ORDINANCE NO. 20091217-053

AN ORDINANCE AMENDING CHAPTER 25-1, ARTICLE 16 OF THE CITY CODE RELATING TO NEIGHBORHOOD PLAN AMENDMENTS.

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

PART 1. City Code Chapter 25-1 (*General Requirements and Procedures*), Article 16 is amended to read:

ARTICLE 16. NEIGHBORHOOD PLAN AMENDMENTS.

§ 25-1-801 DEFINITIONS.

In this article:

(1) DIRECTOR means the director of the Planning and Development Review Department.

(2) NEIGHBORHOOD PLAN CONTACT TEAM means the individuals designated [~~by the person involved in the development of a neighborhood plan~~] to implement [~~the~~] an adopted neighborhood plan. [~~The term includes a "neighborhood planning team".~~] The neighborhood plan contact team is a neighborhood organization that may qualify as an interested party for purposes of notice, appeal, and other processes if all other qualifications for interested party status are satisfied. The neighborhood plan contact team is a separate body apart from any other existing or future neighborhood organization.

§ 25-1-802 DIRECTOR'S REVIEW OF NEIGHBORHOOD PLAN.

The director shall conduct a general review of a neighborhood plan not earlier than five years after the adoption of the plan and may recommend amendments of a plan to the Planning Commission and council. The director shall include neighborhood stakeholder input in the review process.

§ 25-1-803 INITIATION OF NEIGHBORHOOD PLAN AMENDMENT.

A neighborhood plan amendment may be initiated by:

(1) for an amendment regarding an individual property:

(a) the owner of the subject property;

(b) the council;

(c) the Planning Commission [~~planning commission~~];

(d) the director; or

(e) the neighborhood plan contact team for the planning area in which the property is located; or

(2) for an amendment regarding an area-wide or subdistrict-wide recommendation:

(a) the council;

(b) the Planning Commission [~~planning commission~~];

(c) the director; or

(d) the neighborhood plan contact team for the affected neighborhood plan area.

§ 25-1-804 APPLICATION TO AMEND NEIGHBORHOOD PLAN.

(A) A pre-application meeting between the director's staff and an applicant is required before the applicant may submit an application to amend a neighborhood plan to the director. At the meeting:

(1) the staff shall describe the application process to the applicant;

(2) the applicant shall describe the proposed neighborhood plan amendment to the staff;

(3) if the applicant is proposing a change to the future land use map, the applicant shall provide the staff with information regarding the proposed change, including the address, boundaries, acreage, current and proposed future land use map categories, and current and proposed uses; and

(4) if the applicant is proposing a text change, the applicant shall provide the proposed language and an explanation of the change.

(B) For an application regarding an individual property, [~~E~~]except as provided in Subsection (C):

(1) the director may accept an application to amend a neighborhood plan not earlier than one year after the adoption of the plan;

(2) after the one year anniversary of a plan adoption, the director may accept an application to amend a plan recommendation relating to an individual property not more frequently than once every 12 months; and

(3) an application may be filed only during the month established by the director under Section 25-1-811 [~~25-1-808~~] (*Map; Filing Dates*), unless:

(a) the application is submitted by a neighborhood plan contact team for the planning area in which the property is located; or

(b) a neighborhood plan contact team for the planning area in which the property is located has given written approval of the application.

(4) An applicant may not file an application for an amendment that is substantially the same as an application denied by council until one year after the council action denying the prior application.

(C) The director may accept an application [~~to amend a neighborhood plan~~] regarding an individual property at a time other than as provided in Subsection (B) if the director determines that:

(1) prohibiting the filing would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect public health, safety, and welfare;

(2) a clerical error regarding the designated use of the subject property exists on the future land use map of the neighborhood plan or in the text of the plan;

[~~(3) the application is submitted by a neighborhood plan contact;~~]

[~~(4) the amendment allows the development of a S.M.A.R.T. Housing certified project in which at least 40 percent of the proposed units are reasonably priced; or~~]

(3)[~~(5)~~] the person submitting the application has received a letter from the director of the appropriate City department stating that the project:

(a) is not subject to current City environmental regulations, but is proposed to be developed under current City environmental regulations;

(b) promotes the recruitment or retention of an employment center with 100 or more employees; or

(c) is a S.M.A.R.T. Housing certified project in which at least 40 percent of the proposed units are reasonably priced as provided in Section 25-1-703 (C) and (D) (*Program Requirements*); or

(4) council has initiated the application.

(D) An applicant may appeal a decision of the director under Subsection (C)(1) to the Planning Commission [~~planning commission~~].

(E) For an area-wide or subdistrict-wide application:

(1) the director may accept an application to amend a neighborhood plan not earlier than two years after the adoption of the plan;

(2) the director may accept an application not earlier than two years after the most recent council action on the plan; and

(3) an application initiated by council may be filed at any time.

[~~(E) The director may accept an application to amend an area-wide or subdistrict-wide recommendation not earlier than two years after the most recent Council action on an area-wide or subdistrict-wide recommendation of a plan. An application may be filed only during the month established by the director under Section 25-1-808 (*Map; Filing Dates*).~~]

[~~(F) An applicant may not file an application for an amendment that is substantially the same as an application denied by council until after one year after the council action denying the prior application.~~]

§ 25-1-805 NEIGHBORHOOD PLAN CONTACT TEAM.

(A) The director shall initiate the formation of a neighborhood plan contact team. [~~The persons involved in a neighborhood plan shall designate a neighborhood plan contact team before the plan is submitted to council~~].

(B) [~~Among others as determined appropriate, t~~] The neighborhood plan contact team~~, at a minimum,~~ shall to the greatest extent practicable include at least one representative from each of the following groups within a neighborhood plan area:

(1) property owners;

(2) residential renters [~~non-property owner residents~~];

(3) business owners; and

(4) neighborhood [~~associations~~] organization members owning or renting property within the neighborhood plan area.

(C) Representatives shall to the greatest extent possible be drawn from the group of persons involved in the development of the neighborhood plan.

(D) The neighborhood plan contact team shall annually submit a list of its officers and members, including individual contact information and applicable membership category under Subsection (B), to the director.

(E) [~~(C)~~] The neighborhood plan contact team shall submit new bylaws or changes in existing bylaws to the director. The bylaws shall be based upon a standardized template provided by the director and shall address roles and responsibilities, boundaries, membership, decision-making, meetings and meeting notification, officers and duties, amendments to the bylaws, finances, and conflicts of interest [~~prepare by-laws that address operating procedures for the group, including membership, meetings, notice procedures, and decision-making and voting procedures~~].

(F) [~~(D)~~] Before the date on which the Planning Commission [~~planning commission~~] is scheduled to consider a proposed neighborhood plan amendment, the neighborhood plan contact team may [~~shall~~] submit a letter to the director stating its recommendation on the proposed amendment. The neighborhood plan contact team shall also identify any conflict of interest as defined in the bylaws of the neighborhood plan contact team.

~~(E) A member of a neighborhood plan contact team shall comply with the conflict of interest provisions in this subsection.~~

~~(1) A member may not participate in a decision of a neighborhood plan contact team on a matter affecting a person, entity, or property in which the member has a substantial interest.~~

~~(a) "Substantial interest" and "substantial interest in real property" have the meanings assigned by Section 2-7-2 *(Definitions)*.~~

~~(b) "Decision" includes a decision to file an application for a plan amendment and a final recommendation on a proposed plan amendment.~~

~~(2) A member who has a substantial interest that disqualifies the member from participating in a decision under Paragraph (1) shall submit a disclosure statement to the director describing the substantial interest. The member shall submit the disclosure statement when the neighborhood plan contact~~

~~team files an application for a plan amendment or a final recommendation on a proposed plan amendment, as applicable.~~

§ 25-1-806 NOTICE AND PUBLIC HEARING.

(A) The director shall give notice of the filing of an application for a proposed neighborhood plan amendment under Section 25-1-133 *(Notice Of Applications And Administrative Decisions).*

(B) The director shall conduct a community meeting on a proposed neighborhood plan amendment prior to the date on which the Planning Commission is scheduled to consider the amendment. The director shall give notice of the meeting under Section 25-1-132(A) (*Notice of Public Hearing*).

(C)[~~(B)~~] The Planning Commission [~~planning commission~~] and the council shall each hold a public hearing on a proposed neighborhood plan amendment.

(D)[~~(C)~~] This subsection prescribes notice for a public hearing on a proposed neighborhood plan amendment regarding an individual property.

(1) For a hearing before the Planning Commission [~~planning commission~~], the director shall give notice under Section 25-1-132(A) *(Notice Of Public Hearing).*

(2) For a hearing before council, the director shall give notice under Section 25-1-132(B)(2) *(Notice Of Public Hearing).*

(3) The applicant is responsible for the cost of notice, unless the applicant is a neighborhood plan contact team. In that event, the City is responsible for the cost of notice.

(E)[~~(D)~~] This subsection prescribes notice for a public hearing on a proposed neighborhood plan amendment regarding an area-wide or subdistrict-wide recommendation.

(1) The director shall give notice of a public hearing before the Planning Commission [~~planning commission~~] or council to:

(a) each notice owner of property located within the proposed amendment boundaries [~~in the neighborhood plan area~~];

(b) each City of Austin utility account address within the proposed amendment boundaries [~~in the neighborhood plan area~~]; and

(c) each neighborhood plan contact team and registered neighborhood organization within the proposed amendment boundaries and within

500 feet of the proposed amendment boundaries [~~association whose boundaries include or are within 300 feet of a neighborhood plan amendment area~~].

(2) The City is responsible for the cost of notice.

§ 25-1-807 EXPIRATION OF APPLICATION.

(A) A neighborhood plan amendment application expires if the director does not schedule the application for a public hearing:

(1) by the Planning Commission before the 181st day after the date of filing; or

(2) by the Planning Commission or council before the 181st day after the date on which the Planning Commission or council grants an indefinite postponement of a scheduled public hearing.

(B) Except as provided in Subsection (D), a neighborhood plan amendment application expires if the council does not adopt an ordinance before the 361st day after council closes the public hearing on the application.

(C) Except as provided in Subsection (D), a neighborhood plan amendment application initially submitted before the effective date of this section expires 180 days after the effective date of this section.

(D) An applicant may file one request with the director and one request with council to extend an application that will expire under Subsection (B) or Subsection (C). The request must be in writing, be filed before the application expires, state good cause for the extension, and be for not more than 180 days.

§ 25-1-808 LAND USE COMMISSION PUBLIC HEARING AND RECOMMENDATION.

(A) The Land Use Commission shall hold a public hearing on a neighborhood plan amendment application not later than the 90th day after the date the application is filed.

(B) The Land Use Commission shall make a recommendation to the council on a neighborhood plan amendment application not later than the 14th day after the Land Use Commission closes the public hearing on the application.

(C) If the Land Use Commission does not adopt a recommendation on an application, the Director shall forward the application to council without a Land Use Commission recommendation.

(D) If the Land Use Commission does not hold a public hearing in accordance with Subsection (A), the applicant may file a written request for a hearing as prescribed in Section 25-2-282(E).

(E) The Director shall report the Land Use Commission's recommendation on each neighborhood plan amendment application to the council.

§ 25-1-809 CITY COUNCIL HEARING AND RECOMMENDATION.

(A) The council shall hold a public hearing on a neighborhood plan amendment application not later than the 40th day after the date of the Land Use Commission recommendation.

(B) Section 25-2-283(C) shall apply to requests for postponement of the public hearing on a neighborhood plan amendment application.

§ 25-1-810 [~~§ 25-1-807~~] RECOMMENDATION CRITERIA.

(A) The director may not recommend approval of a neighborhood plan amendment unless the requirements of Subsections (B) and (C) are satisfied.

(B) The applicant must demonstrate that:

(1) the proposed amendment is appropriate because of a mapping or textual error or omission made when the original plan was adopted or during subsequent amendments;

(2) the denial of the proposed amendment would jeopardize public health, safety, or welfare;

(3) the proposed amendment is appropriate:

(a) because of a material change in circumstances since the adoption of the plan; and

(b) denial would result in a hardship to the applicant;

(4) the proposed project:

(a) provides environmental protection that is superior to the protection that would otherwise be achieved under existing zoning and development regulations; or

(b) promotes the recruitment or retention of an employment center with 100 or more employees;

(5) the proposed amendment is consistent with the goals and objectives of the neighborhood plan; or

(6) the proposed amendment promotes additional S.M.A.R.T. Housing opportunities.

(C) The applicant must demonstrate that:

[~~(1) outreach has been conducted to the following groups:~~

~~(a) neighborhood associations in the plan area;~~

~~(b) the neighborhood plan contact team; and~~

~~(c) property owners of land 300 feet or less from the subject property;~~]

(1)[~~(2)~~] the proposed amendment complies with applicable regulations and standards established by Title 25 *(Land Development)*, the objectives of Chapter 25-2 *(Zoning)*, and the purposes of the zoning district proposed for the subject property; and

(2)[~~(3)~~] the proposed amendment is consistent with sound planning principles.

§ 25-1-811 [~~§ 25-1-808~~] MAP; FILING DATES.

The director shall establish a map designating the area of the City for which an application to amend a neighborhood plan must be submitted in February and the area for which an application must be submitted in July.

PART 2. This ordinance takes effect on December 28, 2009.

PASSED AND APPROVED

December 17, 2009 §
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Lee Leffingwell
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk