

9-10-16

ORDINANCE NO. 30185

An ordinance correcting Ordinance No. 29811, passed by the Dallas City Council on August 12, 2015 and Ordinance No. 30070, passed by the Dallas City Council on April 27, 2016; attaching a missing exhibit; correcting a naming error; correcting certain typographical errors in the conditions; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council finds that it is in the public interest to correct Ordinance Nos. 29811 and 30070 to accurately reflect the intent of the city council; Now, Therefore,

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

SECTION 1. That Ordinance No. 29811, passed by the Dallas City Council on August 12, 2015, which amended SUP No. 913, is corrected by attaching the inadvertently omitted Exhibit A for Ordinance No. 29811 which is attached to this ordinance as Exhibit A.

SECTION 2. That Ordinance No. 30070, passed by the Dallas City Council on April 27, 2016, which established the Big Spring Site Historic Overlay District, is corrected by:

A. Amending Section 1 of Ordinance No. 30070 to read as follows:

“SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 147[6] on the property described in Exhibit A (“the Property”), which is attached to and made a part of this ordinance.”

B. Replacing the Exhibit B attached to Ordinance No. 30070 with the Exhibit B attached to this ordinance.

SECTION 3. That the zoning ordinances of the City of Dallas shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and publication, in accordance with the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER D. BOWERS, Interim City Attorney

By \_\_\_\_\_  
Assistant City Attorney

SEP 14 2016

Passed \_\_\_\_\_

**Exhibit A**  
**Legal Description**

**Field Notes Describing a**  
**233,448 Square Foot (5.359 Acre)**  
**Tract of Land In City Block A/2999**  
**To Be Re-Zoned**

Being a 233,448 Square Foot (5.359 Acre) tract of land situated in the John H. Hyde Survey, Abstract No. 546 and the D.A. Murdock Survey, Abstract No. 997, lying in the City of Dallas, Dallas County, Texas and being a part of the land conveyed to the City of Dallas by deed recorded in Volume 469, Page 293 of the Deed Records of Dallas County, Texas, being all of Lot 1 of Block A/2999 of the Northeast Police Substation Addition, an addition to the City of Dallas recorded in Volume 86233, Page 2961 of the Deed Records of Dallas County, Texas and being more particularly described as follows:

**NOTE:** All coordinates are State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983 (2011).

**BEGINNING** at a 3/8 inch diameter Iron Rod (Controlling Monument) (N:7002068.40; E:2516400.67) found at the most Northerly corner of said Lot 1, from which the Northeast corner of said Block A/2999 bears North 30°11'17" West a distance of 108.94 feet (N:7002162.56; E:2516345.90):

**THENCE** South 30°11'17" East with the Northeast line of said Lot 1 and said Northeast Police Station Addition a distance of 394.00 feet to the intersection with the Northwest Right-of-Way line of Northwest Highway, a variable width public way, being also designated Texas State Highway Loop 12, being also the most Easterly corner of said Lot 1 and the herein described tract of land (N:7001727.89; E:2516598.76) (not monumented):

**THENCE** South 59°51'14" West, departing the Northeast line of said Northeast Police Station Addition and with the said Northwest line of Northwest Highway a distance of 500.05 feet to the most Southerly corner of said Lot 1, being also the most Southerly corner of the herein described tract of land (N:7001476.79; E:2516166.40) (not monumented):

**THENCE** North 30°08'47" West, departing the said Northwest line of Northwest Highway and with a Southwest line of said Lot 1 a distance of 232.00 feet to an inside corner of Lot 1 and of the herein described tract of land (N:7001677.38; E:2516049.90) (not monumented):

**THENCE** South 59°51'14" West with a Southeast line of said Lot 1 a distance of 65.00 feet to an outside corner of Lot 1 and of the herein described tract of land (N:7001644.74; E:2515993.70) (not monumented):

**Exhibit A**  
**Legal Description**

**Field Notes Describing a**  
**233,448 Square Foot (5.359 Acre)**  
**Tract of Land In City Block A/2999**  
**To Be Re-Zoned**

**THENCE** North 44°19'25" West with a Southwest line of said Lot 1 a distance of 167.09 feet to an outside corner of Lot 1 and of the herein described tract of land (N:7001764.27; E:2515876.97) (not monumented):

**THENCE** North 37°21'15" West, continuing with a Southwest line of said Lot 1 a distance of 59.83 feet to the Point of Curvature of a Curve to the Left (N:7001811.81; E:2515840.68) (not monumented):

**THENCE** Northwesterly along said Curve, having a Radius of 225.00 feet, a Central Angle of 45°59'19", an Arc Length of 180.60 feet and a Chord which bears North 61°36'15" West a distance of 175.79 feet to the intersection with the East Right-of-Way line of Audelia Road as established by said Northeast Police Substation Addition (an 80 Right-of-Way) (N:7001895.40; E:2515686.06) (not monumented):

**THENCE** North 00°58'46" West with the said East line of Audelia Road a distance of 80.37 feet to a 3/8 inch diameter Iron Rod found at the most Northerly Northwest corner of said Lot 1 and of the herein described tract of land (N:7001975.75; E:2515684.71):

**THENCE** Southeasterly, departing the said East line of Audelia Road and along a Curve to the Right, having a Radius of 305.00 feet, a Central Angle of 48°55'21", an Arc Length of 260.43 and a Chord which bears South 61°48'55" East a distance of 252.59 feet to the Point of Tangency (N:7001856.46; E:2515907.30) (not monumented):

**THENCE** South 37°21'15" East a distance of 65.02 feet to an inside corner of said Lot 1 and of the herein described tract of land (N:7001804.78; E:2515946.74) (not monumented):

**THENCE** North 59°51'14" East with the Northwest line of said Lot 1 a distance of 525.00 feet to the **POINT OF BEGINNING**, containing 233.448 Square Feet, or 5.359 Acres of land.

**BASIS OF BEARINGS:** Bearings are based on the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. (2011).

EXHIBIT B  
PRESERVATION CRITERIA  
BIG SPRING SITE  
1121 PEMBERTON HILL ROAD

**1. GENERAL**

- 1.1 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to the property within this district must comply with the regulations in Chapter 51A of the Dallas City Code, as amended. If there is a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness.
  - a. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
  - b. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
  - c. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The Director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.
- 1.4 A person may not demolish or remove any feature in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code, as amended.
- 1.5 Preservation and restoration materials and methods used must comply with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.
- 1.6 Preservation and restoration materials and methods used must comply with the University of North Texas, Institute of Applied Sciences, management plans, Vegetation Management Recommendations for Big Spring, Dallas, Texas (Exhibit A), Ecosystem Management Task Schedule: Big Spring, Dallas, Texas 2014-2015 (Exhibit B).

- 1.7 No person shall allow a feature in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a feature that results in deterioration of the feature and threatens preservation of the feature. All features in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code, as amended, for regulations concerning demolition by neglect.
- 1.8 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.9 Although there is a prehistoric component to this site, the period of historic significance is 1842 thru 1965.

## 2. DEFINITIONS

- 2.1 Unless defined in this section, the definitions in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 CULTURAL FEATURE means an element that was constructed, made, created, developed, crafted, designed, manipulated, or altered by human activity.
- 2.5 INVASIVE PLANT means a non-native plant to the ecosystem that is likely to cause economic or environmental harm, or harm to human health.
- 2.6 DIRECTOR means the Director of the Department of Sustainable Development and Construction of the Director's representative.
- 2.7 DISTRICT means Historic Overlay District No. 147, the Big Spring Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibits C and D.
- 2.8 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.9 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.10 NATURAL FEATURE means an element that is part of the physical environment that is not man-made.

- 2.11 PROTECTED means an architectural, landscaping, natural, or cultural feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.

### 3. SITE AND LANDSCAPING

- 3.1 New driveways, sidewalks, steps, walkways, trails, and parking lots must be constructed of gravel, decomposed granite, dirt, stone, or other appropriate hard surface material. Brick, artificial grass, asphalt, exposed aggregate, and outdoor carpet are not permitted.

- 3.2 Brush finish concrete, artificially colored concrete, or other permeable concrete are allowed for ADA compliant pathways only.

#### 3.3 Landscaping

- a. All vegetative maintenance and planting shall follow the Vegetation Management Recommendations for Big Spring, Dallas, Texas (Exhibit A).
- b. No CA is required for vegetative planting or mowing as long as it follows the Vegetation Management Recommendations for Big Spring, Dallas, Texas (Exhibit A).
- c. Outdoor lighting must be appropriate and enhance the natural and cultural features.

#### 3.4 Fences

##### a. Perimeter fences

1. Perimeter chain link fences may not exceed nine feet in height.
2. Perimeter wire or split rail fences may not exceed three feet in height.

##### b. Interior fences

1. Interior fences are allowed to define and protect natural or cultural features.
2. Interior fences must be constructed of chain link, wood, wire, stacked local stone, or other appropriate materials.
3. Interior fences may not exceed three feet in height.

- 3.5 No earth-moving activities that would, potentially, adversely affect a protected natural or cultural feature are allowed.
- 3.6 The following natural and cultural features are protected (Exhibit E):
- a. Big Spring.
  - b. Site 41DL72.
  - c. 150- to 200-year-old Bur Oak Tree.
  - d. Drilled well with concrete ring dated 1934.
  - e. Walnut tree with metal spike denoting 1942 flood level.
  - f. Old pecan tree grove.
  - g. T-2 Pleistocene Terrace.
  - h. Location of Edward Case Pemberton dairy operation and Depression-era outbuildings and corral/animal pen.
  - i. Mesquite tree near assumed location of Bryan's cabin.

#### **4. ARCHEOLOGICAL ARTIFACTS AND STUDIES**

- 4.1 A person commits an offense if he loots or destroys any prehistoric or historic archeological site.
- 4.2 A person commits an offense if he removes, collects, or destroys any prehistoric or historic archeological artifact, including but not limited to: debitage, lithic tools (arrowheads, points, scrapers, blades, choppers, awls), ceramics, bone, glass, shell, beads, buttons, or metal. This refers to any artifacts on the surface, partially covered, or buried.
- 4.3 Any archeological study must have a certificate of appropriateness prior to any ground- disturbing activities. Archeological studies must be performed by a professionally- trained archeologist who meets the Secretary of the Interior's professional qualification standards for archeology.
- 4.4 Any archeological study must follow the Secretary of the Interior's Standards for Archaeological Documentation.

#### **5. NEW CONSTRUCTION**

- 5.1 No new construction is allowed.

**6. SIGNS**

- 6.1 Placards may be erected if appropriate and if they are intended to protect, enhance, and perpetuate places and areas within the overlay district which represent distinctive and important elements of the districts historical, cultural, social, economic, archeological, paleontological, ethnic, political, and architectural history.
- 6.2 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.
- 6.3 All signs must comply with the provisions of the Dallas City Code, as amended.

**7. PRESERVATION, REHABILITATION, RESTORATION, AND RECONSTRUCTION**

- 7.1 Efforts to protect and develop a sustainable, healthy, and preserved ecosystem, as defined in the April 2015 Ecosystem Management Task Schedule for the Big Spring Historic and Environmental Conservation Easement, are recommended.
- 7.2 Prior to December 31, 2016, a certificate of appropriateness is NOT required for the following tasks, addressed in the ecosystem management plan, when performed under the supervision of the University of North Texas Institute of Applied Sciences (Exhibit B):
  - a. management and control of nuisance or invasive aquatic, herbaceous, and woody plant species;
  - b. conduct succession supplementation, establishment, and restoration of native species;
  - c. assess requirements, necessity, and demarcations for mowing;
  - d. assess damage by invasive plants;
  - e. conduct macroinvertebrate sampling;
  - f. conduct hydrology monitoring;
  - g. monitor disturbances;
- 7.3 Any monitoring, assessment, or recommendations for the health of natural features and the ecosystem at large must be conducted by a qualified, professionally trained ecologist, botanist, hydrologist, arborist, forester, biologist,

or other appropriate environmental specialist; or by a qualified environmental services firm or organization.

- 7.4 In the event of natural or man-made disasters (including, but not limited to storms, flooding, tornados, lightening, fire, vandalism, heavy winds, freezing temperatures, drought, insects, or disease) a qualified, professionally trained ecologist, botanist, hydrologist, arborist, forester, biologist, or other appropriate environmental specialist; or a qualified environmental services firm or organization shall assess the damage as soon as possible and develop a plan to recover, restore, replace, or mitigate the damage.

## **8. EDUCATION AND INTERPRETATION**

- 8.1 Efforts to promote a better understanding and appreciation for nature, culture, and history; and to gain greater knowledge of the human past, environment, ecology, and conservation are encouraged.

## **9. ENFORCEMENT**

- 9.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
- 9.2 A person is criminally responsible for a violation of these preservation criteria if:
- a. the person knowingly commits the violation or assists in the commission of the violation;
  - b. the person owns part or all of the property and knowingly allows the violation to exist;
  - c. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials; or
  - d. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property.
- 9.3 Any person who adversely affects or demolishes a feature in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many

of the original materials as possible, the feature to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the feature. When these restrictions become applicable to a site, the Director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.

- 9.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

## 10. RESOURCES FOR ADDITIONAL INFORMATION

Birnbaum, Charles A. *Protecting Cultural Landscapes: Planning, Treatment, and Management of Historic Landscapes*. Preservation Brief 36. Washington, DC: National Park Service, 1994.

Birnbaum, Charles A. and Christine Capella Peters, eds. *The Secretary of the Interior's Standards for the Treatment of Historic Properties, with Guidelines for the Treatment of Cultural Landscapes*. Washington, DC: National Park Service, 1996.

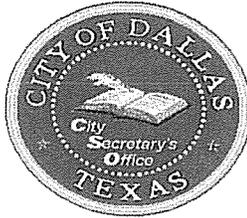
McClelland, Linda, J. Timothy Keller, Genevieve Keller, and Robert Melnick. *Guidelines for Evaluating and Documenting Rural Historic Landscapes*. National Register Bulletin 30. Washington, DC: National Park Service, 1990.

National Park Service, Department of the Interior. *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines, as amended*. Washington, DC: National Park Service, n.d.

Schad, Aaron N., Lynde L. Dodd, Gary O. Dick, and Sam Atkinson, "Vegetation Management Recommendation for Big Spring, Dallas, Texas." Submitted to the City of Dallas, September 2014.

Schad, Aaron N., Lynde L. Dodd, Gary O. Dick, and Sam Atkinson, "Ecosystem Management Task Schedule: Big Spring, Dallas, Texas, 2014 – 2015." Submitted to the City of Dallas, updated April 2015.

Stokes, Samuel N., Elizabeth Watson, Genevieve P. Keller, J. Timothy Keller. *Saving America's Countryside: A Guide to Rural Conservation*. Baltimore, MD: Johns Hopkins University Press, 1989.



**PROOF OF PUBLICATION – LEGAL ADVERTISING**

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL SEP 14 2016

ORDINANCE NUMBER 30185

DATE PUBLISHED SEP 17 2016

ATTESTED BY: