



**ZONING AMENDMENT  
STAFF REPORT**

**City Council Meeting Date:**  
October 11, 2016

**Council District** All

**Zoning Commission Recommendation:**  
Approval by a vote of 8-0  
  
**Opposition:** None submitted  
**Support:** None submitted

Continued Yes \_\_\_ No X  
Case Manager Jocelyn Murphy  
Surplus Yes \_\_\_ No X  
Council Initiated Yes \_\_\_ No X

**Owner / Applicant:** City of Fort Worth Planning and Development Department

**Site Location:** Citywide Mapsco: N/A

**Proposed Use:** An Ordinance amending the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 21653, as amended, codified as Appendix "A" of the Code of The City of Fort Worth, by amending:

- Article 5 "Text Or Map Amendments", Of Chapter 3, "Review Procedures," Sections 3.503 through 3.507 revise the process for zoning application withdrawals and renumber

**To review the proposed amendments:** <http://fortworthtexas.gov/zoning/cases/>

**Request:** TEXT AMENDMENT: ZONING CASE WITHDRAWAL PROCESS

**Background:**

Council asked staff to review options to create a process through which an applicant could voluntarily withdraw a zoning change proposal.

Staff presented to the City Council on August 9, 2016 some of the considerations and options.

Goals for Proposed Changes to Zoning Case Withdrawal Process:

- Eliminate City Council public hearing when case has been withdrawn prior to newspaper notice (or agenda posting).
- Provide reassurance to the applicant and any opposition that a case has ended and no more public discussion will be held.
- Provide that a withdrawn case will have a one-year waiting period when withdrawn after Zoning Commission recommendation of denial with prejudice.
- Retain transparency for withdrawn cases by listing on City website and notifying registered organizations.

In addition to amendments of the existing language, Section 3.506, Withdrawal and Reapplication, was created to clarify the process.

**Attachments:**

Proposed Ordinance Amendment

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING ARTICLE 5 "TEXT OR MAP AMENDMENTS", OF CHAPTER 3, "REVIEW PROCEDURES," SECTIONS 3.503 THROUGH 3.506 REVISE THE PROCESS FOR ZONING APPLICATION WITHDRAWALS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the current procedure for accepting a zoning application withdrawal after notice but prior to the public hearing requires the Zoning Commission to hold a public hearing and make a recommendation for denial on the proposal to amend the zoning; and

**WHEREAS**, on a recommendation of denial by the Zoning Commission, the request for the withdrawal of the zoning application must currently be acted on by the City Council for the withdrawal of the zoning application to be accepted; and

**WHEREAS**, the current procedure requires applicants and citizens to attend several meetings after the request to withdraw the zoning application to ensure that the withdrawal has been accepted by the City Council and the application has terminated; and

**WHEREAS**, it is proposed to amend the process to provide that a zoning application must be accepted for withdrawal by staff or the Zoning Commission which would terminate the zoning application and eliminate the necessity of the City Council to act on the withdrawal request; and

**WHEREAS**, it is also proposed that a twelve month waiting period apply to those zoning withdrawal requests that are submitted after the Zoning Commission has acted to recommend denial of the zoning change;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS**

**SECTION 1.**

Chapter 3 "Review Procedures", the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 5 "Text or Map Amendments", to amend Sections 3.503 through 3.506 to add a process for zoning application withdrawals and retaining the graphic, to read as follows:

**Sec. 3.503 ZONING COMMISSION PUBLIC HEARING AND RECOMMENDATION.**

The Zoning Commission shall hold public hearings on all properly filed, noticed and meeting agenda posted proposals. After closing of the public hearing on a proposal, the Zoning Commission shall transmit to the City Council its recommendation on said proposal. For zoning application withdrawals see Section 3.506.

**Sec. 3.504 CITY COUNCIL HEARING AND ACTION.**

- (a) *Zoning Commission recommendation and council hearing.* Every proposal to amend a zoning boundary which is recommended for approval or denial by the Zoning Commission and every proposed amendment to the regulations of this ordinance shall be forwarded to the City Council for a public hearing as required by state law. No change, however, shall become effective until after the adoption of an ordinance and its publication as required by law.
- (b) *City council action.* Upon receipt of the final report and recommendation of the Zoning Commission, the City Council may:
  - (1) Approve the application;
  - (2) Deny the application with prejudice;
  - (3) Deny the application without prejudice as to the re-filing upon showing that unnecessary hardship will otherwise result and that the intent and spirit of the ordinance will be observed; or
  - (4) Refer the original proposal to the Zoning Commission for a new hearing, report and recommendation.
  - (5) Accept a request to withdraw the application.

**Sec. 3.505 WITHDRAWAL AND REAPPLICATION**

- (a) The applicant shall submit in writing the withdrawal request to the Zoning Administrator.
- (b) The action on the withdrawal request shall be based on the timing of the request as follows:
  - (1) An applicant may withdraw an application prior to written notice of the Zoning Commission public hearing. The City shall not take further action on the application.
  - (2) A request to withdraw an application after written notice or after the application is posted on a Zoning Commission public hearing agenda or during the Zoning Commission meeting must be approved by the Zoning Commission. The City shall not take further action on the application.
  - (3) After the Zoning Commission public hearing, an applicant may withdraw an application a prior to it being posted on the City Council's agenda. The City shall not take further action on the application.
  - (4) A request to withdraw an application after it is placed on a posted agenda or during the City Council public hearing is at the City Council's discretion. The City Council may take any action described in Section 3.504(b). The decision of the City Council is final.

(c) Subject to the limitations in Section 3.506, to re-initiate review, the applicant shall submit a new application and fee.

**Sec. 3.5065 LIMITATION ON REAPPLICATION.**

When a proposal is denied by the City Council or when the applicant has withdrawn after a recommendation of denial of the proposal by the Zoning Commission ~~a proposal after the giving of public notice~~, no new applications of like nature shall be accepted by the city or scheduled for a hearing by the Zoning Commission within a period of 12 months of the date of denial or withdrawal unless the proposal is denied without prejudice; provided, however, on receipt of written request by the original applicant describing substantially changed conditions in the community since prior consideration of the proposal so as to justify an earlier review of this matter, the City Council may waive the mandatory delay period and authorize the acceptance of a new application.

**Sec. 3.506 — PLAN COMMISSION REVIEW FOR EFFECTIVENESS.**

~~The Plan Commission shall regularly review the effectiveness of this zoning ordinance in accomplishing the objectives of the city plan. When the Plan Commission finds that the development of an area is contrary to or inconsistent with the planning objectives for that area, or that the frequency of requests indicates a need for broad scale changes, the plan commission shall advise the Zoning Commission of its conclusions thereon and may file a proposal to amend, supplement or change the regulations and the districts on behalf of the community at large. The report of the Plan Commission shall be included with the Zoning Commission report to the City Council. Upon annexation of territory to the City of Fort Worth, the Plan Commission shall prepare a report recommending the locations and types of districts to be established in said territory, and shall file a copy of said report with the City Council and with the Zoning Commission for public hearing thereon.~~

**SECTION 2.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 3.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or

decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 4.**

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

#### **SECTION 5.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 6.**

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

#### **SECTION 7.**

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

**SECTION 8.**

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_  
Melinda Ramos  
Sr. Assistant City Attorney

\_\_\_\_\_  
Mary J. Kayser  
City Secretary

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

Mr. Edmonds said if an individual property owner wants to have an historic designation they can do that individually.

Mr. Murray said there have been new houses built since 2007 and one just this week, approximately 5 to 7 new houses.

Ms. Conlin asked about the maps prepared. Mr. Miller said the maps were based on archived aerials from 1952 and then comparing changes that have taken place over the years using seven or eight maps from 1952 through 2015.

Mr. Northern mentioned he would like to know the number of rehabs that have been permitted since the historic district was created. Ms. Burghdoff stated there was some activity before and after the creation of the district.

Motion: Following brief discussion, Ms. McDougall recommended Approval of the request, seconded by Ms. Conlin. The motion carried 6-2 with Mr. Northern and Ms. Dunn being against.

| <i>Document received for written correspondence</i> |                 |                                       |                  | <i>ZC-16-170</i> |                       |
|---|-----------------|---------------------------------------|------------------|------------------|-----------------------|
| Name  | Address         | In/Out<br>300<br>notification<br>area | Position on case |                  | Summary               |
| Regina Blair/Stop Six Sunrise                       | 2517 Willspoint | In                                    | Opposition       |                  | Spoke at hearing      |
| Alma Allen  | 2701 Lena       | In                                    | Opposition       |                  | Present did not speak |
| Justin Newhart/Historic Fort Worth                  | 1110 Penn St    | Out                                   | Opposition       |                  | Spoke at hearing      |
| Everett Howard                                      | 5205 Pinson     | In                                    | Opposition       |                  | Present did not speak |
| Melisa Mason  | 2909 Walker St. | In                                    |                  | Support          | Sent letter in        |
| Nestor Nazario                                      | 5191 Pinson St. | In                                    |                  | Support          | Sent letter in        |
| Hiawatha Porter                                     | Ramey           | In                                    |                  | Support          | Sent letter in        |
| Estella Jimenez                                     | 5216 Cox        | In                                    | Opposition       |                  | Sent letter in        |

**25. ZC-16-171 City of Fort Worth Planning and Development: Text Amendment: Zoning Commission Section (CD All) An Ordinance amending the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 21653, as amended, codified as Appendix “A” of the Code of The City of Fort Worth (2015), by amending:**

- **Article 5 “Text Or Map Amendments”, Of Chapter 3, “Review Procedures,” Sections 3.503 through 3.507 revise the process for zoning application withdrawals and renumber**

Ms. Murphy explained the text amendment to create a case withdrawal process.

Motion: Following brief discussion, Mr. Northern recommended Approval of the request, seconded by Ms. Conlin. The motion carried unanimously 8-0.

**26. Amend Zoning Commission Rules of Procedure**  
**a. Amend Rules of Procedure by amending:**

- **Sect. 405. Withdrawal or Continuance of Application of IV. Application Procedures to clarify the procedures for continuance or withdrawal of a zoning case**

Ms. Murphy explained the withdrawal procedures to the Commission.

Motion: Following brief discussion, Mr. Edmonds recommended Approval as Amended of the request to add language that the Zoning Commission can continue cases, seconded by Mr. Cockrell. The motion carried unanimously 8-0.

**27. ZC-16-172 Westover Boaz Group (CD 2) – 8069 Old Decatur Road (portions of Westover Tract, 1.70 Acre): from Unzoned to “E” Neighborhood Commercial**

No one was present for the meeting. Ms. Burghdoff explained this is a case that has already been acted on by the Commissioners and the reason it is back before them was because of a legal description.

Motion: Following brief discussion, Mr. Flores recommended Approval of the request, seconded by Ms. McDougall. The motion carried 8-0.

**Meeting adjourned: 4:27 p.m.**  
**9/14/16**

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Dana Burghdoff, Executive Secretary and Assistant Director, Planning and Development Department

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Nick Genua, Chair