



PREPARED FOR THE PLAN COMMISSION

Proposal: Zoning Text Amendments

Legistar File ID #: 46996, 47022

Prepared By: Planning and Zoning Staff

The following is a summary of the proposed zoning text amendments for Plan Commission consideration.

46996 – Changing the deadline for filing, changing & withdrawing a protest petition

Currently, Section 28.182(5)(c) of the Zoning Code requires that a protest petition be filed with the City Clerk by noon on the Thursday preceding final Common Council consideration of a zoning map amendment, which typically occurs at regularly scheduled Council meetings on Tuesday evenings. Following the filing of a protest petition, the Department of Planning and Community and Economic Development is required to compute the protest petitions and inform the Common Council whether the number of petitioners meets the threshold to require that the map amendment be approved by a favorable vote of three-fourths (3/4) of the members of the Council voting on the request.

The proposed text amendment extends the filing deadline for a protest petition to noon of the Monday preceding the Common Council meeting the following evening. The extended filing period will allow individuals wishing to protest a zoning map amendment additional time to obtain the requisite number of petitioners (twenty (20) percent or more of property owners or registered electors within a prescribed distance of the area to be rezoned). While the proposed ordinance gives petitioners more time to file a petition, it leaves City staff with less time before the Common Council meeting to determine if a petition is valid. Thus, the proposed amendment also provides that if a protest petition is filed on the Monday before the Common Council meeting, the subject zoning map amendment is referred to the next Common Council meeting. Consistent with this change, the proposed ordinance also changes the deadline for withdrawing a protest petition.

Furthermore, because the ordinance does not limit the number of protest petitions that may be filed in relation to a proposed map amendment, it is unnecessary to provide the provision currently found in sub. d. for filing additional protest petitions. In practice, protest petitions, whether additional to an initial protest petition or not, may be filed as long they comply with the requirements and deadlines provided in the Zoning Code. However, in order to avoid a continuous, “rolling protest” of a zoning map amendment, the proposed text amendment sets a final deadline for filing a petition of noon on the Thursday preceding the Common Council meeting to which the zoning map amendment ordinance was referred due to the initial filing of a protest petition. This provision will allow staff adequate time to evaluate changes to a petition and determine whether they impact its validity.

Staff is generally very supportive of the extended filing period for protest petitions. In practice, the process for filing a petition is very legally exact with regard to acknowledging the signature of each petitioner and for determining the properties that are entitled to file a protest petition, which in the latter case, can be non-intuitive. The additional time to file the initial petition (from noon Thursday to noon Monday), and the extended time to file additional petitions or revise/correct a petition on file created by the referral to the

subsequent Common Council meeting should result both in greater participation in the rezoning process and more accurate petitions.

However, staff recommends that the proposed ordinance be revised to clarify the timeline and procedural impact of filing a protest petition. As noted above and in the current code language, petitioners have until noon Thursday to file a petition. In practice, this gives staff until the start of the Common Council meeting Tuesday evening to verify the validity and effect of the petition. The scope of a proposed zoning map amendment and who is entitled to protest the rezoning can vary widely by request, and the amount of staff time needed to provide the report on the protest petition can similarly vary. Even the most straightforward petitions are measured in “hours” of staff time in our experience. In order to preserve at least the amount of time that staff currently has to complete this work now, staff requests that proposed subsection 4.d. be revised as follows:

“If a protest petition is filed ~~on the Monday~~ after noon on the Thursday before final Common Council consideration, the matter shall be referred to the next Common Council meeting.”

Because subsection 4.c. of the proposed ordinance sets the final deadline for the initial petition at noon Monday, staff feels that the intent of the text amendment is preserved, while the proposed language in 4.d. will clarify the procedural effect of the later filing period. In the alternative, the filing of any protest petition initially could compel the automatic referral to the following Council meeting, although staff acknowledges that such a delay in considering the map amendment and petition may not always be needed.

Staff supports this text amendment with the revision proposed herein.

47022 – Purely residential buildings in mixed-use districts

Currently, the Zoning Code allows for purely residential buildings in many Mixed-Use, Commercial and Employment Districts as a conditional use. However, the allowable residential density of these buildings is relatively low (approximately 20 dwelling units per acre), as the code refers purely residential buildings in these districts to the lot area and side yard requirements in the TR-V2 (Traditional Residential-Varied 2) District. The intent of this limitation in the code is to encourage commercial first floors in mixed-use buildings in these zoning districts NMX (Neighborhood Mixed-Use), CC-T (Commercial Corridor-Transitional), CC (Commercial Center), TE (Traditional Employment), and SE (Suburban Employment) Districts. The result has been the inclusion of a wide variety of commercial spaces to qualify the new buildings as mixed-use in order to achieve the residential density desired for the project. In practice, however, some of these commercial spaces have been less viable than others from a market perspective. Staff acknowledges that some sites, particularly in the mixed-use districts (NMX, CC-T, and CC) may not be suitable for commercial spaces/ mixed-use buildings due to factors such as parcel location, size, and parking, and believes that the development of some number of purely residential buildings in these districts will increase density in a manner that may increase the viability of the sites that are more suitable for commercial spaces.

The proposed text amendment is intended to do two things:

1) *Increase Allowable Density for Purely Residential Buildings in the NMX, CC-T, and CC Districts* – While the proposed change maintains conditional use review for all purely residential buildings in mixed-use districts, it

allows such buildings to be proposed at greater densities, as shown in the table below. Importantly, the proposed allowable densities are at an optimal level to support the “missing middle” of small multi-family apartment buildings, townhomes, and similar housing types that could be appropriate for mixed-use areas and support nearby commercial uses. In certain cases where commercial first floor space is recommended in adopted plans for a specific parcel or area, the Plan Commission may not approve the conditional use for the purely residential building. It should be noted that a similar amendment was approved in September 2014 to reduce the lot area required for purely residential buildings in the TSS (Traditional Shopping Street) District to 500 square feet per unit.

Zoning District	Existing Regulations		Proposed Regulations	
	Lot Area Requirement	Allowable Density	Lot Area Requirement	Allowable Density
NMX (Neighborhood Mixed Use)	2,000 sq. ft./unit	21 units/acre	1,000 sq. ft./unit	43 units/acre
CC-T (Commercial Corridor Transitional)	2,000 sq. ft./unit	21 units/acre	750 sq. ft./unit	58 units/acre
CC (Commercial Center)	2,000 sq. ft./unit	21 units/acre	750 sq. ft./unit	58 units/acre

2) *Improve Clarity Regarding Requirements for Purely Residential Buildings* – This change is not substantive, but instead simply removes reference to the TR-V2 District Lot Area and Side Yard requirements for purely residential buildings in all five of the districts involved. Instead, the lot area and side yard requirements for purely residential buildings are brought into the dimensional table for each individual district. This will make it easier for users of the Zoning Code to understand what is allowable without needing to reference an entirely different district in the code. This shift is proposed for five districts (NMX, CC-T, CC, TE, and SE), but the substantive change described in 1) above only pertains to the mixed-use districts. In the Employment Districts, the allowable density for purely residential buildings is recommended to stay the same.

Staff supports this text amendment.