



Thursday, February 01, 2007

+ Back Print

Public Hearings and Possible Actions
RECOMMENDATION FOR COUNCIL ACTION

ITEM No. 66

Subject: Conduct a public hearing and approve an ordinance amending Title 25 of the City Code to establish additional requirements for the location of large retail uses ("Big Box retail") in permitted zoning districts.

Amount and Source of Funding: There is no unanticipated fiscal impact. A fiscal note is not required.

**Additional Backup
Material**

(click to open)

Ordinance

For More Information: Susan Scallon, 974-2659

Boards and Commission Action: To be reviewed by the Planning Commission on January 30, 2007.

Prior Council Action: 11/16/06 - Council set the public hearing.
 12/14/06 - Council approved on first reading 12/14/06 Council set the public hearing for additional amendment

Council considered an ordinance amendment establishing a large retail use of 100,000 square feet or more as a conditional use. Council approved the amendment for the conditional use on 1st reading on December 14, 2006, and also initiated an additional amendment to Chapter 25-2 of the City Code to provide that a large retail use of 100,000 square feet or more of gross floor area may be established as a permitted use by the City Council in a community commercial (GR) or less restrictive zoning district. The combined amendments relating to a large retail use are currently before Council.

On December 14, 2006, the City Council approved 1st reading for a code amendment to require a Conditional Use for large retail in permitted zoning districts. The proposed amendment provides that

- A conditional use permit will be required for a large retail use with a gross floor area of 100,000 square feet or more;
- In addition to the existing code requirement for notification, all registered neighborhood associations within a one mile radius of the proposed retail use shall also receive written notice of the pending application, and
- The applicant will be required to post a 4' X 8' sign on the property visible to the public at the time of the City receiving the application. The sign will include information such as the City file number, type of action pending, names and phone numbers of the applicant or agents for additional information, and a description of the project which includes the size and use of the building

The City Council initiated proposed amendment to Chapter 25-2 of the City Code provides that a large retail use of 100,000 square feet or more of gross floor area may be established as a permitted use by the City Council in a community commercial (GR) or less restrictive zoning district. The amendment further provides

- that to ensure compatibility with surrounding uses, the City Council shall evaluate the zoning request in

accordance with the same criteria contained in Section 25-5-145 used to evaluate Conditional Use Site Plans and may establish a conditional overlay consistent with the same conditions considered for Conditional Use Site Plans in Section 25-5-146,

- that the City Council may consider the potential for redevelopment of the site;
- that notice of an application shall be provided to all registered neighborhood associations within a one mile radius of the property, and
- the same requirements for signage as proposed for a conditional use application.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 25-2 OF THE CITY CODE TO ADD SECTION 25-2-813 RELATING TO LARGE RETAIL USES; AND AMENDING SECTION 25-5-145 OF THE CITY CODE RELATING TO CONDITIONAL USE SITE PLAN EVALUATION.

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

PART 1. Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-813 to read:

§ 25-2-813 LARGE RETAIL USES.

(A) In this section, LARGE RETAIL USE means one of the following principal uses, including its accessory uses, with 100,000 square feet or more of gross floor area:

- (1) agricultural sales and services use;
- (2) art gallery use;
- (3) art workshop use;
- (4) automotive repair services use;
- (5) automotive sales use;
- (6) construction sales and services use;
- (7) equipment sales use;
- (8) food sales use;
- (9) general retail services (convenience) use;
- (10) general retail sales (general) use;
- (11) liquor sales use;
- (12) monument retail sales use;
- (13) pawn shop services use,

- (14) personal improvement services;
- (15) pet services use;
- (16) plant nursery use;
- (17) recreational equipment sales use;
- (18) restaurant (general) use;
- (19) restaurant (limited) use;
- (20) service station use;
- (21) special use historic use; or
- (22) veterinary services use.

(B) This section does not apply in a:

- (1) planned unit development (PUD) district;
- (2) traditional neighborhood (TN) district, or
- (3) transit oriented development (TOD) district.

(C) A large retail use is allowed only in a community commercial (GR) or less restrictive zoning district.

(D) A large retail use is a conditional use, unless the council establishes it as a permitted use in an ordinance zoning or rezoning property.

(E) If the council permits a large retail use:

- (1) a principal use described in Subsection (A) that is a prohibited use in the applicable zoning district remains a prohibited use; and
- (2) a principal use described in Subsection (A) that is a conditional use in the applicable zoning district remains a conditional use, and land use commission review of that conditional use is required in accordance with Chapter 25-5, Article 3 (*Land Use Commission Approved Site Plans*).

(F) Additional notice is required for a large retail use in an application for zoning or rezoning or conditional use site plan, as prescribed in this subsection.

- (1) In addition to the notice required by Subchapter B, Division 3 (*Notice Of Filing, Director's Report*) or Division 4 (*Public Hearing; Action*) or by

1 Section 25-5-144 (*Public Hearing And Notice*) the director shall give
2 notice to all registered neighborhood associations with boundaries
3 located within one mile of the site.

4 (2) The applicant shall post a sign on the site in a location that is within 25
5 feet of and visible from the public right-of-way. The sign must be at
6 least four feet by eight feet in size with lettering at least four inches high.
7 The sign must include the following information:

- 8 (a) a statement that an application for approval of a zoning or rezoning
9 or a conditional use site plan, as applicable, for a large retail use has
10 been filed;
- 11 (b) the city file number;
- 12 (c) the name, address, and telephone number of the applicant or agent;
13 and
- 14 (d) a description of the proposed development, including the size and
15 use of the building.

16 (G) In determining whether zoning or rezoning for a large retail use is appropriate,
17 the council shall consider whether the large retail use complies with the
18 following standards.

19 (1) A large retail use must:

- 20 (a) comply with the requirements of this title;
- 21 (b) comply with the objectives and purposes of the zoning district;
- 22 (c) have building height, bulk, scale, setback, open space, landscaping,
23 drainage, access, traffic circulation, and use that is compatible with
24 the use of an abutting site;
- 25 (d) provide adequate and convenient off-street parking and loading
26 facilities; and
- 27 (e) reasonably protect persons and property from erosion, flood, fire,
28 noise, glare, and similar adverse effects.

29 (2) A large retail use may not:

- 30 (a) more adversely affect an adjoining site than would a permitted use;

- (b) adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- (c) adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign;
- (d) adversely affect the future redevelopment of the site; or
- (e) adversely affect the public health, safety, or welfare, or materially injure property.

(H) In an ordinance zoning or rezoning property to permit a large retail use, the council may include a requirement for:

- (1) a special yard, open space, buffer, fence, wall, or screen;
- (2) landscaping or erosion control;
- (3) a street improvement or dedication, vehicular ingress and egress, or traffic circulation;
- (4) signs;
- (5) characteristics of operation, including hours of operation,
- (6) a development schedule; or
- (7) other measures that the council determines are required for compatibility with surrounding uses, the preservation of public health, safety, or welfare, or compliance with the standards in Subsection (G).

PART 2. Section 25-5-145(C) (*Evaluation Of Conditional Use Site Plan*) of the City Code is amended to read:

(C) A conditional use site plan may not:

- (1) more adversely affect an adjoining site than would a permitted use;
- (2) adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area; [or]
- (3) adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign; or

1 (4) for a large retail use described in Section 25-2-813 (*Large Retail Uses*),
2 adversely affect the future redevelopment of the site.

3 **PART 3.** This ordinance takes effect on _____, 2007.

4 **PASSED AND APPROVED**

5
6
7
8 _____, 2007

§
§
§

Will Wynn
Mayor

9
10
11
12
13 **APPROVED:** _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk