

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C2O-2011-036 Land Use Determination

Description:

Amend City Code Chapters 25-1 (General Requirements and Procedures) and 25-2 (Zoning) to: (A) establish appropriate requirements for the issuance, notification, and appeal of zoning use determinations; and (B) require that use determinations be made either concurrent with issuance of a development approval or as part of a pre-permitting review process that provides for public notice.

Staff Recommendation:

Staff has prepared a draft proposal to meet the intent of the Council resolution.

The proposed amendment would significantly change the manner information is provided to the public about the definition of the various land uses described in the City Code.

Anyone requesting information about a land use, and how it is classified under City Code would receive a prompt answer from City staff. However at the time this information was provided it would be clearly stated that:

- The information, while representing the staff's best opinion, is not an official use determination and should not be treated as such,
- The process for obtaining a formal Use Determination would be explained (see below),
- Even if a formal Use Determination is not made at this time, one may be made at a later point in the approval process, and may be appealed by any party at that time.

If the citizen would like a formal Use Determination, then the citizen must submit a request in writing, and pay a notification fee, currently \$193. It would also be restated at this time that a formal Use Determination may be appealed by any party to the Board of Adjustment.

If the formal Use Determination is not site specific, the notification would be in the form of an electronic message to registered community organizations. The Use Determination would be included in an online compilation of all known use determinations made on file.

If a formal Use Determination is about a specific site, notification would be physically mailed to property owners and residents within 500 feet of the subject tract.

A formal Use Determination would

- Require a notification fee (currently \$193)
- Involve a three day turn around and
- Could be appealed by any part to the Board of Adjustment.

A formal Use Determination could be triggered by any of the following, including, but not limited to:

- Request by a citizen
- Development Assessment
- Site Plan Filing
- Site Plan Exemptions
- Site Plan Corrections
- Building Permit

Additionally if Council directs that an application that includes a formal Use Permit may not be approved until the time for that Use Determination to be appealed has passed, processing time for that application will be greatly extended.

Proposed Language

The ordinance language is still being drafted.

Board and Commission Actions

Planning Commission Committee on Codes and Ordinances – January 17, 2012: The Committee forwarded this to the Planning Commission for public hearing and consideration without a recommendation.

Planning Commission – January 24, 2012: Planning Commission is scheduled for a public hearing and possible action on this item

City Council Action

December 15, 2011: City Council adopts resolution 20111215-059 (attached) directing staff to prepare and ordinance amending City Code regarding zoning use determinations and to bring the ordinance back for their consideration within 90 days.

March 8, 2012: The City Council is scheduled for public hearing and possible action on this item.

Ordinance Number:

City Staff: Robert Heil

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RESOLUTION NO. 20111215-059

WHEREAS, if a proposed land use does not fit clearly within an existing land use category defined by the Land Development Code, the Planning & Development Review Department ("PDRD") must determine which of the existing zoning categories most closely matches the proposed land use; and

WHEREAS, a use determination can significantly impact the type of development allowed within a zoning district, which in turn impacts residents, business owners, landowners, and developers; and

WHEREAS, current code does not clearly define the process for obtaining and issuing use determinations and includes an appeal process but no provisions for notifying interested parties; and

WHEREAS, citizens are sometimes unaware when a determination is made and thus cannot exercise their right to appeal the determination to the Board of Adjustment; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. The City Council initiates code amendments to City Code Chapters 25-1 (*General Requirements and Procedures*) and 25-2 (*Zoning*) and directs the City Manager to develop a proposed ordinance that:

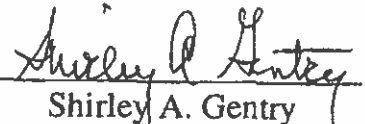
(A) establishes appropriate requirements for the issuance, notification, and appeal of zoning use determinations; and

(B) requires that use determinations be made either concurrent with issuance of a development approval or as part of a pre-permitting review process that provides for public notice.

2. The City Manager is directed to present a draft ordinance consistent with the terms of this resolution for consideration by the Council within 90 days.

ADOPTED: December 15, 2011

ATTEST:


Shirley A. Gentry
City Clerk