

ORDINANCE AMENDMENT REVIEW SHEET

CASE NUMBER: C2O-2008-018

PC PUBLIC HEARING DATE: August 25, 2009

CODES AND ORDINANCES SUBCOMMITTEE: October 21, 2008—requested the proposed amendments be prepared in a draft ordinance & June 17, 2009—recommended staff to present proposed amendments to the Neighborhood Planning Subcommittee

NEIGHBORHOOD PLANNING SUBCOMMITTEE: July 15, 2009—Recommended the proposed amendments be forwarded to the full Planning Commission.

PROPOSED AMENDMENT: Amend Chapter 25-1 of the City of Austin Land Development code to change the requirements for neighborhood plan amendment procedures and incorporate additional requirements for neighborhood plan contact teams.

The suggested changes are as follows:

25-1-801: Definitions

25-1-801 (2): Definition of a Neighborhood Plan Contact Team

- Change definition to state that contact teams are individuals designated to implement an adopted neighborhood plan, and a contact team is a separate body apart from any existing or future neighborhood association.
- Remove reference to Neighborhood Planning Teams (the City still recognizes established Neighborhood Planning Teams that qualify and have been functioning as Neighborhood Plan Contact Teams)

25-1-804: Application to Amend a Neighborhood Plan

25-1-804 (B): Establishes when an application to amend a neighborhood plan may be accepted for an individual property

- Clarify that this section refers to individual plan amendments, not subdistrict or area-wide amendments
- Reorganize to require contact teams to wait one year after plan adoption to apply for an individual plan amendment (still have the ability to file at any time during the year after this waiting period).
- Add new language to allow neighborhood plan contact teams to give written approval to an applicant to file out of cycle.

25-1-804 (C): Lists the exemption criteria when an application may be accepted outside of the normal requirements (February or July)

- Delete “the application is submitted by a neighborhood plan contact team” and move to Section 25-1-804 (B). This reorganization requires that contact teams wait one year after plan adoption to apply for an individual plan amendment.

- Delete duplicate language regarding S.M.A.R.T Housing
- Add language to clarify that City Council can initiate a plan amendment at any time

25-1-804 (E): Addresses when an application may be accepted for a subdistrict or area-wide amendment

- Reformat—no proposed changes to content

25-1-805: Neighborhood Plan Contact Team

- Renumber to 25-1-806

25-1-805 (A): creation of a neighborhood plan contact team

- Delete language that stated the contact team shall be formed prior to the submission of the plan to city council and revise to state that the director shall initiate the formation of a neighborhood plan contact team.

25-1-805 (B): contact team representatives

- For clarity, change the terminology from non-property residents to residential renters
- Change the terminology from neighborhood associations to neighborhood organization members owning or renting property within the neighborhood plan area.

25-1-805 (C): neighborhood plan contact team bylaws

- Reformat section into (C) and (D). Both of these sections have additional requirements regarding submission of membership lists and bylaws. It also requires contact teams to use the standardized bylaws template provided by the Director.

25-1-805 (D): letter of recommendation

- Renumber section to (E)
- Revise language that a contact team *shall* submit a letter of recommendation prior to the Planning Commission hearing to *may* submit a letter
- Add language that the letter shall also identify any conflict of interest as defined in their bylaws

25-1-805 (E): conflict of interest

- Remove this section. Conflict of interest is a mandatory requirement in the standardized bylaws template and should also be addressed in the letter of recommendation submitted by the neighborhood plan contact team.

25-1-806: Notice and Public Hearing

- Renumber to 25-1-807

- Add new section (B) to state the director shall conduct a community meeting on the proposed amendment prior to the Planning Commission hearing date. The director shall give notice under Section 25-1-132(A), Notice of Public Hearing.

25-1-806(D) notice requirements for subdistrict and area-wide amendment

- Renumber to (E)
- Change notice requirements from the entire planning area to the proposed amendment boundaries (this only affects subdistrict amendments)
- Change notice requirements from 300 feet to 500 feet for registered neighborhood organizations. This is consistent with other public notice requirements.

25-1-807 Recommendation Criteria

- Renumber to 25-1-808

25-1-807 (C) applicant must demonstrate that outreach was conducted

- Delete language that states the applicant must conduct outreach. This is replaced with a new section under *Notice and Public Hearing* that requires the City conduct a community meeting.

New Section—Expiration of Application

- Number new Section 25-1-805
- This section will mirror the expiration requirements for a zoning application. In addition it states that any neighborhood plan application submitted before the effective date of this ordinance expires 180 days after the effective date of this section (unless the applicant files and is granted an extension from the Director or Council).

BACKGROUND: The ordinance to establish a procedure for neighborhood plan amendments was adopted in March 2003. Since then, there have been two revisions to the ordinance, including the addition of Article 16, Neighborhood Plan Amendments to Chapter 25-1 of the City Code. Staff is recommending additional changes to Article 16 to reorganize, clarify and improve the neighborhood plan amendment procedures, as well as incorporating additional requirements for neighborhood plan contact teams to submit current membership information and bylaws based on the standardized template.

Purpose for Proposed Changes

25-1-801 Definitions

The definition currently states that a neighborhood plan contact team also includes the term “Neighborhood Planning Team”. Neighborhood Planning Teams were originally the group of people that worked on some of the earlier neighborhood plans. Planning

Teams were tasked with developing the plan as well as working to implement the plan after adoption. The planning process has evolved and staff no longer uses the term Neighborhood Planning Teams, instead staff refers to those individuals who participate in the neighborhood planning process as a group of community stakeholders.

In 2003, the term “Neighborhood Plan Contact Team” was established with the adoption of the Neighborhood Plan Amendment ordinance. Contact Teams are now formed from a group of interested community stakeholders at the end of the planning process to work on plan implementation as their main priority.

Staff recommends deleting the terminology “Neighborhood Planning Team” from the ordinance, although the City still recognizes established Neighborhood Planning Teams that qualify and have been functioning as Neighborhood Plan Contact Teams.

25-1-804 Application to Amend a Neighborhood Plan

The original Neighborhood Plan Amendment Ordinance #030320-23 included a provision for the neighborhood plan contact team for where the project is located to approve the submission of an application to be filed out-of-cycle. The following Ordinance #030605-53 repealed this provision. Because of this change, applicants who wanted to file an application out-of-cycle were requesting that contact teams be the applicant on their behalf. Because contact teams do not pay an application fee, this resulted in a loss of fee to the City and showed the applicant as the contact team, not the “true” party requesting the change. Staff recommends adding back the original provision that allowed contact teams to give an applicant written approval to file out-of-cycle.

Staff also recommends reorganizing this section to require contact teams to wait a year after the plan is adopted before initiating a plan amendment. Contact teams would still have the ability to initiate a plan amendment at any time during the year after the one-year waiting period. Amendments to newly adopted plans should not be necessary in the first year unless there was an error, or the proposal meets one of the exemption criteria.

25-1-805 Neighborhood Plan Contact Team

Contact Team Representatives

This section refers to the four groups that should be included on a neighborhood plan contact team. It currently states that one of the representatives is a neighborhood association. Staff is proposing to change “association” to “organization” because the Land Development Code has a definition for neighborhood organization, but not for neighborhood association. In addition, there have been neighborhood associations adjacent to planning areas that have changed their boundaries to extend into the bordering neighborhood planning areas in an effort to be on the contact team. The additional language proposed will ensure that the member of the neighborhood organization live or own property within the planning area boundaries to be eligible for contact team membership.

Neighborhood Plan Contact Team Bylaws

Currently, the ordinance states that contact teams shall prepare bylaws to address operating procedures, membership, meetings, notice procedures, and decision-making. It does not require that the contact team shall submit their bylaws to the City. The proposed changes will require that contact teams use the standardized bylaws template provided by the Director. This will ensure that every contact team is addressing an expanded list of mandatory items including roles and responsibilities, boundaries, membership, decision-making, meetings and meeting notification, officers and duties, amendments to the bylaws, finances, and conflict of interest. Contact teams will also be required to submit their bylaws when changes occur and membership lists on an annual basis to the Director.

Conflict of Interest

This section currently states that a neighborhood plan contact team shall comply with the conflict of interest provision. One concern is that the City has no ability to enforce these provisions on non-City officials. The City only enforces such provisions for City officers such as council members, employees, and boards and commission members. Contact teams are not appointed by the City and only provide input to the City. In addition, it is not a reasonable expectation for staff to attend and monitor every contact team meeting when decisions are made. Even if staff could attend all of these meetings, there is no procedure in the ordinance for enforcement, and no indication of what enforcement might entail.

Due to the above reasons staff recommends deleting the conflict of interest provision. Conflict of interest is a mandatory requirement in the standardized bylaws template and should also be addressed in the letter of recommendation submitted by the neighborhood plan contact team.

25-1-806: Notice and Public Hearing

Currently, the ordinance states the applicant must demonstrate outreach has been conducted to certain groups. Over the years, the City has been organizing community meetings to discuss all proposed plan amendments and mailing notices to property owners, renters, and neighborhood organizations within 500 feet (previously 300 feet). Because this has been the City's method for several years, staff is proposing to include this process in the ordinance. This ensures that outreach has been conducted with the same procedures as a Notice of Public Hearing.

Staff is also proposing to revise the public notice requirements for subdistrict and area-wide amendments. Currently, notice is required to property owners, utility account addresses, neighborhood plan contact teams, and registered neighborhood associations within the boundaries and 300 feet beyond. Staff is proposing that "associations" be deleted and replaced with "organizations" to be consistent with other parts of the Code. For a subdistrict amendment, staff is proposing to notice within the plan amendment boundary, not the entire planning area. In addition, staff is proposing to change the

requirement for notice to 500 feet instead of 300 feet in order to be consistent with other public notice requirements.

25-1-807 Recommendation Criteria

Staff is proposing to delete this section that requires applicants to demonstrate outreach to specific individuals and replace this outreach with a staff organized community meeting. Staff does provide the applicant with contact information for the contact team and encourages the applicant to discuss the proposal with the neighborhood plan contact team prior to conducting the community meeting.

New Section—Expiration of Application

Currently, there is no expiration of application for neighborhood plan amendments and staff has numerous old case files that we are unable to close. Staff is proposing to add a new section to the code that is similar to the requirements for the expiration of zoning applications.

STAFF RECOMMENDATION: Staff recommends approval of the proposed code amendment.

PLANNING COMMISSION ACTION:

August 25, 2009: The motion to approve staff's recommendation to amend Chapter 25-1, Article 16 of the City Code with a Commission amendment to change the requirement of submittal of bylaws to the Director from annually to submittal of newly adopted bylaws or amended bylaws. Approved by Commissioner Clint Small's motion, Commissioner Saundra Kirk seconded the motion on a vote of 8-0; Commissioner Gerardo Castillo was absent.

CITY COUNCIL DATE AND ACTION:

October 15, 2009: Set a public hearing for November 5, 2009

November 5, 2009:

ORDINANCE READINGS:

1st

2nd

3rd

ORDINANCE NUMBER:

CITY STAFF: Melissa Laursen, Planning and Development Review Department

PHONE: 974-7226

EMAIL: melissa.laursen@ci.austin.tx.us

ORDINANCE AMENDMENT REVIEW SHEET

CASE NUMBER: C2O-2008-018

PC PUBLIC HEARING DATE: August 25, 2009

CODES AND ORDINANCES SUBCOMMITTEE: October 21, 2008—requested the proposed amendments be prepared in a draft ordinance & June 17, 2009—recommended staff to present proposed amendments to the Neighborhood Planning Subcommittee

NEIGHBORHOOD PLANNING SUBCOMMITTEE: July 15, 2009—Recommended the proposed amendments be forwarded to the full Planning Commission.

PROPOSED AMENDMENT: Amend Chapter 25-1 of the City of Austin Land Development code to change the requirements for neighborhood plan amendment procedures and incorporate additional requirements for neighborhood plan contact teams.

The suggested changes are as follows:

25-1-801: Definitions

25-1-801 (2): Definition of a Neighborhood Plan Contact Team

- Change definition to state that contact teams are individuals designated to implement an adopted neighborhood plan, and a contact team is a separate body apart from any existing or future neighborhood association.
- Remove reference to Neighborhood Planning Teams (the City still recognizes established Neighborhood Planning Teams that qualify and have been functioning as Neighborhood Plan Contact Teams)

25-1-804: Application to Amend a Neighborhood Plan

25-1-804 (B): Establishes when an application to amend a neighborhood plan may be accepted for an individual property

- Clarify that this section refers to individual plan amendments, not subdistrict or area-wide amendments
- Reorganize to require contact teams to wait one year after plan adoption to apply for an individual plan amendment (still have the ability to file at any time during the year after this waiting period).
- Add new language to allow neighborhood plan contact teams to give written approval to an applicant to file out of cycle.

25-1-804 (C): Lists the exemption criteria when an application may be accepted outside of the normal requirements (February or July)

- Delete “the application is submitted by a neighborhood plan contact team” and move to Section 25-1-804 (B). This reorganization requires that contact teams wait one year after plan adoption to apply for an individual plan amendment.

- Delete duplicate language regarding S.M.A.R.T Housing
- Add language to clarify that City Council can initiate a plan amendment at any time

25-1-804 (E): Addresses when an application may be accepted for a subdistrict or area-wide amendment

- Reformat—no proposed changes to content

25-1-805: Neighborhood Plan Contact Team

- Renumber to 25-1-806

25-1-805 (A): creation of a neighborhood plan contact team

- Delete language that stated the contact team shall be formed prior to the submission of the plan to city council and revise to state that the director shall initiate the formation of a neighborhood plan contact team.

25-1-805 (B): contact team representatives

- For clarity, change the terminology from non-property residents to residential renters
- Change the terminology from neighborhood associations to neighborhood organization members owning or renting property within the neighborhood plan area.

25-1-805 (C): neighborhood plan contact team bylaws

- Reformat section into (C) and (D). Both of these sections have additional requirements regarding submission of membership lists and bylaws. It also requires contact teams to use the standardized bylaws template provided by the Director.

25-1-805 (D): letter of recommendation

- Renumber section to (E)
- Revise language that a contact team *shall* submit a letter of recommendation prior to the Planning Commission hearing to *may* submit a letter
- Add language that the letter shall also identify any conflict of interest as defined in their bylaws

25-1-805 (E): conflict of interest

- Remove this section. Conflict of interest is a mandatory requirement in the standardized bylaws template and should also be addressed in the letter of recommendation submitted by the neighborhood plan contact team.

25-1-806: Notice and Public Hearing

- Renumber to 25-1-807

- Add new section (B) to state the director shall conduct a community meeting on the proposed amendment prior to the Planning Commission hearing date. The director shall give notice under Section 25-1-132(A), Notice of Public Hearing.

25-1-806(D) notice requirements for subdistrict and area-wide amendment

- Renumber to (E)
- Change notice requirements from the entire planning area to the proposed amendment boundaries (this only affects subdistrict amendments)
- Change notice requirements from 300 feet to 500 feet for registered neighborhood organizations. This is consistent with other public notice requirements.

25-1-807 Recommendation Criteria

- Renumber to 25-1-808

25-1-807 (C) applicant must demonstrate that outreach was conducted

- Delete language that states the applicant must conduct outreach. This is replaced with a new section under *Notice and Public Hearing* that requires the City conduct a community meeting.

New Section—Expiration of Application

- Number new Section 25-1-805
- This section will mirror the expiration requirements for a zoning application. In addition it states that any neighborhood plan application submitted before the effective date of this ordinance expires 180 days after the effective date of this section (unless the applicant files and is granted an extension from the Director or Council).

BACKGROUND: The ordinance to establish a procedure for neighborhood plan amendments was adopted in March 2003. Since then, there have been two revisions to the ordinance, including the addition of Article 16, Neighborhood Plan Amendments to Chapter 25-1 of the City Code. Staff is recommending additional changes to Article 16 to reorganize, clarify and improve the neighborhood plan amendment procedures, as well as incorporating additional requirements for neighborhood plan contact teams to submit current membership information and bylaws based on the standardized template.

Purpose for Proposed Changes

25-1-801 Definitions

The definition currently states that a neighborhood plan contact team also includes the term “Neighborhood Planning Team”. Neighborhood Planning Teams were originally the group of people that worked on some of the earlier neighborhood plans. Planning

Teams were tasked with developing the plan as well as working to implement the plan after adoption. The planning process has evolved and staff no longer uses the term Neighborhood Planning Teams, instead staff refers to those individuals who participate in the neighborhood planning process as a group of community stakeholders.

In 2003, the term “Neighborhood Plan Contact Team” was established with the adoption of the Neighborhood Plan Amendment ordinance. Contact Teams are now formed from a group of interested community stakeholders at the end of the planning process to work on plan implementation as their main priority.

Staff recommends deleting the terminology “Neighborhood Planning Team” from the ordinance, although the City still recognizes established Neighborhood Planning Teams that qualify and have been functioning as Neighborhood Plan Contact Teams.

25-1-804 Application to Amend a Neighborhood Plan

The original Neighborhood Plan Amendment Ordinance #030320-23 included a provision for the neighborhood plan contact team for where the project is located to approve the submission of an application to be filed out-of-cycle. The following Ordinance #030605-53 repealed this provision. Because of this change, applicants who wanted to file an application out-of-cycle were requesting that contact teams be the applicant on their behalf. Because contact teams do not pay an application fee, this resulted in a loss of fee to the City and showed the applicant as the contact team, not the “true” party requesting the change. Staff recommends adding back the original provision that allowed contact teams to give an applicant written approval to file out-of-cycle.

Staff also recommends reorganizing this section to require contact teams to wait a year after the plan is adopted before initiating a plan amendment. Contact teams would still have the ability to initiate a plan amendment at any time during the year after the one-year waiting period. Amendments to newly adopted plans should not be necessary in the first year unless there was an error, or the proposal meets one of the exemption criteria.

25-1-805 Neighborhood Plan Contact Team

Contact Team Representatives

This section refers to the four groups that should be included on a neighborhood plan contact team. It currently states that one of the representatives is a neighborhood association. Staff is proposing to change “association” to “organization” because the Land Development Code has a definition for neighborhood organization, but not for neighborhood association. In addition, there have been neighborhood associations adjacent to planning areas that have changed their boundaries to extend into the bordering neighborhood planning areas in an effort to be on the contact team. The additional language proposed will ensure that the member of the neighborhood organization live or own property within the planning area boundaries to be eligible for contact team membership.

Neighborhood Plan Contact Team Bylaws

Currently, the ordinance states that contact teams shall prepare bylaws to address operating procedures, membership, meetings, notice procedures, and decision-making. It does not require that the contact team shall submit their bylaws to the City. The proposed changes will require that contact teams use the standardized bylaws template provided by the Director. This will ensure that every contact team is addressing an expanded list of mandatory items including roles and responsibilities, boundaries, membership, decision-making, meetings and meeting notification, officers and duties, amendments to the bylaws, finances, and conflict of interest. Contact teams will also be required to submit their bylaws when changes occur and membership lists on an annual basis to the Director.

Conflict of Interest

This section currently states that a neighborhood plan contact team shall comply with the conflict of interest provision. One concern is that the City has no ability to enforce these provisions on non-City officials. The City only enforces such provisions for City officers such as council members, employees, and boards and commission members. Contact teams are not appointed by the City and only provide input to the City. In addition, it is not a reasonable expectation for staff to attend and monitor every contact team meeting when decisions are made. Even if staff could attend all of these meetings, there is no procedure in the ordinance for enforcement, and no indication of what enforcement might entail.

Due to the above reasons staff recommends deleting the conflict of interest provision. Conflict of interest is a mandatory requirement in the standardized bylaws template and should also be addressed in the letter of recommendation submitted by the neighborhood plan contact team.

25-1-806: Notice and Public Hearing

Currently, the ordinance states the applicant must demonstrate outreach has been conducted to certain groups. Over the years, the City has been organizing community meetings to discuss all proposed plan amendments and mailing notices to property owners, renters, and neighborhood organizations within 500 feet (previously 300 feet). Because this has been the City's method for several years, staff is proposing to include this process in the ordinance. This ensures that outreach has been conducted with the same procedures as a Notice of Public Hearing.

Staff is also proposing to revise the public notice requirements for subdistrict and area-wide amendments. Currently, notice is required to property owners, utility account addresses, neighborhood plan contact teams, and registered neighborhood associations within the boundaries and 300 feet beyond. Staff is proposing that "associations" be deleted and replaced with "organizations" to be consistent with other parts of the Code. For a subdistrict amendment, staff is proposing to notice within the plan amendment boundary, not the entire planning area. In addition, staff is proposing to change the

requirement for notice to 500 feet instead of 300 feet in order to be consistent with other public notice requirements.

25-1-807 Recommendation Criteria

Staff is proposing to delete this section that requires applicants to demonstrate outreach to specific individuals and replace this outreach with a staff organized community meeting. Staff does provide the applicant with contact information for the contact team and encourages the applicant to discuss the proposal with the neighborhood plan contact team prior to conducting the community meeting.

New Section—Expiration of Application

Currently, there is no expiration of application for neighborhood plan amendments and staff has numerous old case files that we are unable to close. Staff is proposing to add a new section to the code that is similar to the requirements for the expiration of zoning applications.

STAFF RECOMMENDATION: Staff recommends approval of the proposed code amendment.

PLANNING COMMISSION ACTION:

August 25, 2009: The motion to approve staff's recommendation to amend Chapter 25-1, Article 16 of the City Code with a Commission amendment to change the requirement of submittal of bylaws to the Director from annually to submittal of newly adopted bylaws or amended bylaws. Approved by Commissioner Clint Small's motion, Commissioner Sandra Kirk seconded the motion on a vote of 8-0; Commissioner Gerardo Castillo was absent.

CITY COUNCIL DATE AND ACTION:

October 15, 2009: Set a public hearing for November 5, 2009

November 5, 2009:

ORDINANCE READINGS:

1st

2nd

3rd

ORDINANCE NUMBER:

CITY STAFF: Melissa Laursen, Planning and Development Review Department

PHONE: 974-7226

EMAIL: melissa.laursen@ci.austin.tx.us

Laursen, Melissa

From: Javier Bonafont ,
Sent: Thursday, October 22, 2009 8:52 AM
To: Laursen, Melissa
Subject: c20-2008-018 Contact Team Requirements

Follow Up Flag: Follow up
Flag Status: Orange

Dear Melissa, Planning Staff, and Council:

I would like to voice a concern regarding the Neighborhood Contact Team requirements in this amendment, specifically section 25-1-806 regarding the membership of the NCT.

In certain cases, as was made clear in the recent debacle over forming a NCT for the Burnett/Gateway area, there exist NO residents or Neighborhood Associations at the inception of the plan. That being the case, the ONLY people at the table of the NCT for Burnett/Gateway are business interests, and no representatives actually concerned with liveability standards, public services, etc., despite the fact that it will be a high density mixed use area.

Moreover, in cases of the scale and magnitude of the Burnett/Gateway, the impact is felt in all the surrounding neighborhoods as it will become a major focal point for the north austin area.

Cognizant of this, several neighborhood associations that ring the Burnett/Gateway area attended the initial meetings for forming the Contact Team and were active in establishing a dialog of inclusion. However, the business/landowner representatives soon discovered that they could by fiat exclude us from being voting members of the team and immediately did so.

The proposed changes to 25-1-806 make the exclusion even EASIER by reducing the "minimum" requirments for NCTs.

So this makes an utter farce of the concept. Regular human residents have no voice in a "neighborhood plan" until AFTER the neighborhood is built by business interests. What is the value of that? Forming a roundtable of developers is not the same thing as neighborhood plan. Property and business owners who live miles away do not share the same concerns as residents who will live across the street or within the new development.

It is my opinion that this be amended to provide for the following:

IF THE NEIGHBORHOOD PLAN AREA DOES NOT CURRENTLY CONTAIN A SIGNIFICANT NUMBER OF RESIDENTS OR AN EXISTING NEIGHBORHOOD ASSOCIATION, THEN BEST EFFORTS MUST BE EXERCISED TO INCLUDE REPRESENTATIVES FROM NEIGHBORHOOD ASSOCIATIONS ADJACENT TO THE PLANNING AREA AS VOTING MEMBERS.

This to me is only common sense if the NCT are to have any residential perspective. Otherwise you should rename these teams "Business Group Contact Teams" and at least be upfront about what they are for.

Thank you for your time. I would appreciate this being circulated to council and others involved.

Sincerely,

Javier Bonafont
President, Walnut Crossing NA
Neighborhoods of North Austin