



**Meeting Notes**

**October 20, 2020**

**Call to Order**

Recording started by Truscenia Garrett.

Lisa Clark, Chair, called the meeting to order at 3:00 p.m.

There were 74 participants in the meeting.

**Director's report**

No Director's Report was given

**Welcome & Introductions**

Ms. Clark did the welcome, roll call and presented the speaker rules.

**Technical Amendments :**

Recap of the three proposed amendments discussed at the previous committee meeting

1. **Time for Submittal:** Staff would like to amend the ordinance by referring to the adopted Planning Commission meeting dates every year.
2. **City Planning Letter (CPL):** This amendment is no longer needed as the CPL is covered under the current definition of title report.
3. **Street Width in Place:** Staff would like to amend the ordinance language to match the Street Ordinance boundary by adding the omitted language into Chapter 42.
4. **Nonresidential (Sec 42-193):** Staff would like to amend the ordinance language to clarify that the term "nonresidential" used in Sec. 42-193 only applies to specific reserves in older plats that are "restricted to nonresidential use" and not to anything that isn't residential.

**Question:** When talking about older plats, how are reserves restricted currently? Is this reserve restriction currently used?

**Answer:** Section 42-193 (c)(2) was only intended for plats that had the key term reserve restricted to non-residential use in older plats. Today this restriction is not used, and the reserves are identified as unrestricted, commercial, and other uses that are not single-family. This section would not apply to those uses.

**Question:** Is the point of this, so that people don't try to replat detention or what is the impetus for it?

**Answer:** If someone came in with a property that is restricted to commercial or detention and want to apply this section without a variance, we want to clarify that this section only talks about specific reserves restricted to non-residential use in older plats.

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5. **Variations for Special minimum lot size (SMLS) and Special minimum building line (SMBL):** Staff would like to clarify the ordinance text to reflect the long-standing interpretation that the five statement of facts for variations on Sec 81(a) are not required for variations on Sec 81(e).

**Question:** If you are applying for a variance for a special minimum Lot Size ordinance and you don't necessarily qualify for the criteria under 81(e) but you may be able to prove that there is a genuine non-economic hardship under 81(a) would you then be eligible under for a variance under 81(a)?

**Answer:** Yes, you can still apply under 81(a). We just want to separate 81(a) and 81(e).

**Question:** In some instances, it has been interpreted that you have to meet the five criteria plus prove vested rights. Do you have to meet both at the same time, or is it one or the other?

**Answer:** You must pick one: either the five criteria or the vested rights. You cannot argue both.

**Question:** Does the department want to see applicants pick their best argument and then go in with that or do they want them to make a case under those independently or, are they just trying to clarify that you don't have to prove it at all. What are your thoughts?

**Answer:** The Planning department's opinion is that you could use either 42-81(a) to justify the five statement of facts which includes the last one that is sole justification cannot be economic hardship or you could use 42- 81(e) to justify why the variance is needed solely based on economic hardship. It will be difficult to justify both because the first one itself clearly says commission cannot Grant variance based on sole economic hardship and the second one is sole economic hardship. So, they are both independent of each other and one cannot justify both at the same time.

6. **Temporary Access Easement for Utility Facilities:** Staff would like to amend the ordinance to allow utility facilities to take temporary access via an access easement until adjacent public streets are platted. This amendment will save valuable time and staff's resources.

**Question:** I understand that this is a city ordinance requirement, but I thought the state required public road access for getting into their sewer plants as well. Does the State of Texas, TCEQ require access to a public road?

**Answer:** Even though they may be meeting the ordinance, they will still have to meet the TCEQ requirement. They must provide an all-weather road to share the facilities.

**Question:** Does it have to be a public road?

**Answer:** No. It will be a temporary situation until the time when the public road is platted and built. This is because the utility facilities come first, and the development comes later. The conditions by which the Planning Commission approves the variations today will be added within the ordinance so there is no need for a variance. When the public street is built, the temporary access easement will go away.

**Question:** Is there danger that the street pattern of the GP changes in the future and that the parcel is platted without restricting the use to utility purposes causing the reserve to not have

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public street access? Is there a need to either restrict the utility reserve or require that the utility reserve be included in the GP?

**Answer:** The utility facility should be a part of the general plan whenever they want to apply the amendment portion of this ordinance and if the general plan changes so significantly that the access originally planned for the access easement is going to change then they have to come back and request a variance. The use of the reserve must be restricted to public utilities like water and wastewater.

**Statement:** I think that since most of the time a utility reimbursement would come from a mud, the TCEQ is not going to approve the takeover of the lift station until the permanent access has been established. So, while there may be some risk that it may fall through the cracks, I don't think that from a practical standpoint because of the financial requirements of getting reimbursed having proper access to these utility facilities will be a big challenge.

**Question:** Could you clarify if this applies to only water and wastewater utilities or also to uses like a cell tower, power or power substation etc. Does this restrict uses to the TCEQ permitted utilities or is it a more expansive definition as proposed?

**Answer:** It applies to any lift station or to any water and wastewater facilities but no cell tower. It would only be utilities that are regulated and that are statutorily defined as being public utilities or otherwise limited. The TCEQ rules provide that it can be a right of way or a permanent easement. It does not have to be a publicly dedicated road.

7. **Identifying floodplains on general plans:** Staff would like to amend the ordinance language to require general plans to identify all floodways and floodplains.

**Question:** How will CLOMR's (conditional letter of map revision) and LOMR's (letter of map revision) be reflected on the general plan?

**Answer:** The general plan is the first thing that happens when a development is about to come in, and the LOMR or CLOMR has not been done. After this process is done, the applicant may decide to redo the general plan and remove the 500- or 100-year floodplain or whatever has been modified. Until then, the general plan will have the 100 and the 500-year floodplain identified.

**Question:** It is very typical for developers to do letters of map revision (LOMR) to take property out of the flood plain and move dirt around. As they do that, will they have to continue to submit their general plans, or can the intent be shown on the initial general plan?

**Answer:** We will discuss this internally. The intent could be shown, but the current existing condition must be identified. They could show the floodplain, with the proposal identified as 'to be amended with LOMR' similar to how easements are identified as 'to be abandoned or rerouted'.

**Statement:** You might want to look at the county process where the developers can show the existing floodplain but then show their adjustments. Developers, in general, know before they submit their general plans, what they are going to take out of the existing floodplain by the LOMR because that is where they are going to put the existing lots and streets.

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**Statement:** The existing conditions, prior to any site modifications, should be established. The floodplains are existing conditions and must be shown prior to developer making any modifications. A subsequent document or an overlay could be identified to show the conditions after the modifications. There are a number of reasons for this, including abutting properties and big systemic changes. Prior to the project, we should know exactly where the floodway, 100 year and 500 year floodplains are and we should be able to see the magnitude of changes that are being proposed in order to regrade and reengineer the site.

**Statement:** My primary concern is that someone doesn't come out and make the changes prior to any approvals or reviews, and then note that these were conditions prior to the application.

**Statement:** Does this apply to Section 42-41 which covers all subdivision plats? Right now, you are talking about the general plan only. Are we trying to say that we want to see floodplain lines on all subdivision plats? I would hate for a buyer, to buy my home, thinking that they are in the 500 floodplain, just to find out later that they are in the 100 floodplain because the map is 6 months old and they just redid the floodplain lines.

**Answer:** The current proposal is just for the general plan and it is not for approved and recorded plats.

**Statement:** Perhaps a plat note, in addition to showing these lines, stating that this is the status of the flood plain as of a certain date, would be helpful or prevent it from being interpreted in the future as being a restriction or create confusion during the permitting phase. It might not be a bad idea to have a disclaimer on the plat, since it is a living and breathing document.

**Answer:** We will take that into account and look into a plat note. We already have a note for the general plan but will consider this suggestion.

**Consensus was taken on all technical amendments and they will be sent to the Planning Commission.**

### **Presentation on Development Codes Overview**

**Chapter 33:** Within the Code of Ordinances, Chapter 33 establishes the Planning and Development Department as well as the Planning Commission. It contains various Articles related to development, but we will mainly focus on Chapter 33 Article VII which is Historic Preservation ordinance, intended to protect the historic fabric of the City of Houston.

**Question:** Does Chapter 33 also cover provisions for design review under the various articles?

**Answer:** Yes, it does. 33 provides for the criteria for approvals for certificate of appropriateness for historic properties and has the processes for both creating districts as well as design reviews.

**Question:** In creation of the district, is there an allowance for the design review to be done by committee or is that done by staff?

**Answer:** Creation of districts require property owner support. There is a process, outlined for property owners, to petition the city to begin the process for creating the district. Ultimately

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city council makes that decision at the end, but through this process there is a requirement that 67% of the property owners support the creation.

**Question:** My question was not so much about the creation of the district. Once the district is created, who conducts the review for compliance with the various provisions of the district?

**Answer:** Staff conducts the reviews. Most items are sent to the Historic and Archaeological Commission, in the same way that plats are sent to the Planning Commission. There is a provision in chapter 33 that allows the director to approve some certificate of appropriateness (COA) applications without taking them to the commission. That is about 25 to 30% of our workload, the rest of the COA's go to the Historic and Archaeological Commission.

**Question:** How is the creation of conservation districts going to be weighed against other planning goals? How are we going to balance our social needs as a growing city versus historic preservation desires?

**Answer:** What the planning department does best is find the balance of different needs within our community. I think that preserving single family residential neighborhoods and single family lots is counter to what this committee is going to be doing over the next year two years and that's something that you're going to be discussing. How to increase density and how to bring in different price points in housing, throughout these neighborhoods is the challenge. I would suggest though, that historic preservation districts, if the property owners chose to pursue them, are not only single-family residential neighborhoods; they tend to be in Houston. It is in our interest to preserve some of Houston's historic fabric, but not necessarily those single-family residential units. There are any number of neighborhoods that are primarily four plex's, six plex's and garden style apartments, that are of an age, that could be of a historic nature and perhaps that's the balance.

**Question:** I guess my question is from my experience in Audubon place where there are multiplex's. Historical multifamily units, four plex's and six plex's add to the housing stock and provide affordable living options. In Audubon place however, with the deed restrictions, stating that new construction shall be limited to improvement designed for use as single family residences, townhouses, duplexes or garage apartment, even if you had something that was the exact same building from 1930 and you tried to build it today, based on the new historic restrictions and deed restrictions by property owners, you would be restrained from doing that. So basically, we are missing middle income housing inside of these neighborhoods, which you know are from the heart and culture perspective. It seems like we have to identify what the priorities are from a social perspective for the city.

**Answer:** I think that those are all very valid points. I think you are right and that we cannot have our cake and eat it too in every neighborhood. I take your comments to heart and I think that's exactly what this committees work is all about. It is finding out how to broaden the opportunities for housing in Houston whether it's increasing the ability to build new four plex's and six plex's in neighborhoods where they haven't been built in 20 years or building more garage apartments or whatever that is. I think that's exactly right on with what this committee is supposed to be doing once we dig into it during the next meeting. I would also add that in Audubon Place the historic preservation code does not prevent garage apartments nor does it prevent the construction of fourplexes and 6 plex's are even a little bit larger multifamily unit.

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That is, in fact, prohibited by the deed restrictions, and I don't think that this committee or the planning department want to get between property owners and their deed restrictions, but just by virtue of having a historic district we are not preventing those additional types of housing.

**Question:** I know in the past there has been similar subcommittees about the city's special revenue and the fee schedule. I don't know if that's beyond the scope of this subcommittee or not, I just wanted to put that out there in case it is something that the planning department wanted this subcommittee to discuss.

**Answer:** Right now, fees are not a part of the scope, but we will take your comment back and ponder over it.

**Chapter 26:** regulates the parking requirements in the city of Houston but as a committee we are only going to talk about article 8 which is the off-street parking and loading ordinance.

**Question:** Is this discussion going to surround a little bit of the ability for homeowners to build a larger garage/garage apartment and without having to double their parking in what is obvious, you know maybe a 50X100 lot?

**Answer:** Yes, we will discuss the opportunities for increasing the size of the additional or the secondary unit and not having to increase the parking. We will also discuss regular multifamily and single-family developments within the vicinity of transit lines. This will be done to encourage the opportunity to use other modes of transportation.

**Chapter 42:** is the subdivision, development and platting ordinance which regulates how the property can be platted and subdivided. Tracts can be developed as Lots or Reserves  
Lot means an undivided tract of land intended for single-family residential use.

Reserve means a tract created for other than single-family residential use.

Single family residential lot can contain no more than 2 separate units with facilities for living sleeping cooking and eating.

**Question:** Did you say that we would consider increasing the 900 square foot minimum for secondary units? Are we considering this increase to provide an opportunity for multigenerational families or even additional income for a family that owns a single-family residential lot?

**Answer:** Yes, that is an option that we would be looking at and considering.

**Statement:** One concern I have for the duplex or two units on one single lot is from a residential building perspective. Here is the drawback on this. Basically, you put in a lot of driveways and they take up the sidewalk and make sidewalk less hospitable. I think we have seen this kind of condition in Rice Military where there are so many front-loading garages that interrupt the sidewalks constantly. The problem with the front building line and preserving the "open space" in the front is essentially incentivizing front loading lots, is not aesthetically pleasing and is not safe for people using the sidewalk. So, I just wanted to raise that as an issue to be considered when we are talking about the front building lines.

**Answer:** That is one of the concerns that we will be addressing.

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**Question:** When it comes to the ADU's, adding units to existing houses, especially if you can use an existing driveway and put it behind the house or a garage apartment, is there any consideration to increasing the number of single family units where you can have someone who could actually climb those stairs and turn the garage into an actual separate unit?

**Answer:** Instead of just single family being defined as 2 units on a lot, Committee will consider and discuss having more than 2 units within a single-family lot. In-fact a lot of other cities are doing that.

**Question:** When it comes to a detention, trying to make an area into a common driveway can be a way to do different lots styles. Is it incentivizing to use common driveways or other things that will make this more of a walkable city as we go through this process?

**Answer:** Yes, I think that will be where we will also get into a little bit of the IDM standards, which I will talk about in the end of my presentation. There could be some incentives if this committee decides that property owners could opt-in to doing common drives.

**Statement:** One of the other options, I would like this committee to look at, is the requirement for where the off-street parking is located. Perhaps this committee might want to revisit Chapter 26 and discuss the requirements for how close you want the parking to the structure.

**Question:** Will the discussion of public alleys be included? Harris county in its affordable housing project is considering requiring public alleys if it is subsidizing the housing.

**Answer:** The Committee will be discussing alleys. Right now, I can't say if it's going to be public alleys or private alleys but the concept of rear access to the properties and bringing the homes closer to the street is one idea that we will discuss. With increasing or expanding what a single-family lot can take access from, it will probably result in more affordability and is something that we would like for the Committee to consider.

**Reserves** is a tract that is going to be used for other than single family residential use.

**Streets** are important to commute from one place to another. Streets could be public or private, referred to as permanent access easements or PA

**Question:** How will we carry on the process of these discussions. In terms of the Agendas for the upcoming meetings and to stay on topics, it will be helpful, in your agendas, to lay out the goals for the meetings so that we can guide the discussion. If we knew what different agenda items that we were discussing, it might help us on focusing.

**Answer:** The first meeting or two, it is always hard to step into everything. In advance of the next meetings we will know the subjects of the next agenda and provide you an opportunity to review the agendas in advance. We will then discuss each item in detail.

**Statement:** You want to make a distinction between public streets and county streets. Public streets are sort of on a publicly dedicated right away, but it may or may not be maintained by the county depending on whether it is built to the County's standards. Sometimes this comes up with the chapter 42 application of connection rules or blocked the street extension rules. Think about the times when the commissioners had to struggle with a discussion of whether a

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required substandard connecting road from the perimeter of a plat is connecting to a public street or to a publicly maintained street, the distinction being whether it has been maintained or accepted. This is just a side point, but it is important.

**Question:** When we are talking about alternative ways of providing adjacency to public streets, are we going to consider vertical property rights?

**Answer:** That is an interesting idea we will have to discuss that through the committee's work.

**Building line** means how far or how close a structure will be from the property line

**IDM** is also called infrastructure design manual - all engineering details related to construction of structures, straight drives, drainage and detention

**Question:** When we talk about the IDM, will we be talking about the intersection between the office of city engineering to amend the IDM and the process by which those amendments are incorporated in Chapter 42 and the circumstances under which they might contradict or conflict or the impact that the IDM will have on the approval of subdivision plats?

**Answer:** I think that is an important aspect and we have to consider how the differences in the ordinances may affect the property owners and how property may be developed because Chapter 42, could have a regulation that says a reduced building line is allowed but IDM standards may not allow that. The consistency is important and that is also something that we will be discussing as part of the Committee's work.

**Question:** Will we be discussing street widths related to IDM? The county is trying to take a new position on the street widths, and we have a consultant developing a set of standards for the County.

**Answer:** Street Widths are within Chapter 42, but the paving width is within IDM. We will have to look at that.

**Statement:** Harris County is looking at the right of way standards within the ETJ areas of the county outside of the city. Harris County is looking at different approaches to streets and neighborhoods and proposing different right of ways for different street types.

**Answer:** City of Houston will be collaborating with the County and discuss with Committee if there is a need to revise the ROW widths.

**Question:** How are the focus groups determined? Who will get invited to them? How do you sign up for the focus groups?

**Answer:** Currently, the only focus group is the Conservation Districts. Their first meeting is this Thursday at 3 o'clock. All committee members are invited to attend. Beginning next year, we plan to have a focus group for residential development and buffering standards. You can volunteer & submit your interest for any focus group by emailing [LivablePlaces@houstontx.gov](mailto:LivablePlaces@houstontx.gov).



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## Next Steps

Next meeting is on November 17th at 3:00 p.m. for the next Livable Places Action Committee meeting. We will be discussing current residential development standards, and then identify issues with the current regulations.

## Homework activities

[www.LetsTalkHouston.org](http://www.LetsTalkHouston.org) is the website that we use for public engagement. The website contains articles about the thought processes behind this project. It gives you all the information related to the meetings, and it has the latest activity, which is currently a one question survey and a few articles. Any interested parties should participate and engage in this activity on the website so we can keep you updated with new information.

**Question:** There is no specific section that speaks about affordable housing, but we're trying to get to the point of affordable housing. Where do you see that landing? I know that the state has some rules regarding specific percentage of affordable housing. How are we looking at integrating that as part of the framework to the scope of this project?

**Answer:** The scope of this project is to talk about how we can make the development of housing affordable by increasing the housing options, reducing parking requirements and creating other incentives etc. It is not the development of affordable housing using the funding that you mentioned. We will not be getting into state funding or federal grants. The purpose of this committee is to look at what we have control over, which is the codes for the city of Houston, and how we can adjust these codes so that they encourage the creation and retention of housing that is affordable to all Houstonians. I am sure AMI will be part of the conversation.

**Question:** Will any interested members of the public be able to participate in focus groups or just committee members?

**Answer:** Yes, we do have some members of the public in the Conservation Focus Group, and we will consider the same while formulating other focus groups. The email for any questions is [LivablePlaces@houstontx.gov](mailto:LivablePlaces@houstontx.gov)

**Question:** Will someone share the details of the preservation case with this group

**Answer:** <https://communityimpact.com/houston/heights-river-oaks-montrose/government/2020/10/05/after-25-years-houstons-historic-preservation-law-faces-supreme-court-test/>

## Public Comments

None

## Meeting Adjourned at 5:17pm