



Memo

Department of Planning & Housing

TO: Mayor and City Council

FROM: Steve Osguthorpe, Planning & Housing Director

DATE: February 25, 2009

SUBJECT: ITEM NO. 20: Procedures for LUPP, Rezone, and Zoning Text Amendments

This is a request for Council direction on the processing of LUPP amendments and also zoning map and text amendments. Currently, the only code defined procedures for amendments pertain to zoning map and text amendments. These provisions are contained in Section 29.1507, which allows owners of property to petition the City Council for amendment. Under this provision, they may file an application directly to the Department of Planning & Housing without Council referral. There are no similar provisions described for LUPP map or text amendments. Standard practice has therefore been to have individuals first request Council referral before submitting a formal application, at which time the Council determines if the request merits further consideration and staff time.

The referral process entails individuals writing letters to the City Council explaining their proposal, and the Council passing a motion referring the request for formal consideration. This process may also entail brief discussion by Council and staff to understand the nature and scope of the request. If referred, applicants may then submit their formal application, which triggers public notice, review by the Planning and Zoning Commission, and formal action by City Council.

This process raises various questions pertaining both to the provisions for zoning map and text amendments, and to whether referred amendments become Council sponsored as opposed to an applicant's request. Specific questions and/or issues are as follows:

1. Section 29.1507 is titled "Zoning Text and Map Amendments". Specific language under the subtitle "Petition for Amendment" states that "Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire amendment, supplement or change in any of the provisions of this Ordinance applicable to such area, they may file an application in the Department of Planning and Housing requesting City Council to make such amendment or change ..." This means that individuals may apply without referral from the City Council. This language references ownership in an area of land, indicating that the intent for this provision was to apply to map rather than text amendments because text amendments would apply not only to the owner's land, but to all land in the same district city-wide. **Therefore, the question is whether a zoning text amendment should require Council referral, or whether this section was intended to enable anyone to submit without referral an application for a zoning text amendment even though it would be effective beyond the bounds of one's own property.** If the Council's intent it to authorize consideration of text amendments by referral, it may make sense to change this section to eliminate reference to applications for text amendments. **Staff is requesting Council's direction on this matter.**

2. The second issue is related to the first item, but pertains more specifically to application forms made available on the City’s website. All zoning and development applications are currently available on the Planning & Housing Department’s website *except* for LUPP and zoning text/map amendments. These were intentionally excluded from the website because staff believes that to make them readily available online implies that all an individual has to do is submit a completed form and that it will be readily processed – even if it is not referred, or even if a proposed rezone is not consistent with the LUPP.

Rather than providing the application forms for LUPP and Zoning amendments online, a note has been included on the website directing applicants to contact City staff for information regarding these items. The purpose of this approach is to avoid disappointments or misunderstandings regarding procedural matters or matters of LUPP consistency. **It should be stressed that individuals have the right to submit a rezone application at any time even if it is not consistent with the LUPP.** However, the current process ensures that they do so with a clear understanding of the implications of their request. For example, if their rezone is processed and subsequently denied because it is not consistent with the LUPP, they must wait a full year before re-applying. This “first contact” with staff enables staff to explain these issues and provide direction on how they might best proceed.

Therefore, staff is requesting either confirmation from the Council that a “first contact” with staff is the correct approach, or direction to have staff receive and process all amendment applications – including zoning text and LUPP amendments – without referral. If the Council prefers the latter approach, staff will make all amendment applications available online.

3. The final issue pertains to the question of referral versus sponsorship of a proposal. Staff has assumed that even though Council refers an amendment proposal, it is nonetheless the applicant’s proposal and therefore subject to all application and fee provisions. **If this is an incorrect assumption, staff requests the Council to so advise.**

In summary, the following represents staff’s understanding of LUPP and Zoning Code text and map amendment processes.

1. Zoning Map amendments may be submitted without Council referral. Application forms for zoning map amendments will not be provided online. Applicants may contact staff for an application and submit at any time of their choosing.
2. LUPP map, LUPP text, and zoning text amendments require Council referral. Application forms for these types of amendments will not be provided online. Applicants may contact staff for an application form, but the application will not be accepted for processing without prior Council referral.
3. Any proposed amendment referred by Council at the request of an individual is not considered a Council sponsored or Council directed amendment. The individual requesting referral must submit a complete application, including associated fees.

Staff supports the above procedures and requests that Council confirm these processes by motion. However, if Council desires to change these procedures, you should direct staff to make the necessary procedural changes to implement your intent.