



MEMORANDUM

TO: Mayor and Council

FROM: Gina Fiandaca, Assistant City Manager *Gina Fiandaca*

DATE: April 7, 2022

SUBJECT: Council Resolution 20211029-003 – Staff update

The purpose of this memo is to provide an update to Council Resolution No. 20211029-003. Council's resolution directs City staff to review the City Code and processes and prepare recommendations and an ordinance addressing improvements that will support the successful design, construction, implementation, and operation of Project Connect. These Code and process improvements are intended to balance city values while embarking on construction of the largest high-capacity transit capital investment in our history. While staff has made progress on the Code and process review, more time is needed to complete the process and collaborate on the recommendations and proposed ordinance with ATP and CM staff, and community stakeholders.

Background

City Code has been developed to regulate vertical, site-specific development, but Project Connect light rail represents a long, linear horizontal infrastructure project within public right-of-way. Staff are researching best practices on how to regulate, permit, and process such projects. The need for adaption has been exemplified by the recent City Council initiation of Code amendments for the 2016 Bond Program, which were identified by a collaborative process led by the Corridor Program Office. While the changes identified by the Corridor Program Office will benefit Project Connect, the scale of Project Connect commands a more thorough review of City Code and processes. Innovation, creativity, and careful consideration of how will be needed to align with City values and meet the Contract with Voters budget and schedule.

Project Connect Office staff have completed an initial review of City Code and have identified a range of items for consideration. Areas of potential changes include the following examples based on what Project Connect Office staff have learned in the past year about light rail transit construction:

- **Noise Ordinance** – The current noise ordinance does not work efficiently for the construction of light rail due to time limitations (72 hours) for certain types of permits. There is a need to develop a flexible, but still protective, process to mitigate construction noise and light impacts. Modifying the noise ordinance for Project Connect will help minimize the amount of time public right-of-way is under construction, area businesses and institutions are affected, and assist in timely completion of the light rail improvements.

- **Permitting** – Land Development Code Chapter 25-2 includes a Fast Track process which “decouples” some horizontal elements of development to allow construction sooner than permitted under the typical site plan process. Special certification is required to qualify for this process. We anticipate some changes to the Fast Track provisions to align with the design-build process used to construct Project Connect.
- **Variances** – Throughout the design process, City staff will work to minimize and mitigate variances and waivers from current Code. However, given the challenges of applying the current site-specific development standards to a long, linear infrastructure project in public right-of-way, we anticipate a programmatic approach to variances and/or the need for waivers. This approach will be more efficient while ensuring limited deviation from code.
- **Temporary Use** – The Temporary Use provisions of the Land Development Code limit certain temporary uses to a limited time frame. For example, a construction field office is a temporary use that is limited to six months with an opportunity to extend. Due to the scope and timing for construction of Project Connect, that timeline might not be sufficient. Flexibility for these types of temporary uses will be needed to support construction efforts.

Next Steps

The examples above are a sampling of staff’s findings thus far. Project Connect Office staff have begun reaching out to partner City departments for further evaluation and development of recommendations and anticipated Code amendments. Once clear process and code amendments are identified from the City perspective, City staff will work with ATP and CM to validate what was found, solicit input, and reach consensus among the three entities. The three entities will also work to outline a process by which to socialize the recommendations with community stakeholders.

While still early in the analysis, staff anticipate bringing forward most of the proposed Code changes as part of a comprehensive, freestanding ordinance. Staff believe this format will assist the Council, related boards and commissions, stakeholders, and residents in understanding the proposed changes, will be clearer for staff and consultants to work with, and will minimize conflicts or confusion with current City Code.

To deliver the full evaluation of Code and ordinance development in response to the City resolution, as well as follow the required Code amendment process, a postponement to December 2022 is necessary. This time will also further allow staff to continue work with community stakeholders as we build our recommendations, and the extension to December 2022 will not impact the Project Connect timeline.

Should you have any questions, please contact Annick Beaudet, Mobility Officer – Project Connect Office, at 512-974-7959.

Cc: Spencer Cronk, City Manager
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