

Amendments to the Development Code Regarding Minor Amendments

City Council Economic Development and Housing Committee

April 2, 2007



Purpose of the Amendments

- Provide developers a means to continue to submit minor amendments which are consistent with the intent of the minor amendment process
- Provide notice of proposals for minor amendments
- Provide for opportunities for public input in the review of plan amendments



Key Focus Areas Addressed

■ Economic Development

- The minor amendment process for certain development plans and site plans streamlines the development process

■ Neighborhood Quality of Life

- Adequate reviews are needed to minimize negative impacts on adjacent properties of amendments to previously approved development plans and site plans



Background

- ZOAC discussed the process at 5 meetings
- The City Plan Commission considered the amendments at three public hearings



Proposed Changes General Provisions

| Current | CPC Recommendation |
|---|--|
| No notification required | Notification from early notification list |
| No public hearing required | Make consideration of a minor amendment a public hearing |
| No definition of “original development/site plan” | Add a definition of “original development/site plan” |
| Appeal of CPC denial to City Council | NO CHANGE |



Proposed Changes Revisions to Landscape Plans (SUP and PD)

| Current Language | CPC Recommendation |
|--|---|
| Does not reduce the perimeter landscape buffer strip | reduce the perimeter landscape buffer strip <u>shown on the original landscape plan</u> |
| Does not alter the design standards selected | DELETE |
| Does not detrimentally affect the plan's screening or buffering function | detrimentally affect the <u>original landscape plan's</u> screening or buffering function |
| NOT ADDRESSED | <u>detrimentally affect the plan's aesthetic function relative to adjacent right-of-way or surrounding property</u> |
| NOT ADDRESSED | For purposes of this paragraph, " <u>original landscape plan</u> " means the earliest approved landscape plan that is still in effect, and does not necessarily mean the most recent landscape plan. The purpose of this definition is to prevent the use of several <u>sequential minor amendments to circumvent the zoning amendment process.</u> |



Proposed Changes Development Plan Amendments

| Current Language | CPC Recommendation |
|--|---|
| Does not alter the basic relationship of the proposed development to adjacent property | NO CHANGE |
| Does not change the uses permitted | DELETE |
| Does not increase the maximum density, floor area ratio, or height; | DELETE max density and floor area ratio ADD <u>increase a height shown on the original development plan by more than 10 percent or 12 feet, whichever is less, provided there is no increase in the number of habitable stories or parking levels above grade</u> |
| Does not decrease the amount of required off-street parking | decrease the amount of required off-street parking <u>shown on the original development plan so as to create a traffic hazard or traffic congestion or fail to provide adequate parking</u> |
| Does not reduce the minimum yards required at the boundary of the site | reduce <u>setbacks</u> [the minimum yards required] at the boundary of the site <u>as shown by a specified building line on the original development plan</u> |
| NOT ADDRESSED | <u>For purposes of this subsection, "original development plan" means the earliest approved development plan that is still in effect, and does not necessarily mean the most recent development plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.</u> |



Proposed Changes

Specific Use Permit Site Plans

| Current Language | CPC Recommendation |
|---|---|
| Does not alter the basic relationship of the proposed development to adjacent property | NO CHANGE |
| Does not change the uses permitted | DELETE |
| Does not increase the maximum number of dwelling units per net acre | increase the [maximum] number of dwelling units [per net acre] <u>shown on the original site plan by more than 10 percent;</u> |
| Does not increase the maximum floor area ratio beyond the limits described in Paragraph 5 * | increase the [maximum] floor area <u>shown on the original site plan by more than five percent or 1,000 square feet, whichever is less</u> [ratio beyond the limits described in Paragraph (5)] DELETE PARAGRAPH 5 |
| Does not increase the maximum height | increase the [maximum] height <u>shown on the original site plan</u> |
| Does not decrease the amount or ratio of required off-street parking | decrease the <u>number of</u> [amount or ratio of required] off-street parking <u>shown on the original site plan so as to create a traffic hazard or traffic congestion or fail to provide adequate parking</u> |
| Does not reduce the minimum yards required at the boundary of the site | reduce <u>setbacks</u> [the minimum yards required] at the boundary of the site <u>shown by a specified building line on the original site plan.</u> |



Recommendation

- Zoning Ordinance Advisory Committee
 - Approval
- City Plan Commission
 - Approval
- Staff recommendation
 - Approval



Next Step

Schedule for City Council Public Hearing



FILE NUMBER: DCA 045-010

Amendment to the Dallas Development Code regarding Minor Amendments

COUNCIL DISTRICT: All

CENSUS TRACT: All

PROPOSAL: Consideration of an amendment to the Dallas Development Code to revise Section 51A-4.702, the regulations regarding consideration for a minor amendment to a development plan and landscape plan relating to a planned development district and Section 51A-4.219, the regulations regarding consideration for a minor amendment to a site plan and landscape plan related to a specific use permit.

SUMMARY: The purpose of this proposal is to consider the process involved with consideration of a minor amendment application as well as consideration of notification options for the request.

CPC RECOMMENDATION: Approval, subject to attached amending ordinance.

STAFF RECOMMENDATION: Approval, subject to alternative language.

BACKGROUND INFORMATION:

- The City Plan Commission requested that the parameters in which a minor amendment is permitted be explored. There has been some discussion in that certain minor amendments were not perceived to be minor and that they should have been considered before the City Plan Commission and City Council as a zoning amendment.
- Currently, an application for a minor amendment is submitted to the Development Services Department. Staff assesses the request as compared to the approved plan and ordinance regulating the PDD or SUP. Once it is determined the request complies with the provisions for a minor amendment, the request is scheduled before the City Plan Commission as a Miscellaneous Docket Item. It should be noted that notification of any kind is currently not required for minor amendments.
- If approved by the CPC, staff prepares the memos, letter, and stamped plans for the applicant, Building Inspection, City Secretary, and appropriate Development Services files. Should the City Plan Commission recommend denial of the application, the applicant may appeal, within 10 days, to the City Council.
- Staff strives to bring an application to the CPC within four weeks of submission. Approximately 40-50 minor amendment applications are submitted each year, with the average time between submission and CPC consideration being in excess of four weeks. These delays are attributable to revisions required that were not addressed at submission as well as discussions between staff and the applicant as to items that initially do not qualify as a minor amendment. Staff does not typically visit a site for consideration of a minor amendment.
- Staff has considered the process for minor amendments from our perspective, gathered input from zoning consultants, and visited with other staff members (building official, chief arborist, city attorney) as to suggestions in which to administer this provision efficiently, while maintaining the intent of the minor amendment process.
- ZOAC met on five occasions to address the minor amendment process. The City Plan Commission considered the amendments at three public hearings. Staff presented examples of applications that are minor amendments and examples that are not. The issue of whether staff should make a site visit was explored by ZOAC members. Lastly, a notification process for registered individuals and organizations within a specific geographic area was explored as an option to communicate requests for minor amendments. It should be noted that applications for a minor amendment do not require any notification at this time.

ORDINANCE NO. _____

An ordinance amending CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code, by amending Sections 51A-1.102, 51A-4.219, and 51A-4.702; amending the fee, providing for notice, and amending the standards for applications for minor amendments to site plans and landscape plans for specific use permits and development plans and landscape plans for planned development districts; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the provisions of the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now Therefore,

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

SECTION 1. That Paragraph (3), "Fee Schedule," of Subsection (k), "Fees for Miscellaneous Items," of Section 51A-1.105, "Fees," of Article I, "General Provisions," of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code, are amended to read as follows:

“(3) Fee schedule.

| <u>Type of Application</u> | <u>Application Fee</u> | <u>Area of Notification for Hearing</u> |
|--|---------------------------------------|---|
| Minor plan amendment | <u>\$XXX.00</u> [525.00] | [See note below] |
| Detailed development plan when submitted after passage of an ordinance establishing a planned development district | \$600.00 for each submission | |
| Waiver of the two year waiting period under Section 51A-4.701(d)(3) | \$300.00 | |

| | |
|--|----------|
| Extension of the development schedule under Section 51A-4.702(g)(3) | \$75.00 |
| Waiver of requirement of proof that taxes, fees, fines, and penalties are not delinquent under Section 51A-1.104.1 | \$200.00 |
| Appeal to the city council of a moratorium on a zoning or nonzoning matter handled by the department of development services | \$300.00 |

Note: The Director shall send notification of minor plan amendments to the city plan commission members, any known neighborhood associations covering the property, and persons on the early notification list at least 10 days prior to the public hearing.

SECTION 2. That Paragraphs (4) and (5) of Subsection (b), “Specific Use Permit Procedure,” of Section 51A-4.219, “Specific Use Permit (SUP),” of Division 51A-4.200, “Use Regulations,” of Article IV, “Zoning Regulations,” of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code, are amended to read as follows:

“(4) The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. [The applicant shall go through the procedures outlined above in Paragraphs (1) and (2) to amend a site plan for an SUP, except that] [t]he city plan commission shall, after a public hearing, authorize minor changes in the site plan that otherwise comply with the SUP ordinance and the underlying zoning and do not:

(A) alter the basic relationship of the proposed development to adjacent property;

(B) ~~[change the uses permitted];~~

~~(C) increase the [maximum] number of dwelling units [per net acre] shown on the original site plan by more than 10 percent;~~

~~(C[D]) increase the [maximum] floor area shown on the original site plan by more than five percent or 1,000 square feet, whichever is less [ratio beyond the limits described in Paragraph (5)];~~

(D[E]) increase the [maximum] height shown on the original site plan;

~~(E[F]) decrease the number of [amount or ratio of required] off-street parking shown on the original site plan so as to create a traffic hazard or traffic congestion or fail to provide adequate parking; or~~

~~(F[G]) reduce setbacks [the minimum yards required] at the boundary of the site shown by a specified building line on the original site plan.~~

For purposes of this paragraph, “original site plan” means the earliest approved site plan that is still in effect, and does not necessarily mean the most recent site plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

An applicant may appeal the decision of the city plan commission to the city council. An appeal must be requested in writing within 10 days after notice of denial. In considering the appeal, the sole decision shall be whether the city plan commission erred in its decision, and, in this connection, the city council shall consider the same standards that were required to be considered by the commission in making its determination. Appeal to the city council is the final administrative remedy available.

~~(5) Reserved. [Floor area ratio increases which may be authorized by the director under Paragraph (4) are subject to the following limitations:~~

~~(A) No building or structure may have its floor area increased by more than five percent or 1,000 square feet, whichever is less.~~

~~(B) No additional main buildings or structures are allowed, however the director may authorize additional accessory buildings and structures that do not exceed 500 square feet in floor area.~~

~~(C) The cumulative additional floor area authorized under Subparagraphs (A) and (B) may not exceed the total floor area authorized in the last version of the site plan that was approved by the city council by more than five percent, or 1,000 square feet, whichever is less.]”~~

SECTION 3. That Paragraph (8) of Subsection (b), “Specific Use Permit Procedure,” of Section 51A-4.219, “Specific Use Permit (SUP),” of Division 51A-4.200, “Use Regulations,” of Article IV, “Zoning Regulations,” of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code, is amended to read as follows:

“(8) The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. [The applicant shall go through the procedures outlined above in Paragraphs (1) and (2) to amend a landscape plan that is part of an SUP ordinance, except that] T[†]he city plan commission shall, after a public hearing, authorize minor changes in the landscape plan that otherwise comply with the SUP ordinance and the underlying zoning and do not:

(A) reduce the perimeter landscape buffer strip shown on the original landscape plan;

(B) detrimentally affect the original plan’s aesthetic function relative to adjacent right-of-way or surrounding property [alter the design standards selected]; or

(C) detrimentally affect the original landscape plan's screening or buffering function.

For purposes of this paragraph, “original landscape plan” means the earliest approved landscape plan that is still in effect, and does not necessarily mean the most recent landscape plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

An applicant may appeal the decision of the city plan commission to the city council. An appeal must be requested in writing within 10 days after notice of denial. In considering the appeal, the sole decision shall be whether the city plan commission erred in its decision, and, in this connection, the city council shall consider the same standards that were required to be considered by the commission in making its determination. Appeal to the city council is the final administrative remedy available.”

SECTION 4. That Subsection (h), “Amendments to the Development Plan,” of Section 51A-4.702, “Planned Development (PD) District Regulations,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code, is amended to read as follows:

“(h) Amendments to the development plan.

(1) The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. [An amendment to a development plan is a change in zoning district classification and must follow the same procedures set out in this section, except] T[†]he city plan commission shall, after a public hearing, authorize minor changes in the development plan that otherwise comply with the PD ordinance and do not:

(A) alter the basic relationship of the proposed development to adjacent property;

(B) increase a height shown on the original development plan by more than 10 percent or 12 feet, whichever is less, provided there is no increase in the number of habitable stories or parking levels above grade [~~change the uses permitted~~];

(C) [~~increase the maximum density, floor area ratio, or height~~;

~~(D)~~] decrease the amount of required off-street parking shown on the original development plan so as to create a traffic hazard or traffic congestion or fail to provide adequate parking; or

~~(D)~~] reduce setbacks [~~the minimum yards required~~] at the boundary of the site as shown by a specified building line on the original development plan.

(2) For purposes of this subsection, “original development plan” means the earliest approved development plan that is still in effect, and does not necessarily mean the most recent development plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

An applicant may appeal the decision of the city plan commission to the city council. An appeal must be requested in writing within 10 days after notice of denial. In considering the appeal, the sole decision shall be whether the city plan commission erred in its decision, and, in this connection, the city council shall consider the same standards that were required to be considered by the commission in making its determination. Appeal to the city council is the final administrative remedy available.”

SECTION 5. That Subsection (i), “Amendments to the Landscape Plan,” of Section 51A-4.702, “Planned Development (PD) District Regulations,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code, is amended to read as follows:

“(i) Amendments to the landscape plan.

(1) The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. [The applicant shall go through the procedures outlined in Section 51A 4.701 to amend a landscape plan that is part of a PD ordinance, except that] T[†]he city plan commission shall, after a public hearing, authorize minor changes in the landscape plan that otherwise comply with the PD ordinance and do not:

(A) reduce the perimeter landscape buffer strip shown on the original landscape plan;

(B) detrimentally affect the original plan's aesthetic function relative to adjacent right-of-way or surrounding property [~~alter the design standards selected~~]; or

(C) detrimentally affect the original landscape plan's screening or buffering function.

(2) For purposes of this subsection, "original landscape plan" means the earliest approved landscape plan that is still in effect, and does not necessarily mean the most recent landscape plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

An applicant may appeal the decision of the city plan commission to the city council. An appeal must be requested in writing within 10 days after notice of denial. In considering the appeal, the sole decision shall be whether the city plan commission erred in its decision, and, in this connection, the city council shall consider the same standards that were required to be considered by the commission in making its determination. Appeal to the city council is the final administrative remedy available."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 9. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney