



**AGENDA  
PLANNING & ZONING COMMISSION  
TUESDAY, MARCH 1, 2016**

The Planning and Zoning Commission will convene into a Joint Meeting with City Council at **6:30 p.m. (time listed is approximate)** at the Municipal Center, 4000 Main Street, Rowlett, at which time the following items will be considered:

**A. CALL TO ORDER**

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**B. ITEMS FOR INDIVIDUAL CONSIDERATION**

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1. Conduct a joint public hearing with the City Council and offer recommendation on the adoption of an Ordinance temporarily suspending certain provisions of the Comprehensive Zoning Ordinance of the City of Rowlett, Texas, as heretofore amended, by suspending the application of Section 77-902, Subsection E, Subparts 1 and 2, to allow for the reconstruction, rebuilding and repair of homes damaged by the recent tornado event.

**C. ADJOURNMENT**

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NOTE: THE PLANNING AND ZONING COMMISSION MAY RETIRE AND CONVELE INTO EXECUTIVE, CLOSED SESSION ON ANY MATTER RELATED TO ANY OF THE ABOVE AGENDA ITEMS FOR THE PURPOSES OF PRIVATE CONSULTATION WITH THE CITY ATTORNEY UNDER SECTION 551.071 OF THE TEXAS GOVERNMENT CODE.

NOTE: THE CITY OF ROWLETT MEETING ROOMS ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT FOR FURTHER INFORMATION.

A handwritten signature in black ink, appearing to read "Garrett Langford".

Garrett Langford, Principal Planner



City of Rowlett  
Staff Report

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**AGENDA DATE:** 03/01/16

**AGENDA ITEM:** B1

**TITLE**

Conduct a joint public hearing with the City Council and offer recommendation on the adoption of an Ordinance temporarily suspending certain provisions of the Comprehensive Zoning Ordinance of the City of Rowlett, Texas, as heretofore amended, by suspending the application of Section 77-902, Subsection E, Subparts 1 and 2, to allow for the reconstruction, rebuilding and repair of homes damaged by the recent tornado event.

**STAFF REPRESENTATIVE**

Marc Kurbansade, Director of Development Services

**SUMMARY**

On December 26, 2015, the City of Rowlett was struck with a devastating EF-4 tornado that caused widespread structural damage to over 1,000 buildings. In an attempt to rebuild these structures, property owners are required by ordinance to adhere to current building and zoning regulations.

On February 4, 2016, City Council met in a work session to discuss the implications of adhering to the nonconforming regulations for homes damaged more than 50% of their value. At this meeting, the City Council provided direction to staff to draft an ordinance that would temporarily suspend certain nonconforming use zoning regulations for a period of 36 months. The suspension of zoning regulations for homes damaged more than 50% of their value would specifically be to allow homeowners to rebuild their homes to the nonconforming status that existed before the tornado event.

**BACKGROUND INFORMATION**

Homes and businesses are in the process of rebuilding after the devastation from the December 26, 2015, tornado. In conjunction with these rebuilding efforts, property owners are required by ordinance to adhere to zoning and building regulations. In some cases, these regulations have changed since the homes were originally constructed, and compliance with current regulations would, in many instances, be cost-prohibitive.

Zoning Regulations

Zoning regulations depend on the zoning district established on the property. The tornado impacted a total of eleven subdivisions. Three of these subdivisions are regulated by standard zoning districts - two are Single Family 9 (SF-9) and one is Single Family 10 (SF-10). The remaining eight subdivisions are regulated by Planned Development Districts. Below is a list of the subdivisions that were impacted:

- Vue-De-Lac
- The Vineyards
- College Park
- The Peninsula
- Dalrock Estates
- Dalrock Heights
- Lake Bend Estates
- Highland Meadows North
- Highland Meadows North #2
- Graham Estates
- Mallard Reserve

**Building Code Regulations**

Building code regulations are also applied to each construction permit applied for as a result of the property owner rebuilding. Property owners do not have vested rights as it pertains to building code regulations. All new construction must meet current building code requirements for public health and safety reasons.

On February 4, 2016, the City Council met in a work session to discuss the implications of adhering to the nonconforming zoning regulations for homes damaged more than 50% of their value. At this meeting, City Council provided direction to staff to draft an ordinance that would temporarily suspend the zoning regulations for a period of 36 months.

**DISCUSSION**

Property owners are in the midst of trying to rebuild and repair their properties. As stated in the background section, the applicable regulations largely fall under the control of zoning and building regulations. Building regulations do not pose any issues at this time; however, questions pertaining to zoning regulations are being asked by property owners.

The main zoning issue is the code requirement addressing nonconformities. As can be seen below in the excerpt of the Code, damage to homes greater than 50% of their value requires adherence to current zoning requirements.

*Sec. 77-902. - Regulations applicable to all nonconformities.*

...

