

ORDINANCE NO. 840209-K

AN INTERIM ORDINANCE AMENDING CERTAIN PROVISIONS OF ORDINANCE NO. 840119-E REQUIRING SITE PLAN APPROVAL BY THE PLANNING COMMISSION AS A PREREQUISITE TO THE ISSUANCE OF A PERMIT FOR THE CONSTRUCTION, STRUCTURAL ALTERATION, REMOVAL OR DEMOLITION OF CERTAIN STRUCTURES IN PROTECTED INNER-CITY NEIGHBORHOODS; DEFINING PROTECTED INNER-CITY NEIGHBORHOODS; PROVIDING FOR PROCEDURES AND STANDARDS FOR SITE PLAN REVIEW; PROVIDING FOR THE DURATION OF THE ORDINANCE; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds and is of the opinion that the protection and preservation of Austin's older, centrally located neighborhoods is important to the general welfare of the City and its citizens; and,

WHEREAS, the Austin Tomorrow Comprehensive Plan, the master plan of the City heretofore adopted by the City Council, stresses the preservation of the older, centrally located neighborhoods as a major part of the City's goal to avoid the kind of decay and deterioration of inner-city areas which other cities have suffered; and,

WHEREAS, the continued desirability for single-family residency of such older, centrally located neighborhoods surrounding a revitalized Central Business District will be of substantial long-term benefit to the community; but,

WHEREAS, permissive zoning classifications placed on some inner-city residential areas decades ago before the value of inner-city preservation was realized threaten the continued desirability of these areas for single-family residency; and,

WHEREAS, the City Council, while possessing the authority under the City's police power to rezone property to less permissive classifications, desires to achieve an appropriate balance between the expectations of development interests and the necessity for inner-city neighborhood protection; and,

WHEREAS, a comprehensive revision to Austin's zoning ordinance has been passed and adopted by the City Council on first reading of the ordinance and is expected to be finally passed and adopted soon and to go into effect in not more than two years; and,

WHEREAS, such comprehensive revision to the zoning ordinance is to include certain "compatibility standards" to govern construction of higher density or higher intensity land uses impacting nearby single-family uses; and,

WHEREAS, the City Council finds it necessary and desirable to adopt certain interim measures to facilitate the goal of inner-city neighborhood protection pending the adoption and effectiveness of the comprehensive revision to the zoning ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. That any person, corporation or other entity applying to the City of Austin for permits to construct, structurally alter, remove or demolish any structure in a "Protected Inner-city Neighborhood" which is located on property zoned for uses other than single-family or duplex use are hereby required to apply for and receive site plan approval for the planned use and development of the property from the Planning Commission prior to the issuance of such permit(s). Provided, however, that this requirement shall not apply to permits for the construction or structural alteration of single-family or duplex structures for single-family or duplex uses regardless of the zoning. All permits issued shall be in conformance with the approved site plan.

PART 2. That the areas described by this PART 2 have been identified as and are hereby declared to be "Protected Inner-city Neighborhoods" for the purposes of this Ordinance. The Planning Department shall conduct a study to identify other centrally located neighborhoods which should be protected and shall make its recommendations to the City Council for inclusion of such other areas within the purview of this Ordinance. The identified "Protected Inner-city Neighborhoods" are as follows:

- A. The Old West Austin Neighborhood, which for the purposes of this Ordinance shall be defined as that area of the City of Austin bounded on the north by Enfield Road, on the east by Lamar Boulevard, on the south by Town Lake, and on the west by the MoPac Expressway.
- B. The Hyde Park Neighborhood, which for the purposes of this Ordinance shall be defined as that area of the City of Austin bounded by West 51st Street on the north, Guadalupe Street on the west, 38th and 45th streets on the south, and Duval and Red River streets on the east.
- C. The Fairview Park Neighborhood, which for the purposes of this Ordinance shall be defined as that area of the City of Austin bounded on the north by Riverside Drive, on the west by Congress Avenue, on the south by East Monroe Street, and on the east by Eastside Drive from East Monroe to the intersection of Eastside Drive with Alameda Drive, then on Alameda Drive north to Riverside Drive.

PART 3. That the site plan review by the Planning Commission called for in PART 1 of this Ordinance shall be conducted according to the following procedures and standards:

- A. Application for site plan approval. Application for site plan approval shall be filed in the office of the City Planning Department, in writing, on forms provided by the City and shall be accompanied by a site plan showing the intended development of the property involved. Applications for site plan approval shall be accompanied by a fee in the amount established by ordinance for special permits.
- B. Notice and hearing procedure. Within sixty (60) days after the date of filing of an application, the Planning Commission shall hold a public hearing on the application. The Commission's

decision to grant or deny site plan approval shall be made no later than ten (10) days after the hearing. Notice of the hearing shall be given to all property owners within three hundred (300) feet of the subject property by depositing such notice in the U.S. Mail at least ten (10) days prior to the hearing, addressed to the owners as shown on the last approved tax roll. The Planning Commission's decision shall be final.

C. Site plan requirements. The site plan accompanying an application shall show existing improvements on the land and proposed development of the property. The plan shall be submitted on mylar twenty-four (24) by thirty-six (36) inches in size. The site plan shall give the following information:

- (1) The date, scale, north point, title, name of owner and name of person preparing the plan.
- (2) The location of existing boundary lines and dimensions of the tract.
- (3) The centerline of existing watercourses, drainage features and location and size of existing and proposed streets and alleys.
- (4) The location and size to the nearest one-half foot of all proposed buildings and land improvements.
- (5) The clear designation of areas reserved for off-street parking and for off-street loading; the location and size of points of ingress and egress; and the ratio of parking space to floor space.
- (6) A designation of the proposed land uses including the density of proposed multi-family residential dwelling units.
- (7) The landscaping plan.
- (8) The location of all public utilities.
- (9) The grading and drainage plan.

D. Standards for review. In granting or denying an application for site plan approval, the City Planning Commission shall take into consideration the following factors:

- (1) Safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site.
- (2) Safety from fire hazard, and measures for fire control.
- (3) Protection of adjacent property from flood or water damage.

- (4) Noise-producing elements; and glare of vehicular and stationary lights and effect of such lights on established character of the neighborhood.
- (5) Location, lighting and type of signs; and relation of signs to traffic control and adverse effect on adjacent properties.
- (6) Street size and adequacy of pavement width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood.
- (7) Adequacy of parking; location of ingress and egress points for parking and off-street loading spaces.
- (8) Adequacy of utility capacity to serve the proposed development.
- (9) Such other factors as may be reasonably related to the objectives of this Ordinance under the particular facts and circumstances of the given case, which factors shall be clearly articulated by the Commission if used as a basis for denial of site plan approval.

Upon denial of any site plan application the Commission shall prepare written findings of fact justifying the denial and shall also advise the applicant of modifications to the site plan which would, in the Commission's opinion, make the site plan acceptable.

E. Modification of site plan.

- (1) The site plan as finally approved may be adjusted or altered subsequently when such modification is required by provisions of city ordinances or state statutes which are more restrictive, or when the holder of the approved site plan deems a revision in the site plan will provide more appropriate development of the site; provided, that such proposed change is consistent with the express conditions imposed by the Planning Commission and the change will be consistent with the City Code.
- (2) A proposed change shall be presented, in writing, to the building official, and if written specifications are inadequate to describe the proposed revision, a supplementary site plan shall be attached to the application for revision. Such application and site plan shall be forwarded by the building official to the director of planning who, within five (5) working days after receipt thereof, shall furnish the building official a decision, in writing, either approving the proposed revision or approving the revision subject to specific conditions and safeguards, or by advising the building official that the proposed revision exceeds the scope of the approved site plan and should be referred to the Planning Commission.

- (3) If the proposed revision is approved by the planning director, the building official shall make necessary adjustments in construction permits and shall authorize the holder of the approved site plan to alter construction in accordance with such revision.

PART 4. That this Ordinance is intended to remedy a problem caused by the potential for incompatible land uses in the Protected Inner-city Neighborhoods and the resultant potential for a deleterious effect on the viability of such neighborhoods existing under the present zoning ordinance of the City of Austin, and that it shall be an Interim Ordinance and remain in effect until the proposed new zoning ordinance now before the City Council of the City of Austin is adopted and in effect. Provided however, if such new zoning ordinance does not go into effect within two years of the effective date hereof, this Interim Ordinance shall be reviewed by the City Council.

PART 5. This Ordinance shall apply to any project, construction, structural alteration, demolition or removal subject to PART 1 above for which a permit has not been validly issued prior to the effective date of this Ordinance. Provided, however, that this Ordinance shall not apply to applications for permits for projects for which a site plan was approved under Ordinance No. 831020-G or Ordinance No. 831110-L ("Old West Austin Neighborhood" moratorium ordinances), or to applications for permits for projects for which the City Council granted a specific exemption by ordinance from Ordinance No. 831020-G or Ordinance No. 831110-L. Provided further, the City Council shall have authority to grant specific exemptions to this Ordinance under circumstances where compliance herewith would result in an unreasonable hardship.

PART 6. That pursuant to the provision of PART 5 above whereby the City Council may grant specific exemptions from this Ordinance in circumstances where compliance herewith would result in an unreasonable hardship, the City Council has considered evidence presented in open meeting on this day by the developer of the project planned for 1300-1302 Woodlawn Blvd. and 1704 Waterston Ave. After considering such evidence and the circumstances of the case (among other things, a building permit has already been validly issued for the project, but cannot be used unless the requisite permits to remove or demolish the existing structures may be granted) the City Council finds that these circumstances are exceptional and that a specific exemption should be granted to prevent an unreasonable hardship in this case. Therefore, the project planned for 1300-1302 Woodlawn Blvd. and 1704 Waterston Ave. be and is hereby exempted from this Ordinance.

PART 7. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provisions, or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

Further, this Ordinance is not intended to and shall not be deemed to have repealed Ordinance No. 831117-K (Fairview Park Ordinance). This Ordinance and Ordinance No. 831117-K shall be construed harmoniously whenever possible and, in the event of any conflict, the more restrictive provision shall govern. Should this Ordinance be held invalid, Ordinance No. 831117-K is declared and shall be deemed to be severable from this Ordinance for all purposes.

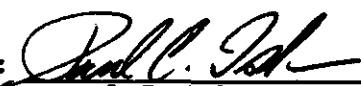
PART 8. Whereas, the necessity to preserve and protect the older, centrally located neighborhoods creates an emergency, an emergency is hereby declared to exist regarding the immediate preservation of order, health, safety and general welfare of the public, and this emergency requires the suspension of the rule providing for the reading of an ordinance on three separate days, and requires that this ordinance become effective immediately upon its passage; therefore, the rule requiring the reading of ordinances on three separate days is hereby suspended and this ordinance shall become effective immediately upon its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED

ADOPTED: February 9, 1984

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Ron Mullen
Mayor

APPROVED: 
Paul C. Isham
City Attorney

ATTEST: 
James E. Aldridge
City Clerk

JMN:jkg