condition as to be irreparably damaged and as such poses a nuisance to the surrounding area and is a "threat" to the health, safety and general welfare of the community.

Section 9. ENFORCEMENT

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Inspection Department to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, the Building Inspection Department shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. A Certificate of Appropriateness may be reinstated, however, upon assurance that compliance will henceforth exist.

Section 10. ORDINARY MAINTENANCE

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design or material. In-kind replacement or repair is included in this definition of ordinary maintenance.

Section 11. PENALTIES

Any person, firm or corporation violating any of the provisions of this ordinance shall be punished by a penalty of fine not to exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

Section 12. NO VESTED INTEREST

That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The Ordinance and regulations may be amended or repealed by the City Council of the City of Rockwall, Texas in the manner provided by law.

Section 13. SEVERABILITY CLAUSE

That all ordinances of the City of Rockwall in conflict with the provisions of this be and the same are hereby repealed, and all other ordinances of the City of Rockwall not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 14. EFFECTIVE DATE

That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such case provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS THE _____ DAY OF _____, 1990.

CORRECTLY ENROLLED:

CITY SECRETARY

**CITY OF ROCKWALL
City Council Agenda**

Agenda Date: June 17, 1991

Agenda No: IV. B.

Agenda Item: Consider Approval of an Ordinance Amending the Comprehensive Zoning Ordinance to Provide an Historic Overlay District (2nd Reading)

Item Generated By: Planning and Zoning Commission

Action Needed: Consider Approving or Not Approving the Proposed Ordinance on second reading.

Background Information: As the Council is aware, the Planning and Zoning Commission has been in the process of developing both the Architectural Review Ordinance and the Historic Overlay District Ordinance. The Architectural Review Ordinance would have regulated non residential development within the City except for development located within an historical district. The Historic Overlay District Ordinance was designed to regulate that development that might occur within a designated historic area. The review processes and development controls in the two ordinances are very similar.

The proposed Historic Overlay District ordinance establishes an Historic Preservation Advisory Board. This Board, once appointed, would have several responsibilities. These would include the drafting of guidelines for development within a designated district and also recommending specific districts for historic designation. This ordinance provides that development or redevelopment within a district would be reviewed by the Board with those recommendations going to the City Council.

While there was not as much expressed opposition to this ordinance as there was to the architectural review ordinance, several people voiced some of the same concerns at the hearing before the Commission. The Commission upon closing the public hearing did recommend that this ordinance be approved.

Given the discussion at the last meeting regarding the establishment of a task force to review architectural review and other corridor development recommendations of the Commission, the Council should consider including this ordinance in such a review prior to its adoption.

Attachments:

1. Proposed historic overlay district ordinance

Agenda Item: Consider Ordinance to Provide Historic Overlay District (2nd Reading)

Item No: IV. B.

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL AMENDING THE COMPREHENSIVE ZONING ORDINANCES NO. 83-23 BY ADDING A NEW SECTION 2.20; PROVIDING FOR AN HISTORIC OVERLAY DISTRICT; PROVIDING FOR HISTORIC PRESERVATION DISTRICT REGULATIONS; PROVIDING FOR THE ADMINISTRATION OF HISTORIC DISTRICT PRESERVATION; PROVIDING FOR APPEAL; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, in accordance with the guidelines established in the City of Rockwall's Comprehensive Zoning Ordinance the City Council has considered amending the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall, in compliance with the State law in reference to the adoption of amendments to comprehensive zoning ordinances have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners interested in the zoning regulations to be amended by the City, the governing body of the City of Rockwall is of the opinion that the Comprehensive Zoning Ordinance should be amended in the exercise of its legislative discretion,

WHEREAS, the Legislature of the State of Texas has enacted Article 1011a, Vernon's Annotated Civil Statutes empowering cities of the State of Texas to adopt regulations and restrictions for the preservation and protection of historical places and areas of historical and cultural importance and significance, and

WHEREAS, the City Council of Rockwall is aware that the City of Rockwall has numerous areas, places, buildings and structures having significant historical value which reflect the heritage of the City, the State, and its people, and

WHEREAS, the rapid change in population, economic functions and land use activities in the City has increasingly threatened to uproot or destroy many significant buildings, lands, areas, or districts having important historical, architectural, archaeological or cultural interest and values which reflect the heritage of the City and once uprooted or destroyed, their distinctiveness is gone forever, and

WHEREAS, commercial activity, residential stability and economic prosperity of the City is enhanced by the preservation of the City's character as portrayed by its historic landmarks and places;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Rockwall, Texas:

SECTION 1. That the Comprehensive Zoning Ordinance No. 83-23 of the City of Rockwall as heretofore amended be and the same is hereby amended by amending Article II by adding a new section 2.20, Historic Overlay District, as set forth as follows:

Section 2.20 (HD) HISTORIC OVERLAY DISTRICT

A. Purpose

The City Council of Rockwall, Texas hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that within the City of Rockwall numerous areas, sites and structures represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and

produced significant historic, architectural and cultural resources that constitute their heritage, and therefore this act is intended to:

1. protect and enhance the district and landmarks which represent distinctive elements of Rockwall's historic, architectural and cultural heritage;
2. foster civic pride in the accomplishments of the past;
3. protect and enhance Rockwall's attractiveness to visitors and the support and stimulus to the economy thereby provided;
4. insure the harmonious, orderly and efficient growth and development of the City;
5. promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and,
6. stabilize and improve values of such properties.

B. HISTORIC PRESERVATION ADVISORY BOARD

1. Created: There is hereby created a Historic Preservation Advisory Board which shall serve as an advisory body to the City Council. Such Board shall consist of seven (7) members to be appointed by the City Council.
2. Term of Office; Qualifications: The members shall be appointed for a term of two (2) years with staggered terms and shall be removable by the City Council. Their terms of office shall expire on the last day of July or when their successor has been appointed. In the event that a vacancy occurs prior to the expiration of a full term the City Council shall appoint a new member to complete the unexpired term. Any member may be reappointed by the City Council upon completion of a term to which he has been appointed. The membership shall include:
 - a. an architect, planner or representative of a design profession;
 - b. a member of the Rockwall County Historical Foundation;
 - c. a member of the Rockwall City Council;
 - d. a general contractor;
 - e. an owner of property within a historic district;
 - f. two citizens of Rockwall interested in historic preservation.

All Board members, regardless of background, shall have a known and demonstrated interest, competence or knowledge of historic preservation within the City. All members must be residents of Rockwall County.

3. Duties: The duties of the Board are as follows:
 - a. Provide professional recommendations to the City Council in Planning and Zoning Commission as required, regarding site plans, building alternatives, and building plans proposed within the City (HD) Historic Overlay District. The Board shall review site plans and building elevations placed before them within the time frame allowed for processing applications prior to submission to the Planning and Zoning Commission or City Council. The Board shall prepare a written assessment of the proposed project regarding compliance with approved guidelines for development within the District, and its applicability in preserving and enhancing the history and culture of the District.

- b. Research, document and maintain in the official files of the City detailed information regarding the original construction and architecture of the District.
 - c. Develop and maintain guidelines regarding development and redevelopment within the District including architectural design, materials selections, building styles and other pertinent design considerations. The proposed guidelines shall be submitted to the Planning and Zoning Commission and City Council for approval.
 - d. Adopt rules and procedures as necessary to provide for the orderly conduct of Board meetings.
 - e. Recommend the boundaries of historic districts.
 - f. Increase public awareness of the value of historic, cultural, and architectural preservation by encouraging and participating in public education programs developed by the Historic Preservation office.
4. Officers: The Board shall elect a Chairman and Vice chairman at the first meeting in August or at the first meeting thereafter for a term of one (1) year. The Historic Preservation Officer shall be Secretary of the Board and an ex-officio member.
5. Voting; Meetings: Each member in attendance shall have a vote on plans submitted to the Board with that vote reported to the Commission. Any member professionally or financially involved in matters pending before the Board shall abstain from any discussion, consideration or vote on that item and shall leave the room during such discussion and consideration. Meetings of the Board shall be called as needed by the Historic Preservation Officer.

C. APPOINTMENT OF HISTORIC PRESERVATION OFFICER

The City Manager shall appoint a qualified staff person, to serve as historic preservation officer. This officer shall administer this ordinance and advise the Board on matters submitted to it.

In addition to serving as representative to the Board, the officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national non-profit preservation organizations.