*E. Damage or destruction.*

1. *If a nonconforming structure is damaged or destroyed by any means to an extent where the replacement cost is greater than 50 percent of its appraised value at the time of damage or destruction as determined by the latest tax rolls, then such nonconformity shall not be re-established and such structure may only be rebuilt in compliance with the requirements of this Code except upon action by the board of adjustment to permit reconstruction of such structure and continuance of the nonconforming use. The board of adjustment shall have due regard for the rights of the person or persons affected, and shall consider such in regard to public*

- welfare, character of the area surrounding, nature of the use in relation to the intent of the area, and the conservation, preservation and protection of property.*
2. *Any existing single-family or two-family residential dwelling that is a nonconforming use that is destroyed to an extent where the replacement cost is less than 50 percent of its appraised value at the time of damage or destruction as determined by the latest tax rolls, due to fire, flood, or acts of nature or God, shall be allowed to rebuild on site, provided that the use is either for single-family or two-family residential use and in conformance with the prevailing zoning district.*
  3. *The intentional destruction of a structure by any owner of the use and/or structure and/or property shall immediately terminate all nonconforming rights, and all use of the structure or property shall cease and desist.*

The main issues that seem to be arising are adherence to the increased masonry exterior requirement and instances where garages must be side-loaded. The masonry exterior issue is particularly causing issues because foundations that are not constructed with a “brick ledge” are not able to construct to the 100% masonry exterior requirement without removal and replacement of the foundation slab.

The proposed ordinance would suspend the nonconforming structure regulations to permit reconstruction up to but no greater than the nonconformity that existed prior to the tornado event. Furthermore, the suspension of zoning requirements would be in place for a period of 36 months and only for homes impacted by the tornado event. To be clear, this ordinance would not suspend any building code requirements.

## **FINANCIAL/BUDGET IMPLICATIONS**

N/A

## **RECOMMENDED ACTION**

Staff recommends approval of an ordinance temporarily suspending certain provisions of the Comprehensive Zoning Ordinance of the City of Rowlett, Texas, as heretofore amended, by suspending the application of Section 77-902, Subsection E, Subparts 1 and 2, to allow for the reconstruction, rebuilding and repair of homes damaged by the recent tornado event.

## **ORDINANCE**

**AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AS HERETOFORE AMENDED, BY SUSPENDING THE APPLICATION OF SECTION 77-902, SUBSECTION E, SUBPARTS 1 AND 2, TO ALLOW FOR THE RECONSTRUCTION, REBUILDING AND REPAIR OF HOMES DAMAGED BY THE RECENT TORNADO EVENT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on December 26, 2015, the City was struck by a tornado (the “Tornado Event”) which caused substantial damage to hundreds of homes in several residential subdivisions; and

**WHEREAS**, the Mayor and City Council, the Governor of the State of Texas, and the President of the United States have declared and proclaimed a state of local disaster; and

**WHEREAS**, numerous homes affected by the Tornado Event, although not conforming to the City’s existing zoning regulations, were nevertheless lawful structures, having been built in compliance with regulations in effect at the time of construction; and

**WHEREAS**, as a means of affording relief to the survivors of the tornado, the City Council finds and determines that it is in the best public interest to allow the survivors to rebuild their homes as they existed prior to the destruction, and that the City’s existing nonconforming status regulations in the Rowlett Development Code will, unless relief is granted, present an impediment to such reconstruction and repair; and

**WHEREAS**, the Council further finds and determines that a temporary suspension of the application of certain provisions of the Rowlett Development Code will enable expeditious repair and reconstruction and will further the best interests of the City and its citizens, and it is the express intent of the City Council in adopting this Ordinance to allow the repair and reconstruction of nonconforming structures to the condition existing prior to the Tornado Event; and

**WHEREAS**, the Planning and Zoning Commission of the City of Rowlett and the governing body of the City of Rowlett, in compliance with state laws with reference to amending the Comprehensive Zoning Ordinance, have given the requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners and interested persons generally, the governing body of the City of Rowlett is of the opinion that said zoning ordinance should be amended as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:**

**SECTION 1.** That the provisions of Subparts (1) and (2) of Subsection (E) of Section 77-902 of the Rowlett Development Code be and are hereby suspended for a period of thirty-six (36) months of and from the effective date hereof, such that the limitations set forth in said provisions shall not apply to residential single family and duplex dwellings affected by the Tornado Event. A single family or duplex dwelling damaged or destroyed by the Tornado Event to an extent where the replacement cost is greater than 50% of its appraised value may be repaired, reconstructed or rebuilt to its condition prior to the Tornado Event, notwithstanding the limitations contained in Subparts (1) and (2) of Subsection (E) of Section 77-902 of the Code; provided, however, that any preexisting nonconformity shall not be enlarged, expanded or extended.

**SECTION 2.** That the authorization herein to repair and reconstruct nonconforming dwellings shall not extend to allow an enlargement, expansion or extension of the prior nonconformity, nor shall it be construed as an exemption from any other part or provision of the Rowlett Development Code or the Code of Ordinances.

**SECTION 3.** That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 4.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

**SECTION 5.** That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Rowlett, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 6.** That this ordinance shall take effect immediately from and after February 11, 2016, and shall expire automatically without further action by the Planning and Zoning Commission or the City Council on February 12, 2019, unless sooner terminated.