

floors that have been planned for their complex. He stated the Committee in their consideration felt it was hard to leave out one O&I property without leaving out all of the O&I property and pointed out by the addition of the hardship clause these properties could appeal to the Board of Adjustment. He stated a representative of the Medical Society had contacted him and asked to be heard. Dan Rezano of Henry Mitchell's Law Firm was at the meeting and explained the problems the Medical Society has had in locating a building. He explained several pieces of property that they had under option but for some reason or another the City asked them not to locate in that particular area and had requested them to stay downtown if at all possible. He stated they wanted to be excluded from the Historic District and the overlay zoning and even though they wanted to cooperate, if they were included, they will have to seek legal relief as they have spent over \$125,000 for additional footings to add two new floors. He stated he did not feel that they should have to go through the process of hiring an attorney, etc. to appeal under the hardship clause and asked to be excluded. Lengthy discussion took place on the pros and cons of excluding the medical property, as well as other O&I property in the area, the possibility of excluding all O&I property and the problems of excluding one and not another. Mr. Bashford stated he had been contacted by the property owners next to the Medical Center and they are happy with the overlay zoning and the Historic District provided the hardship clause is left in the Ordinance which does give them some alternative. A presentation was made by Linda Harris and Jim Ratchford of the City Planning Department relative to the Historic District and structures that would be allowed and how contemporary structures would fit into a Historic District and after lengthy discussion, Mr. Bashford made a substitute motion that TC50 be approved with the recommendations made by the Public Works Committee and that the overlay zoning covered by Rezoning Application Z-18-75 be approved excluding the property of the Medical Society. This motion was seconded by Mr. Williams and passed with members voting: Ayes, Mr. Bashford, Mrs. Block, Mr. Keeter, Mr. Kirschbaum, Mr. Knight, Mr. Quinn, Mr. Williams. Noes, none. (See Ordinance 868 - TC30 and 869 - ZC161.)

ORDINANCE NO. (1975) - 868 TC 30

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE BY CREATING AN HISTORIC DISTRICT AND BY INCORPORATING INTO SAID CHAPTER THE HISTORIC DISTRICT COMMISSION REGULATIONS ESTABLISHED BY ORDINANCE NO. (1973) 484.

WHEREAS, the historical heritage of our City is one of our most valued and important assets; and

WHEREAS, designation of Historic Districts will stabilize and increase the property values in these areas and strengthen the overall economy of the City; and,

WHEREAS, the General Statutes of North Carolina authorize cities of the State, within their respective zoning jurisdictions and by means of listing, regulation and acquisition to:

1. safeguard the heritage of the City by designating Historic Districts therein that contain important elements of its cultural, social, economic, political or architectural history; and
2. promote the use and conservation of such Districts by the regulation of exterior architectural features of buildings and structures therein for the education, pleasure and enrichment of the residents of the City and the State as a whole; and

WHEREAS, the City Council of the City of Raleigh desires to exercise such authority by creating an Oakwood Historic District pursuant to a report prepared by the City of Raleigh Planning Commission and Planning Department staff entitled "A Proposal for the Designation of Oakwood as an Historic District".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA:

Section 1. That Chapter 24 of the City Code be amended by adding new sections thereto, designated and reading as follows:

Section 24-57 HISTORIC DISTRICT REGULATIONS

Purpose: The historical heritage of Raleigh and Wake County is among their most valued and important assets. The City of Raleigh is authorized by the North Carolina General Statutes to promote the use of and conservation of Historic Districts for the education, pleasure and enrichment of the residents of the City and State as a whole. The purpose of these regulations is to provide the vehicle by which certain areas, structures and objects within the City's planning jurisdiction that have historical, cultural, social, architectural, economic or scenic significance may be preserved and protected.