Section 4. DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS

- (a) The City Council may designate by zoning ordinance certain areas as historic districts. Such districts shall bear the word "historic" in their zoning designation.
- (b) The Board may recommend to the Council a historic district. Property owners within a proposed historic district shall be notified prior to the Board's hearing on the designation. At the Board's public hearing, Board members, owners, and interested parties may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic district. The record also may contain staff reports, public comments, or other evidence offered outside of the hearing.

Upon recommendation of the Board, the proposed historic district shall be submitted to the Planning and Zoning Commission for its review and recommendation. The Planning and Zoning Commission shall give notice, conduct its public hearing, and make recommendations to the Council in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the City of Rockwall. The City Council shall give notice, follow the publication procedure, hold public hearings, and make its

determination in the same manner as provided in the general zoning ordinance of the City.

The Board shall make its recommendation, to be forwarded to the Planning and Zoning Commission, within thirty (30) days from the date of submittal of designation request. The Planning and Zoning Commission shall schedule a public hearing on the Board's recommendation to be held within forty-five (45) days of receipt of such recommendation.

Upon designation of an area as a historic district, the designation should be recorded in the tax records of the City of Rockwall, and the City official zoning maps. All zoning maps should indicate the designated districts by an appropriate mark.

A historic district may be designated if it:

- (i) Possesses significance in history, architecture, archeology, and/or culture.
 - (ii) Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history.
 - (iii) Is associated with the lives of persons significant in our past.
 - (iv) Embodies the distinctive characteristics of a type, period, and/or method of construction.
 - (v) Represents the work of a master designer, builder, and/or craftsman.
 - (vi) Represents an established and familiar visual feature of the City.
- (c) The Board may recommend a district to the Council to be designated if it:
- (i) Contains properties which meet one or more of the criteria for designation of a landmark.
 - (ii) Constitutes a distinct section of the City.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Secretary's office for public inspection.

Section 5. CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING HISTORIC DISTRICTS

Any person carrying out any work which requires a building permit for exterior alteration, restoration, reconstruction, new construction, moving or demolition of a property within a historic district visible must first obtain a Certificate of Appropriateness from the City Council.

The Board may recommend guidelines to enable the Historic Preservation Officer to issue a Certificate of Appropriateness for exterior restorations and renovations requiring a building permit.

Any addition or deletion of landscape materials or landscape design elements need not receive a Certificate of Appropriateness from the Council. It is recommended, however, that all proposed landscaping used in the District be extracted from the "Recommended Plant List" as provided in the Landscape Ordinance of the City of Rockwall. City staff shall maintain a list of plant material that is appropriate for all designated historic areas.

Any person wishing to paint a structure within a historic district may do so without receiving a Certificate of Appropriateness from the Council. City staff and/or the Board shall provide review and comment as requested by the property owner with regards to color selection and design. Such review and comment, however, shall not be binding.

Section 6. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS

The Board shall follow the design guidelines as adopted by the City Council in its consideration of all applications for a Certificate of Appropriateness. These Standards shall be made available to the property owners of historic landmarks or within historic districts. The Historic Preservation Officer shall coordinate with the Chief Building Official, and other appropriate City Departments, all Certificate of Appropriateness applications.

Section 7. CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE

- (a) Prior to the commencement of any work requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Historic Preservation Officer. The application shall contain:
 - (i) Name, address, telephone number of applicant, detailed description of proposed work.
 - (ii) Location and photographs of the property and adjacent properties. (Historical photographs also may be helpful.)
 - (iii) Elevation drawings of the proposed changes, if available, and preferably in color.
 - (iv) Samples of materials to be used, if requested by the Board.
 - (v) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
 - (vi) Site plan in accordance with the General Zoning Ordinance, if applicable.
 - (vii) Any other information which the Board may deem necessary in order to visualize the proposed work.
- (b) No building permit shall be issued for such proposed work until a certification of appropriateness has first been issued by the Council. The certification of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the City of Rockwall.
- (c) The Board shall make its recommendations to the City Council, deny or approve with modifications within 30 days from receipt of the completed application. The Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Should the Board not take action within the thirty day period, the Certificate of Appropriateness shall be automatically approved.
- (d) All decisions of the Board shall be in writing. A certificate shall be sent to the applicant and a copy filed with the City Secretary's office for public inspection. The Board's decision shall state the reasons for denying or modifying any application.

Section 8. DEMOLITION PERMIT AND CERTIFICATE OF APPROPRIATENESS

A permit for the demolition of a property within a historic district, including secondary buildings, shall not be granted by the Chief Building Official without the review of a completed application by the Board and issuance of a Certificate of Appropriateness for Demolition by the City Council.

An applicant for a proposed demolition may apply for a certificate of appropriateness on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish to the satisfaction of the City Council that:

- (a) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (b) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (c) efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or
- (d) the structure or property is in such condition as to be irreparably damaged and as such poses a nuisance to the surrounding area and is a "threat" to the health, safety and general welfare of the community.

Section 9. ENFORCEMENT

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Inspection Department to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, the Building Inspection Department shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. A Certificate of Appropriateness may be reinstated, however, upon assurance that compliance will henceforth exist.

Section 10. ORDINARY MAINTENANCE

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design or material. In-kind replacement or repair is included in this definition of ordinary maintenance.

Section 11. PENALTIES

Any person, firm or corporation violating any of the provisions of this ordinance shall be punished by a penalty of fine not to exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

Section 12. NO VESTED INTEREST

That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The Ordinance and regulations may be amended or repealed by the City Council of the City of Rockwall, Texas in the manner provided by law.

Section 13. SEVERABILITY CLAUSE

That all ordinances of the City of Rockwall in conflict with the provisions of this be and the same are hereby repealed, and all other ordinances of the City of Rockwall not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 14. EFFECTIVE DATE

That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such case provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS THE _____ DAY OF _____, 1990.

CORRECTLY ENROLLED:

CITY SECRETARY

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL AMENDING THE COMPREHENSIVE ZONING ORDINANCES NO. 83-23 BY ADDING A NEW SECTION 2.20; PROVIDING FOR AN HISTORIC OVERLAY DISTRICT; PROVIDING FOR HISTORIC PRESERVATION DISTRICT REGULATIONS; PROVIDING FOR THE ADMINISTRATION OF HISTORIC DISTRICT PRESERVATION; PROVIDING FOR APPEAL; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, in accordance with the guidelines established in the City of Rockwall's Comprehensive Zoning Ordinance the City Council has considered amending the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall, in compliance with the State law in reference to the adoption of amendments to comprehensive zoning ordinances have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners interested in the zoning regulations to be amended by the City, the governing body of the City of Rockwall is of the opinion that the Comprehensive Zoning Ordinance should be amended in the exercise of its legislative discretion,

WHEREAS, the Legislature of the State of Texas has enacted Article 1011a, Vernon's Annotated Civil Statutes empowering cities of the State of Texas to adopt regulations and restrictions for the preservation and protection of historical places and areas of historical and cultural importance and significance, and

WHEREAS, the City Council of Rockwall is aware that the City of Rockwall has numerous areas, places, buildings and structures having significant historical value which reflect the heritage of the City, the State, and its people, and

WHEREAS, the rapid change in population, economic functions and land use activities in the City has increasingly threatened to uproot or destroy many significant buildings, lands, areas, or districts having important historical, architectural, archaeological or cultural interest and values which reflect the heritage of the City and once uprooted or destroyed, their distinctiveness is gone forever, and

WHEREAS, commercial activity, residential stability and economic prosperity of the City is enhanced by the preservation of the City's character as portrayed by its historic landmarks and places;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Rockwall, Texas:

SECTION 1. That the Comprehensive Zoning Ordinance No. 83-23 of the City of Rockwall as heretofore amended be and the same is hereby amended by amending Article II by adding a new section 2.20, Historic Overlay District, as set forth as follows:

Section 2.20 (HD) HISTORIC OVERLAY DISTRICT

A. Purpose

The City Council of Rockwall, Texas hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that within the City of Rockwall numerous areas, sites and structures represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and

produced significant historic, architectural and cultural resources that constitute their heritage, and therefore this act is intended to:

1. protect and enhance the district and landmarks which represent distinctive elements of Rockwall's historic, architectural and cultural heritage;
2. foster civic pride in the accomplishments of the past;
3. protect and enhance Rockwall's attractiveness to visitors and the support and stimulus to the economy thereby provided;
4. insure the harmonious, orderly and efficient growth and development of the City;
5. promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and,
6. stabilize and improve values of such properties.

B. HISTORIC PRESERVATION ADVISORY BOARD

1. Created: There is hereby created a Historic Preservation Advisory Board which shall serve as an advisory body to the City Council. Such Board shall consist of seven (7) members to be appointed by the City Council.
2. Term of Office; Qualifications: The members shall be appointed for a term of two (2) years with staggered terms and shall be removable by the City Council. Their terms of office shall expire on the last day of July or when their successor has been appointed. In the event that a vacancy occurs prior to the expiration of a full term the City Council shall appoint a new member to complete the unexpired term. Any member may be reappointed by the City Council upon completion of a term to which he has been appointed. The membership shall include:
 - a. an architect, planner or representative of a design profession;
 - b. a member of the Rockwall County Historical Foundation;
 - c. a member of the Rockwall City Council;
 - d. a general contractor;
 - e. an owner of property within a historic district;
 - f. two citizens of Rockwall interested in historic preservation.

All Board members, regardless of background, shall have a known and demonstrated interest, competence or knowledge of historic preservation within the City. All members must be residents of Rockwall County.

3. Duties: The duties of the Board are as follows:
 - a. Provide professional recommendations to the City Council in Planning and Zoning Commission as required, regarding site plans, building alternatives, and building plans proposed within the City (HD) Historic Overlay District. The Board shall review site plans and building elevations placed before them within the time frame allowed for processing applications prior to submission to the Planning and Zoning Commission or City Council. The Board shall prepare a written assessment of the proposed project regarding compliance with approved guidelines for development within the District, and its applicability in preserving and enhancing the history and culture of the District.

- b. Research, document and maintain in the official files of the City detailed information regarding the original construction and architecture of the District.
 - c. Develop and maintain guidelines regarding development and redevelopment within the District including architectural design, materials selections, building styles and other pertinent design considerations. The proposed guidelines shall be submitted to the Planning and Zoning Commission and City Council for approval.
 - d. Adopt rules and procedures as necessary to provide for the orderly conduct of Board meetings.
 - e. Recommend the boundaries of historic districts.
 - f. Increase public awareness of the value of historic, cultural, and architectural preservation by encouraging and participating in public education programs developed by the Historic Preservation office.
4. Officers: The Board shall elect a Chairman and Vice chairman at the first meeting in August or at the first meeting thereafter for a term of one (1) year. The Historic Preservation Officer shall be Secretary of the Board and an ex-officio member.
5. Voting; Meetings: Each member in attendance shall have a vote on plans submitted to the Board with that vote reported to the Commission. Any member professionally or financially involved in matters pending before the Board shall abstain from any discussion, consideration or vote on that item and shall leave the room during such discussion and consideration. Meetings of the Board shall be called as needed by the Historic Preservation Officer.

C. APPOINTMENT OF HISTORIC PRESERVATION OFFICER

The City Manager shall appoint a qualified staff person, to serve as historic preservation officer. This officer shall administer this ordinance and advise the Board on matters submitted to it.

In addition to serving as representative to the Board, the officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national non-profit preservation organizations.

Section 4. DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS

- (a) The City Council may designate by zoning ordinance certain areas as historic districts. Such districts shall bear the word "historic" in their zoning designation.
- (b) The Board may recommend to the Council a historic district. Property owners within a proposed historic district shall be notified prior to the Board's hearing on the designation. At the Board's public hearing, Board members, owners, and interested parties may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic district. The record also may contain staff reports, public comments, or other evidence offered outside of the hearing.

Upon recommendation of the Board, the proposed historic district shall be submitted to the Planning and Zoning Commission for its review and recommendation. The Planning and Zoning Commission shall give notice, conduct its public hearing, and make recommendations to the Council in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the City of Rockwall. The City Council shall give notice, follow the publication procedure, hold public hearings, and make its

determination in the same manner as provided in the general zoning ordinance of the City.

The Board shall make its recommendation, to be forwarded to the Planning and Zoning Commission, within thirty (30) days from the date of submittal of designation request. The Planning and Zoning Commission shall schedule a public hearing on the Board's recommendation to be held within forty-five (45) days of receipt of such recommendation.

Upon designation of an area as a historic district, the designation should be recorded in the tax records of the City of Rockwall, and the City official zoning maps. All zoning maps should indicate the designated districts by an appropriate mark.

A historic district may be designated if it:

- (i) Possesses significance in history, architecture, archeology, and/or culture.
 - (ii) Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history.
 - (iii) Is associated with the lives of persons significant in our past.
 - (iv) Embodies the distinctive characteristics of a type, period, and/or method of construction.
 - (v) Represents the work of a master designer, builder, and/or craftsman.
 - (vi) Represents an established and familiar visual feature of the City.
- (c) The Board may recommend a district to the Council to be designated if it:
- (i) Contains properties which meet one or more of the criteria for designation of a landmark.
 - (ii) Constitutes a distinct section of the City.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Secretary's office for public inspection.

Section 5. CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING HISTORIC DISTRICTS

Any person carrying out any work which requires a building permit for exterior alteration, restoration, reconstruction, new construction, moving or demolition of a property within a historic district visible must first obtain a Certificate of Appropriateness from the City Council.

The Board may recommend guidelines to enable the Historic Preservation Officer to issue a Certificate of Appropriateness for exterior restorations and renovations requiring a building permit.

Any addition or deletion of landscape materials or landscape design elements need not receive a Certificate of Appropriateness from the Council. It is recommended, however, that all proposed landscaping used in the District be extracted from the "Recommended Plant List" as provided in the Landscape Ordinance of the City of Rockwall. City staff shall maintain a list of plant material that is appropriate for all designated historic areas.

Any person wishing to paint a structure within a historic district may do so without receiving a Certificate of Appropriateness from the Council. City staff and/or the Board shall provide review and comment as requested by the property owner with regards to color selection and design. Such review and comment, however, shall not be binding.

Section 6. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS

The Board shall follow the design guidelines as adopted by the City Council in its consideration of all applications for a Certificate of Appropriateness. These Standards shall be made available to the property owners of historic landmarks or within historic districts. The Historic Preservation Officer shall coordinate with the Chief Building Official, and other appropriate City Departments, all Certificate of Appropriateness applications.

Section 7. CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE

- (a) Prior to the commencement of any work requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Historic Preservation Officer. The application shall contain:
- (i) Name, address, telephone number of applicant, detailed description of proposed work.
 - (ii) Location and photographs of the property and adjacent properties. (Historical photographs also may be helpful.)
 - (iii) Elevation drawings of the proposed changes, if available, and preferably in color.
 - (iv) Samples of materials to be used, if requested by the Board.
 - (v) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
 - (vi) Site plan in accordance with the General Zoning Ordinance, if applicable.
 - (vii) Any other information which the Board may deem necessary in order to visualize the proposed work.
- (b) No building permit shall be issued for such proposed work until a certification of appropriateness has first been issued by the Council. The certification of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the City of Rockwall.
- (c) The Board shall make its recommendations to the City Council, deny or approve with modifications within 30 days from receipt of the completed application. The Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Should the Board not take action within the thirty day period, the Certificate of Appropriateness shall be automatically approved.
- (d) All decisions of the Board shall be in writing. A certificate shall be sent to the applicant and a copy filed with the City Secretary's office for public inspection. The Board's decision shall state the reasons for denying or modifying any application.

Section 8. DEMOLITION PERMIT AND CERTIFICATE OF APPROPRIATENESS

A permit for the demolition of a property within a historic district, including secondary buildings, shall not be granted by the Chief Building Official without the review of a completed application by the Board and issuance of a Certificate of Appropriateness for Demolition by the City Council.

An applicant for a proposed demolition may apply for a certificate of appropriateness on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish to the satisfaction of the City Council that:

- (a) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (b) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (c) efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or
- (d) the structure or property is in such condition as to be irreparably damaged and as such poses a nuisance to the surrounding area and is a "threat" to the health, safety and general welfare of the community.

Section 9. ENFORCEMENT

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Inspection Department to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, the Building Inspection Department shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. A Certificate of Appropriateness may be reinstated, however, upon assurance that compliance will henceforth exist.

Section 10. ORDINARY MAINTENANCE

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design or material. In-kind replacement or repair is included in this definition of ordinary maintenance.

Section 11. PENALTIES

Any person, firm or corporation violating any of the provisions of this ordinance shall be punished by a penalty of fine not to exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

Section 12. NO VESTED INTEREST

That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The Ordinance and regulations may be amended or repealed by the City Council of the City of Rockwall, Texas in the manner provided by law.

Section 13. SEVERABILITY CLAUSE

That all ordinances of the City of Rockwall in conflict with the provisions of this be and the same are hereby repealed, and all other ordinances of the City of Rockwall not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 14. EFFECTIVE DATE

That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such case provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS THE _____ DAY OF _____, 1990.

CORRECTLY ENROLLED:

CITY SECRETARY