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ORDINANCE AMENDMENT REVIEW SHEET

CASE NUMBER: C20-2013-002 Neighborhood Plan Amendment Procedures

PC PUBLIC HEARING DATE: July 9, 2013;

NEIGHBORHOOD PLANNING SUBCOMMITTEE: February 15, 2012; March 21, 2012; May 16, 2012; December 19, 2012; March 20, 2013

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

The suggested changes are as follows:

25-1-704 (A) (FEE WAIVERS)
Add paragraph (30) Neighborhood Plan Amendment Fee, to fee waiver list for S.M.A.R.T. Housing development

25-1-804 (A) (APPLICATION TO AMEND NEIGHBORHOOD PLAN)

- *Specify in paragraph (3) that the applicant has to submit a completed application to staff, not just information, for any proposed change to the future land use map.*
- *Specify in paragraph (4) that the applicant has to submit a completed application to staff, not just information, for any proposed text change to a neighborhood plan.*

25-1-804 (C) (APPLICATION TO AMEND NEIGHBORHOOD PLAN)
For an application regarding an individual property:

- *In subparagraph (3)(c) Replace the word Section with 'Subsection'.*
- *Denote in paragraph (4) that an application regarding an individual property may be filed at any time by the Planning Commission, subject to Criteria for Initiating Certain Applications.*

25-1-804 (E) (APPLICATION TO AMEND NEIGHBORHOOD PLAN)
For an area-wide or subdistrict-wide application:

- *Clarify that only applications meeting the thresholds described may be accepted*
- *Clarify in paragraph (1) that each neighborhood contact team can submit an area-wide or subdistrict-wide amendment application 2 years after the adoption of the plan.*
- *Clarify in paragraph (2) that a neighborhood plan contact team is allowed to submit a subdistrict-wide or area-wide application every 2 years;*
- *Denote in paragraph (3) that an application may be filed at any time by the Planning Commission, subject to Criteria for Initiating Certain Applications.*

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25-1-808 PLANNING COMMISSION PUBLIC HEARING AND RECOMMENDATION

- *Replace the term "Land Use Commission" with "Planning Commission."*
- *Under Subsection (D) replace the word Section, with 'Subsection.'*

25-1-809 CITY COUNCIL HEARING AND RECOMMENDATION

- *Replace the term "Land Use Commission" with "Planning Commission." Under paragraph (B) replace the word Section with 'Subsection.'*

25-1-812 FEE WAIVERS

Add new Section 25-1-812 to explain that the director may not collect an application fee for an amendment initiated by a neighborhood plan contact team.

25-1-813 CRITERIA FOR INITIATING CERTAIN APPLICATIONS

Add new Section 25-1-813 to specify the criteria under which the Planning Commission may initiate a property specific or area-wide application outside of the regular amendment cycle. The Criteria include:

- *(A) the application must address an issue that threatens public health, safety, or welfare; or*
- *(B) prohibiting the filing would prevent reasonable use of the property or create a hardship unique to the property, and the development proposed by the applicant will not adversely affect public health, safety and welfare; or*
- *(C)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; or*
- *(D) the project is not subject to current City environmental regulations, but is proposed to be developed under current environmental regulations; or*
- *(E) the project promotes the recruitment or retention of an employment center with 100 or more employees; or*
- *(F) the project is a SMART Housing certified project in which at least 40 percent of proposed units are affordable (as specified under 25-1-703.)*

BACKGROUND: The ordinance to establish and codify a procedure for neighborhood plan amendments was adopted in March 2003. Since then, there have been three revisions to the neighborhood plan amendment provisions of the City Code, 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.

This proposed amendment was discussed at the January 17, 2012 meeting of the Codes and Ordinances Committee and the February 15, March 21, and May 16, 2012 meetings of the Neighborhood Plan Committee. Based on discussion at those meetings, the proposal was modified to no longer include the removal of provisions related to the timing of amendments and to no longer include the addition of a provision that would have allowed the Director to propose an amendment out of cycle. On December 19, 2012, the Neighborhood Plan Subcommittee recommended initiation of this code amendment, and on January 22, 2013 the Planning Commission voted to initiate this potential code amendment. On March 20, 2013 the Neighborhood Plan Subcommittee reviewed the proposed ordinance language and voted to recommend the code amendment to the Planning Commission for consideration with three minor modifications.

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Purpose for Proposed Changes

25-1-704 (A) (FEE WAIVERS)
S.M.A.R.T. Housing developments are exempt from 29 other City of Austin fees. Additionally staff has not charged Neighborhood Plan Amendment Fees for this type of development in the past.

25-1-804 (A) (APPLICATION TO AMEND NEIGHBORHOOD PLAN)
These proposed changes will inform an applicant that they need to submit a completed application for map and text amendments instead of just information to staff to facilitate the timely review and process of a neighborhood plan amendment application.

25-1-804 (C) (APPLICATION TO AMEND NEIGHBORHOOD PLAN)
The proposed revision would clarify than an application initiated by the Planning Commission pertaining to an individual property may be filed at any time in accordance with Section 25-1-813.

25-1-804 (E) (APPLICATION TO AMEND NEIGHBORHOOD PLAN)
Revising this subsection will clarify that each planning area can request an area-wide or subdistrict wide application ever 2 years after the adoption of the plan. This change would allow each planning area to have its own submittal timeline that is not linked with any other combined planning area. This section will further clarify that a neighborhood plan contact team is allowed to submit a subdistrict wide or area wide application every 2 years. The other proposed revision would clarify than an area-wide or subdistrict-wide application initiated by the Planning Commission may be filed at any time in accordance with Section 25-1-813.

25-1-808 PLANNING COMMISSION PUBLIC HEARING AND RECOMMENDATION
Replacement of the term 'Land Use Commission' with 'Planning Commission' would clarify who is the review body of neighborhood plan amendments.

25-1-809 CITY COUNCIL HEARING AND RECOMMENDATION
Replacement of the term 'Land Use Commission' with 'Planning Commission' would clarify who is the review body of neighborhood plan amendments.

25-1-812 FEE WAIVERS
Specifying that the director may not collect an application fee from a neighborhood contact team codifies the accepted practice of not requiring contact teams to submit an application fee for neighborhood plan amendments.

25-1-813 CRITERIA FOR INITIATING CERTAIN APPLICATIONS
Addition of criteria specifies the limited circumstances under which the Planning Commission may initiate individual property and area-wide plan amendments outside of the normal amendment cycle.

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

ORDINANCE READINGS:
1st TBD 2nd TBD 3rd TBD

ORDINANCE NUMBER: TBD

CITY STAFF: Stevie Greathouse, Planning and Development Review Department

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 25-1 (*GENERAL REQUIREMENTS AND PROCEDURES*) OF THE CITY CODE RELATING TO WAIVING FEES FOR NEIGHBORHOOD PLAN AMENDMENTS.

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

PART 1. Subsection 25-1-704(A) (*Fee Waivers*) of the City Code is amended to read:

(A) The director may, in accordance with Subsection (B), waive all or a portion of the following fees, as set by the City's annual fee ordinance, for a S.M.A.R.T. Housing development:

(1) Public Works Construction Inspection Fee;

(2) Watershed Protection and Development Review - Development Assessment Fee;

(3) Watershed Protection and Development Review - Traffic Impact Analysis Fee;

(4) Watershed Protection and Development Review - Traffic Impact Analysis Revision Fee;

(5) Regular Zoning Fee;

(6) Interim to Permanent Zoning Fee;

(7) Miscellaneous Zoning Fee;

(8) Zoning Verification Letter Fee;

(9) Board of Adjustment Fee;

(10) Managed Growth Agreement Fee;

(11) Planned Development Area Fee;

(12) Preliminary Subdivision Fee;

(13) Final Subdivision Fee;

(14) Final Without Preliminary Subdivision Fee;

(15) Miscellaneous Subdivision Fee;

(16) Consolidated Site Plan Fee;

(17) Miscellaneous Site Plan Fee;

(18) Site Plan Revision Fee;

(19) Site Plan - Construction Element Fee;

(20) Building Review Plan Fee;

(21) Building Permit Fee;

(22) Electric Permit Fee;

(23) Mechanical Permit Fee;

(24) Plumbing Permit Fee;

(25) Concrete Permit Fee;

(26) Demolition Permit Fee;

(27) Electric Service Inspection Fee;

(28) Move House Onto Lot Fee; [~~and~~]

(29) Move House Onto City Right-of-Way Fee; and

(30) Neighborhood Plan Amendment Fee.

PART 2. Section 25-1-804 (*Application to Amend Neighborhood Plan*) of the City Code is amended to read:

§ 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 a completed application with [~~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 a completed application with the proposed language and an explanation of the change.

(B) For an application regarding an individual property, 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 (*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 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 person submitting the application has received a letter from the director of the appropriate City department stating that the project:

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(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 Subsections [~~Sections~~] 25-1-703 (C) and (D) (*Program Requirements*); [~~or~~]

(4) the Planning Commission has initiated the application in accordance with Section 25-1-813 (*Criteria for Initiating Certain Applications*); or

(5) council has initiated the application.

(E) For an area-wide or subdistrict-wide application, the director may only accept an application in the following situations:

(1) the director may accept an application initiated by a neighborhood plan contact team [~~to amend a neighborhood plan~~] not earlier than two years after the adoption of the plan;

(2) the director may accept an application initiated by a neighborhood plan contact team not earlier than two years after the most recent council action on an amendment initiated by a neighborhood plan contact team for the same neighborhood plan area [~~the plan~~]; [~~and~~]

(3) an application initiated by the Planning Commission may be filed at any time in accordance with Section 25-1-813 (*Criteria for Initiating Certain Applications*); and

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

PART 3. Section 25-1-808 (*Land Use Commission Public Hearing and Recommendation*) of the City Code is amended to read:

§ 25-1-808 PLANNING [~~LAND USE~~] COMMISSION PUBLIC HEARING AND RECOMMENDATION.

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

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

(D) If the Planning [~~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 Subsection [~~Section~~] 25-2-282(E).

(E) The d[~~D~~]irector shall report the Planning [~~Land Use~~] Commission's recommendation on each neighborhood plan amendment application to the council.

PART 4. Section 25-1-809 (*City Council Hearing and Recommendation*) of the City Code is amended to read:

§ 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 Planning [~~Land Use~~] Commission recommendation.

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

PART 5. A new Section 25-1-812 is added to the City Code to read:

§ 25-1-812 FEE WAIVERS.

The director may not collect an application fee for a neighborhood plan amendment initiated by a neighborhood plan contact team.

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PART 6. A new Section 25-1-813 is added to the City Code to read:

§ 25-1-813 CRITERIA FOR INITIATING CERTAIN APPLICATIONS.

To initiate an application to amend a neighborhood plan under a provision referencing this section, the Planning Commission shall find any one of the following apply:

(A) the application addresses an issue that threatens public health, safety, or welfare;

(B) prohibiting the filing would prevent reasonable use of the property or would create a hardship which is unique to the property and not generally characteristic of the area in which the property is located, and the development proposed by the applicant will not adversely affect public health, safety, and welfare;

(C) 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;

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

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

(F) the project 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 Subsections 25-1-703 (C) and (D) (*Program Requirements*).

PART 7. This ordinance takes effect on _____, 2013.

PASSED AND APPROVED

§
§
_____, 2012 § _____
Lee Leffingwell
Mayor

APPROVED: _____ **ATTEST:** _____
Karen M. Kennard
City Attorney

Jannette S. Goodall
City Clerk

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