HISTORIC DISTRICT: The City of Raleigh (Oakwood) Historic District is hereby established as a district which overlaps with other zoning districts, the extent and boundaries of which are indicated on the zoning map for the City of Raleigh and its environs. The Historic District now contains and may in the future contain several different residential and commercial zoning district classifications, and all uses permitted in any such district, whether by right or as a special use, shall be permitted in the Historic District according to the procedures otherwise established for such uses except that there shall be a minimum side yard requirement of five (5) feet and minimum front and rear yard as set out in the Historic District Development Standards; provided, however, if the proposed use involves the construction of or alteration of the exterior portion of any building or structure or appurtenant features thereof, a Certificate of Appropriateness must first be issued as hereinafter set forth.

Section 24-57.1 CERTIFICATE OF APPROPRIATENESS REQUIRED

Within the Historic District, no exterior portion of any building or other structure (including walls, fences, light fixtures, steps, pavement, path, trees or any other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, or moved within the district until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission. A Certificate of Appropriateness shall be issued prior to any application for a building permit being made, and shall be issued or denied, subject to such responsible conditions as the Historic District Commission may impose thereon, according to such procedures as may be set forth elsewhere in this ordinance or adopted by the Historic District Commission. A Certificate of Appropriateness shall be required for all activities specified in this section whether a building permit is otherwise required or not.

The City of Raleigh and all public utilities shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, utility installations, lighting, street trees, walls, fences or buildings on property or streets owned by the City.

Section 24-57.2 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

Application for a Certificate of Appropriateness shall be made in the office of the Planning Department on forms provided therefor, obtainable at said office. The application shall be filed two weeks prior to the next regularly scheduled meeting of the Historic District Commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions, and/or other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names, mailing addresses and Wake County Tax Parcel Numbers of property owners filing the application and the names, mailing addresses and Wake County Tax Parcel Numbers of property owners within 100 feet on all sides of the property which is the subject of the application must also be filed. The Planning Department is instructed not to accept an application which is not accompanied by the aforementioned information.

Section 24-57.3 ACTION ON APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

The Planning Department will make a reasonable attempt to identify and notify by mail the owners of the property within 100 feet on all sides of the property which is the subject of the pending application. The Planning Department shall transmit the application for a Certificate of Appropriateness, together with the supporting information and material, to the Historic District Commission for consideration. The Historic District Commission shall act upon the application within ninety days after the filing thereof, otherwise the application shall be deemed to be approved and a Certificate of Appropriateness shall be issued. Nothing herein shall prohibit an extension of time where mutual agreement has been made and the Historic District Commission and City staff may advise the applicant and make recommendations in regard to appropriateness.

Prior to issuance or denial of a Certificate of Appropriateness the Commission shall give the applicant and other property owners likely to be materially affected by the application an opportunity to be heard. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application. No Certificate of Appropriateness is required for interior repairs or renovations and the Commission shall not consider interior arrangement and shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration or moving of buildings, structures, appurtenant features, or outdoor advertising signs in the Historic District which would be incongruous with the historic aspects of the district. An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying the certificate, in the same manner as any other appeal to such Board. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Wake County.

Section 24-57.4 HISTORIC DISTRICT COMMISSION

The Raleigh Historic District Commission consists of nine members, appointed for uniform overlapping two-year terms. The members of the Raleigh Historic District Commission shall also serve on the Raleigh Historic (Properties) Commission. The members of the Commission shall be qualified by special interest, knowledge or training in such fields as history or architecture. All members of the Commission shall reside within the City's corporate limits or within its extraterritorial jurisdiction area. At least one member of the Commission shall reside in each Historic District. The powers of the Historic District Commission shall be to:

1. Recommend to the City Council districts or areas to be designated by ordinance as "Historic Districts".
2. Recommend to the City Council that designation of any district or area as an Historic District be revoked or removed.
3. Conduct an educational program on Historic Districts within its jurisdiction.
4. Cooperate with the State, Federal and local governments in pursuance of the purposes of this ordinance.
5. Conduct any meetings or hearings necessary to carry out the purposes of this ordinance.
6. Pass upon the appropriateness of the construction, alteration, moving or demolition of any building or structure or appurtenant feature thereto within the Historic District.

The Historic District Commission is directed to adopt rules of procedure governing its own meetings but said rules shall conform with this ordinance and all other applicable local and state laws. The Commission shall elect from its membership a Chairman, Vice-Chairman and a Secretary who shall serve for terms of one year, who shall be eligible for re-election, and who shall have the right to vote. The Chairman shall preside over the Board. In the absence or disability of the Chairman, the Vice-Chairman shall perform the duties of the Chairman. The Commission's rules of procedure shall provide for the time and place of regular meetings at least monthly and for the calling of special meetings. All meetings of the Commission shall be open to the public and a public record shall be kept of the Commission's resolution, proceedings and actions. The Department of Planning shall provide such technical, administrative, and clerical assistance as required by the Commission.

Section 24-57.5 DEVELOPMENT STANDARDS:

It is the intention of these regulations to insure insofar as possible that the exterior portion of buildings, structures and their appurtenant features within an Historic District shall be in harmony with other buildings or structures located therein. A report entitled "A Proposal For the Designation of Oakwood as an Historic District" approved by the Raleigh Planning Commission and specifically Section III, thereof, entitled "Administration of the Historic District" contains architectural guidelines and design standards which shall be applied by the Historic District Commission in its consideration of applications for Certificates of Appropriateness and said report is incorporated herein by reference.

Section 24-57.6 PROHIBITIONS:

- (a) It shall be unlawful for any person or corporation to cause the exterior portion of any building or structure owned or leased by them (including walls, fences, light fixtures, steps, pavement, path, trees or any other appurtenant features) or above ground utility structure or any type of outdoor advertising sign to be erected, altered, restored, or moved within the Historic District until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission.
- (b) After a Certificate of Appropriateness has been issued, it shall be unlawful for any person or corporation to cause the exterior portion of any building or structure owned or leased by them (including walls, fences, light fixtures, steps, pavement, path, trees or any other appurtenant features) or above ground utility structure or any type of outdoor advertising sign to be erected, altered, restored, or moved within the Historic District except in accordance with plans submitted with and approved as a part of the Certificate of Appropriateness application.
- (c) It shall be unlawful for any person or corporation to cause or allow to be demolished any building or structure within the Historic District until the

owner thereof shall have given the Historic District Commission ninety (90) days written notice of the proposed action. During such ninety (90) day period, the Historic Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the Historic District Commission finds that the building involved has no particular historic significance or value toward maintaining the character of the district, it may waive all or part of such ninety (90) day period and authorize either demolition or removal.

- (d) Other provisions of this ordinance notwithstanding, nothing herein shall prohibit:
1. The ordinary maintenance or repair of any exterior or architectural features in an Historic District which does not involve a change in design, material, color or outer appearance thereof;
 2. The construction, reconstruction, alteration, restoration or demolition of any feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition.
 3. The ordinary maintenance or repair of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs and/or replacement of street light fixtures in the event of equipment failure, accidental damage or natural occurrences such as electrical storms, tornadoes, ice storms and the like.
 4. The issuance of a Certificate of Appropriateness in situations where, owing to conditions especially affecting the structure involved such as lot size, terrain, availability of materials, etc., but not affecting the Historic District generally, compliance with the development standards would cause an unusual and unnecessary hardship on the property owner beyond what other property owners in the Historic District would meet.

Section 24-57.7 PENALTIES

(a) Civil Penalties

- (1) Any person or corporation who violates any of the provisions of the Historic District Regulations or of any rule, regulation, order or direction adopted or issued pursuant to these regulations shall be subject to a civil penalty of not more than one hundred dollars (\$100.00). No penalty shall be assessed until the person or corporation alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation under this subsection.
- (2) The Raleigh City Council shall determine the amount of the civil penalty to be assessed under this subsection 24-57.7(a), shall make written demand for payment upon the person responsible for the violation and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within sixty (60) days after demand for payment is made, the matter shall be referred to the city attorney for institution of a civil action in the name of the city in the appropriate division of the General Court of Justice of Wake County for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of these regulations.

(b) Criminal Penalties

Any person or corporation who knowingly violates any provision of these regulations or any rule, order or direction duly adopted or issued by the City of Raleigh or by the Raleigh Historic District Commission shall be guilty of a misdemeanor punishable by imprisonment not to exceed thirty days, or by fine not to exceed fifty dollars (\$50.00). Each day of a continuing violation shall constitute a separate violation under this subsection 24-57.7(b).

Section 24-57.8 INJUNCTIVE RELIEF

- a. Whenever the Raleigh City Council has reasonable cause to believe that any person or corporation is violating or is threatening to violate any provision of these regulations or any rule, order or direction adopted or issued pursuant to these regulations or any condition or provision of a Certificate of Appropriateness, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute civil action in the name of the City of Raleigh for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Wake County.

- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgements as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under subsection 24-57.8(a) shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter.

Section 2. That section 24-4 of the code is amended by adding a new subsection thereto designated (21) and reading as follows:

(21) Historic District

Section 3. That all laws and clauses of laws in conflict herewith are repealed to the extent of said conflict.

Section 4. Pursuant to Raleigh City Charter Section 16, this ordinance need not be published in its entirety but in lieu thereof a notice describing the ordinance in general and reciting that copies thereof are available for public inspection in the office of the City Clerk shall be published.

Section 5. That this ordinance shall become effective 20 days after publication of the notice hereinbefore referred to.

Adopted: 6/3/75

ORDINANCE NO. (1975) 869 ZC 161

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF RALEIGH WHICH INCLUDES THE ZONING DISTRICT MAP

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

Section 1. That Chapter 24 of the Code of the City of Raleigh which includes the Zoning District Map, be and the same is hereby amended as follows:

- (a) Central Raleigh (Oakwood), most properties in the area bordered by Holden Street on the north, Watauga and Cooke Streets on the east, Edenton Street on the south, and Person Street on the west, being numerous lots on City of Raleigh Zoning Maps 224 and 552, but excluding property belonging to the Medical Center, rezoned to Historic (Overlay) District according to map entitled "Oakwood Study Area" dated June 3, 1975.

Section 2. That all laws and clauses of law in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. That this ordinance shall become effective twenty days after publication as provided by law.

Adopted: 6/3/75

HISTORIC PROPERTIES AND HISTORIC DISTRICT COMMISSIONS - PUBLIC HEARING AUTHORIZED

Chairman Williams reported the Public Works Committee recommends that the ordinances establishing the Historic Properties and the Historic District Commissions be amended to allow the following: the creation of a Raleigh Historic Commission performing the functions of the Historic Properties Commission with a membership of no more than 30 members; the creation of a Raleigh Historic Districts Commission with membership of no more than 9 members, one member to reside in each Historic District, with the understanding the members of the Raleigh Historic Districts Commission will also be members of the Raleigh Historic Commission; the Raleigh Historic District Commission would administer the Certificate of Appropriateness requirements set up by the creation of the Historic Overlay District. He pointed out the Committee also recommends that service on previous Commissions (Historic Sites, Historic Properties, and Historic Districts) would not be considered under the Council resolution relative to length of service and time on a Committee, Commission or Board when making the appointments or reappointments. On behalf of the Committee, he moved that a public hearing be authorized to consider the recommendations. His motion was seconded by Mr. Bashford. In response to questioning, Mr. Williams stated the recommendation relative to service and length of time is recommended to not be considered in the original appointment but in reappointments, it would be taken into consideration. After brief discussion, the motion as stated was put to a vote and passed unanimously.