

8-21-19

ORDINANCE NO. 31292

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 12/4048 and a portion of Guthrie Street west of R.L. Thornton Freeway containing 0.1986 acres;

by establishing Historic Overlay District No. 153 (McAdams Cemetery); providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the Property described in this ordinance; and

WHEREAS, the city council finds that the Property is an area of historical, cultural, and architectural importance and significance to the citizens of the city; and

WHEREAS, the city council finds that it is in the public interest to establish this historic overlay district; Now, Therefore,

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

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 153 on the property described in Exhibit A ("the Property"), which is attached to and made a part of this ordinance.

SECTION 2. That the establishment of this historic overlay district shall not affect the existing underlying zoning classification of the Property, which shall remain subject to the regulations of the underlying zoning district. If there is a conflict, the regulations in this ordinance control over the regulations of the underlying zoning district.

SECTION 3. That a person shall not alter the Property, or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, demolish, or remove any structure on the Property without first obtaining a certificate of appropriateness or certificate for demolition or removal in accordance with the Dallas Development Code, as amended, and this ordinance. All alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit B.

SECTION 4. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with this ordinance, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

SECTION 5. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000. In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this ordinance, and institute any appropriate action or proceedings to prevent, restrain, correct, or abate the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, demolition, or removal of a building, structure, or land on the Property.

SECTION 6. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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SECTION 7. 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 8. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By 
Assistant City Attorney

Passed AUG 28 2019

31292

**Field Notes Describing
A 8,649 Square Foot (0.1986 Acre) Tract of Land
To Be Designated for Historic Preservation as
A Historic Graveyard Site
Currently Owned by the McAdams Family Graveyard**

BEING a 8,649 Square Foot, or 0.1986 Acre tract of land situated in the City of Dallas, Dallas County, Texas, and lying in the Joseph H. Robinson Survey, Abstract No. 1219, and being a part of Lots 2, 3, 4 and 5, Block 12 (Block 12/4048 Official City of Dallas Block Numbers) of the South Cliff Heights Addition, an addition of the City of Dallas recorded in Volume 1, Page 361 of the Map Records of Dallas County, Texas and part of Guthrie Avenue (a 50 foot wide Right-of-Way by the said Addition), described in a deed of Dedication to the McAdams Family Graveyard, recorded in Volume 148, Page 241 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). Distances and Area are surface values, calculated with the TXDOT scale factor of 1.000136506.

COMMENCING at a 5/8 inch iron rod with yellow cap found (controlling monument, N=6948463.12, E=2482043.58) at the intersection of the North line of said Guthrie Avenue and the West line of South Zang's Boulevard (a variable width Right-of-Way), same being at the Southwest corner of Sonic Migliazzo Addition, an addition to the City of Dallas, recorded in Volume 99116, Page 64 of the Deed Records of Dallas County, Texas, and said Block 12/4048, same being at the Southwest corner of a 10 foot by 10 foot Right-of-Way dedication (corner clip) by the above said Sonic Migliazzo Addition;

THENCE North 89°11'59" East, with the said North line of Guthrie Avenue, same being the South line of said Sonic Migliazzo Addition, a distance of 219.68 feet to the Southeast corner of said Addition, same being the Southwest corner of Lot 6 of said Block 12/4048 of said South Cliff Heights Addition, from which a ½ inch iron rod with yellow cap found bears North 89°15'15" East, a distance of 0.29 feet (N=6948466.19, E=2482263.52) and continuing for a total distance of 302.28 feet to its intersection with a fence line (not monumented);

THENCE North 0°44'28" West, departing said North line and with said fence line a distance of 27.99 feet to a fence corner lying in the area of Lot 5 of said Block 12/4048 of said South Cliff Heights Addition and **POINT OF BEGINNING** (N=6948495.33, E=2482345.47) of the herein described tract of land;

THENCE North 89°28'08" East, over and across said Block 12/4048 and Lots 5 through Lot 2 with said fence line a distance of 137.79 feet to a fence post being in the area of said Lot 2 (N=6948496.61, E=2482483.25);

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GIS Approved

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THENCE South $0^{\circ}40'40''$ West, continuing with said fence line over and across said Lot 2 of said Block 12/4048 and continuing over and across the Right-of-Way of said Guthrie Avenue a distance of 62.81 feet to a fence post (N=6948433.80, E=2482482.51);

THENCE South $89^{\circ}11'15''$ West, over and across the Right-of-Way of said Guthrie Avenue with said fence line a distance of 136.23 feet to a fence post (N=6948431.87, E=2482346.29) being the Southwest corner of the herein described tract of land;

THENCE North $0^{\circ}44'28''$ West, continuing with said fence line over and across said Right-of-Way of Guthrie Avenue and said Lot 5 of said Block 12/4048 a distance of 63.47 feet to the **POINT OF BEGINNING**, containing 8,649 Square Feet, or 0.1986 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
McAdams Cemetery
409 Guthrie Street

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 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. A person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
 - b. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - d. 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 structure 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 or on the National Park Service website.

- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures 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.
- 1.7 The period of historic significance for this district is the period from 1882 to 1921.

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 DIRECTOR means the Director of the Department of Sustainable Development and Construction or the Director's representative.
- 2.5 DISTRICT means Historic Overlay District No. 153, the McAdams Cemetery Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit C.
- 2.6 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.7 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.8 GRADE means the existing ground surface elevation.
- 2.9 GRAVE means the space of ground used or intended to be used for the permanent interment of human remains.
- 2.10 GRAVE MARKER means a permanent marker that identifies the locations of one or more graves. Grave markers may be stone or metal and typically are inscribed with the name and dates of birth and death. Grave markers can be located at the head or foot of a single grave, or located to mark a collection of graves (family gravesites).

- 2.11 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.12 REINTERMENT means the reburial of human remains.
- 2.13 REMAINS means the body, or parts of the body, of a deceased person.

3. SITE AND LANDSCAPING.

- 3.1 Activities that require the disturbance of more than six inches (depth) of surface soil in the district require a certificate of appropriateness in advance of the activities. Archeological studies should be considered as part of the certificate of appropriateness to prevent the inadvertent disturbance of unmarked graves.
- 3.2 New sidewalks, walkways, paths, and steps must be constructed of pavers, brick, or other appropriate soft material. Artificial grass, concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted. Crushed gravel, stone, or stone chips may be used at sidewalks and paths only when used within an edge band on all sides.
- 3.3 Driveways and parking areas are not allowed.
- 3.4 No path or walkway may be extended over a grave.
- 3.5 Outdoor lighting must be appropriate. Light poles may not exceed 16 feet in height.
- 3.6 Except for reinternments, the grade of any area must not be changed. After a reinterment is completed, the grade of that area must be restored.
- 3.7 Landscaping.
 - a. Landscaping must be appropriate, enhance the district and surroundings, and may not obscure significant views of protected memorial monuments and fences.
 - b. A routine maintenance certificate of appropriateness is required to remove any trees or shrubs, or to install any landscaping material. Dead trees must be cut as low to the ground as possible. The tree stump and roots must not be removed from the ground.
 - c. No new or replacement shrubs or trees may be planted on a grave.
 - d. No new destructive or invasive ground cover, such as Boston Ivy or Asian Jasmine, may be planted on or allowed to extend over a grave.

3.8 Fencing.

- a. It is encouraged that the remaining historic fence along the property line of the cemetery be retained and preserved.
- b. If needed, perimeter fencing of the Property is allowed. Fences must be appropriately located for a cemetery setting, 70 percent open, and may not exceed six feet in height. Decorative metal is preferred.
- c. Replacement fences at individual gravesites or at a collection of graves (family gravesites) are allowed only if evidence exists that there was a fence at the location and adequate documentation exists that may be used as a guide for reconstruction. Replacement fences must match the material, design, style, and height of the original fence as near as possible.

4. GRAVE MARKERS

- 4.1 Existing grave markers and memorial monuments are protected.
- 4.2 It is recommended that existing, or relocated, grave markers be preserved and restored and that damaged grave markers be repaired.
- 4.3 The identification of unidentified graves is encouraged. Marking of unidentified graves is encouraged following research to determine the deceased or other pertinent information.
- 4.4 It is encouraged that grave markers that are no longer in place, missing, or irreplaceably damaged be replaced with grave markers that are similar in design, material, color, and size to the original grave markers at that location. Granite grave markers are prohibited.
- 4.5 If the design of the original grave marker is not known, new flat grave markers may be used, similar to veteran replacement grave markers.
- 4.6 Texas Historical Commission grave markers are permitted.
- 4.7 New replacement family grave markers may be used.
- 4.8 No new vertical monuments may be erected, but new historic markers that provide details of the history of McAdams Cemetery, or the individuals buried there, are permitted.

5. BURIALS AND REINTERMENTS.

- 5.1 In the event that human remains, or artifacts suggestive of the presence of a grave, are encountered during any activity, the site of the discovery must be secured, the

city historic preservation staff must be notified, and all ground-disturbing activities in the immediate area must cease. A certificate of appropriateness to restore the site or relocate the grave must be obtained before any activities can resume.

- 5.2 Any future relocation of marked or unmarked graves must be conducted according to the Texas Historical Commission guidelines for preserving historic cemeteries, coordinated with the state archeologist, and if required, done pursuant to a Texas antiquities permit.
- 5.3 Reinterment within the district is allowed. Locations of proposed reinterments must be reviewed through the certificate of appropriateness process.

6. PROTECTED ELEMENTS.

- 6.1 The following elements are considered important features and are protected.
 - a. Grave markers.
 - b. Historic fencing.
 - c. Historic gravesite fences.

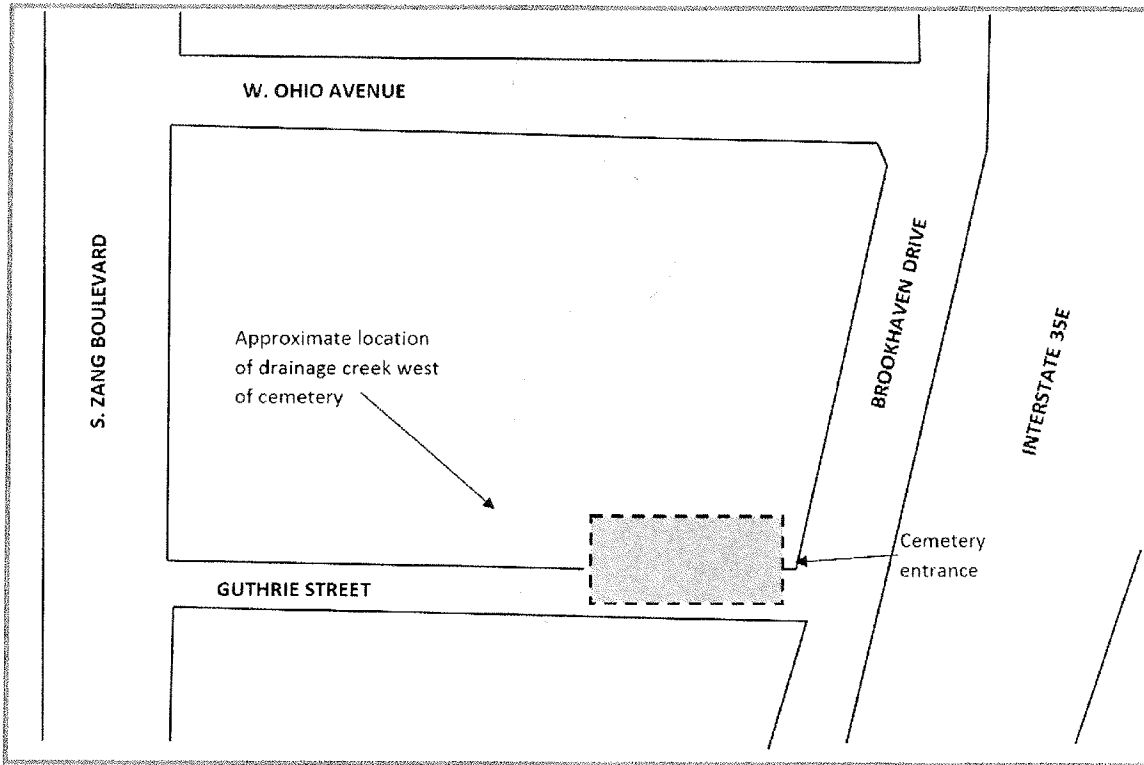
7. CONSERVATION, REPAIR, AND MAINTENANCE OF EXISTING GRAVE MARKERS.

- 7.1 It is encouraged that existing grave markers be cleaned on a regular basis, but not more than once every 18 months.
- 7.2 Routine cleaning of grave markers that are in good condition must be done by washing with water, then softly brushing with mild detergent, then thoroughly rinsing with water.
- 7.3 Grave markers that have a friable or surgery surface; a grainy surface that readily falls away; or other indications that the stone is delicate, brittle, or otherwise vulnerable should not be cleaned.
- 7.4 Removal of lichen and algae from grave markers that are in good condition must be done by thoroughly soaking the stone with water and then using a wood scraper to gently remove the biological growth. It may be necessary to repeat this process several times to fully remove lichen or algae.
- 7.5 If a grave marker falls or is otherwise damaged, a temporary grave marker must be installed at the grave marker location before the damaged grave marker is removed for repair.

- 7.6 Grave markers that have broken into two or more pieces must be repaired using standards accepted by the Association for Grave Stone Studies (278 Main Street, Suite 207, Greenfield, MA 01301, ph. 413-772-0836 or <http://www.gravestonestudies.org>) or in "A Graveyard Preservation Primer" by Lynette Stranstad.
 - 7.7 Fallen or broken grave markers may not be repaired by embedding them (typically face up) in concrete or using metal splints because both methods are detrimental to the integrity of the stone.
 - 7.8 Lawnmowers without bumpers and weed whackers with metal wire may not be used directly around grave markers as these cause irreversible damage to the stone when they strike or touch the stone. Lawnmower bumpers, fabricated from rubber tires or inner tubes, may be attached to lawnmowers to provide a buffer between the machine and the grave markers and memorial monuments. Weed whackers with soft nylon whips may be used around grave markers.
- 8. NEW CONSTRUCTION.**
- 8.1 New construction is prohibited.
- 9. SIGNS.**
- 9.1 Only premise signs, park signs, cemetery identification signs, street signs, interpretive signs, movement control signs, and historic markers may be erected, and only if the sign is sensitive and compatible with the district.
 - 9.2 All signs must comply with the provisions of the Dallas City Code, as amended.
 - 9.3 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.
- 10. ARCHEOLOGICAL STUDIES.**
- 10.1 Any archeological studies must have a certificate of appropriateness prior to any ground-disturbing activities. A registered professional archeologist or a physical anthropologist must conduct any archeological studies in accordance with the Texas Historical Commission guidelines for preserving historic cemeteries.
- 11. ENFORCEMENT.**
- 11.1 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.

- 11.2 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.
- 11.3 Any person who adversely affects or demolishes a structure 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 structure 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 structure. 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.
- 11.4 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.

Exhibit C
McAdams Cemetery
409 Guthrie Street
Dallas, TX

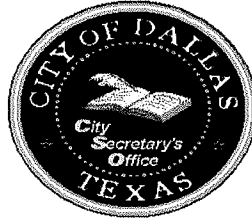


LEGEND

- - - - - Limits of Designation

■ McAdams Cemetery





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 AUG 28 2019

ORDINANCE NUMBER 31292

DATE PUBLISHED AUG 31 2019

ATTESTED BY: