

MOTION SHEET RE: ITEM NO. 72 [VESTED RIGHTS ORDINANCE]

Motions are to the April 22 Planning Commission recommendation posted in backup. Provide text of motion to City Clerk and make available for review on the dais.

1. Requiring "Findings of Fact"

Summary of motion: To better reflect the Planning Commission's recommendation, I move to require that the Director's decision on a vested rights petition to include "findings of fact" in support of the decision. The posted version of the PC recommendation simply says "findings."

Text of amendment: Replace Paragraph (D)(2) of Section 25-1-541, at page 5 of the ordinance, with the following language:

(2) Findings of fact in support of the decision and information sufficient to identify the permit or fair notice application on which the petition is based; and

2. Project Consent Agreements

Summary of motion: In order to limit "Project Consent Agreements" to truly exceptional cases, I move to amend Section 25-1-544, at page 8, to replace the phrase "claimed vested rights" with "vested rights that have been verified or are reasonably like to exist for the project."

Text of amendment:

(C) The director may recommend a project consent agreement for approval to the city council if the director finds that the agreement achieves a greater degree of environmental protection or compatibility with adjacent land uses than would occur if a project developed to the full extent of vested rights that have been verified or are reasonably likely to exist for the project.

3. Site Plans Active at the Time of Project Expiration

Summary of motion: The March 12 staff recommendation would allow a site plan that remains active at the time a project expires to remain active and to obtain extensions in cases where a developer has been proceeding with construction. I move to incorporate that language, as set forth in Sections 25-1-551(D) of the March 12 draft.

Text of amendment: Replace Section 25-1-551(D), at page 10 of the ordinance, with the following language:

(D) A permit application submitted after a project expires constitutes a new project and is subject to the current regulations of this title, except that:

(a) if a site plan associated with a project remains active at the time the project expires, the vested rights determination for the project applies to any application for a building permit necessary to complete construction of the site plan for as long as the site plan remains active; and

(b) an application to extend a site plan associated with a project may be approved in accordance with Section 25-5-62 (*Extension of Released Site Plan by Director*) or ~~Section 25-5-63 (*Extension of Released Site Plan by The Land Use Commission*)~~.

4. Managed Growth Agreements – Recommendation Criteria

Summary of Motion: The criteria for the Director to recommend approval of an MGA are set forth in Section 25-1-553 at pages 11-12 of the ordinance. As currently written, these criteria would prohibit recommending an MGA for any project that claims grandfathering, is located in the Barton Springs, or requires variances. I move to delete that language and insert new language that makes compliance with current code a criteria for the director to consider, but not an absolute requirement for recommending an MGA. I also move to insert language requiring that a project be “substantially superior environmentally” in order for the Director to recommend approval of an MGA.

Text of amendment: Delete Subsection (B) and re-letter the remaining subsections accordingly. Replace Section 25-1-553(D)(2), which will be re-lettered (C)(2), with the following language:

(2) make a recommendation to approve or deny the agreement based on:

(a) the extent to which the project complies with the current regulations of this title; and

(b) whether the project is likely to:

(i) require a longer period of time to construct than the timeframes established under Section 25-1-552 (*Expiration of Projects Begun On or After {Insert Effective Date}*);

(ii) substantially further specific goals and policies of the Imagine Austin Comprehensive Plan; and

(iii) result in development that is substantially superior environmentally to the minimum standards applicable to the project under Chapter 25-8 (*Environment*), as determined based on a recommendation from the environmental officer.

5. Managed Growth Agreements – Application Criteria

Summary of motion: Move to amend Section 25-1-552³(C) to allow MGA applications to be submitted before a project expires, rather than at the very beginning of the process.

Text of amendment: Replace Subsection (C) with the following language:

(C) An application for a managed growth agreement must:

(1) contain all information required by the director, including a proposed project expiration date; and

(2) be submitted before the project expires. *one year prior to expiration*

6. Prospective Expiration Periods

Summary of motion: Move to amend Section 25-1-552 to give projects an automatic life of 9-years, unless they expire under the general provision whereby “if all permits for a project expire, the project expires.” Also move to amend this section to allow projects that begin with a Fair Notice

application to remain alive if they submit a permit application before the Fair Notice expires.

Text of motion: At pages 10-11 of the ordinance, delete Subsections (B), (C), (E), (F), and (G), re-letter the remaining subsections accordingly, and change (re-lettered) Subsections (B) and (C) to read:

(B) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a fair notice application (new project) submitted under Section 25-1-536 (*Fair Notice Application*), the project expires one year after the date the application was submitted unless the applicant submits a permit application prior to the expiration of the fair notice application.

(C) Except as provided in Subsection (B) of this section or in Section 25-1-551(C) (*Expirations Generally*), a project expires nine years after the vesting date approved for the project under Section 25-1-541 (*Vested Rights Determination*).