

**MOTION SHEET RE: ITEM NO. 72 [VESTED RIGHTS  
ORDINANCE]**

*Motions are to the April 22 Planning Commission recommendation posted in backup. Provide text of motion to City Clerk and make available for review on the dais.*

**1. Requiring "Findings of Fact"**

Summary of motion: To better reflect the Planning Commission's recommendation, I move to require that the Director's decision on a vested rights petition to include "findings of fact" in support of the decision. The posted version of the PC recommendation simply says "findings."

Text of amendment: Replace Paragraph (D)(2) of Section 25-1-541, at page 5 of the ordinance, with the following language:

(2) Findings of fact in support of the decision and information sufficient to identify the permit or fair notice application on which the petition is based; and

**2. Project Consent Agreements**

Summary of motion: In order to limit "Project Consent Agreements" to truly exceptional cases, I move to amend Section 25-1-544, at page 8, to replace the phrase "claimed vested rights" with "vested rights that have been verified or are reasonably like to exist for the project."

Text of amendment:

(C) The director may recommend a project consent agreement for approval to the city council if the director finds that the agreement achieves a greater degree of environmental protection or compatibility with adjacent land uses than would occur if a project developed to the full extent of vested rights that have been verified or are reasonably likely to exist for the project.

**3. Site Plans Active at the Time of Project Expiration**

Summary of motion: The March 12 staff recommendation would allow a site plan that remains active at the time a project expires to remain active and to obtain extensions in cases where a developer has been proceeding with construction. I move to incorporate that language, as set forth in Sections 25-1-551(D) of the March 12 draft.

Text of amendment: Replace Section 25-1-551(D), at page 10 of the ordinance, with the following language:

(D) A permit application submitted after a project expires constitutes a new project and is subject to the current regulations of this title, except that:

(a) if a site plan associated with a project remains active at the time the project expires, the vested rights determination for the project applies to any application for a building permit necessary to complete construction of the site plan for as long as the site plan remains active; and

(b) an application to extend a site plan associated with a project may be approved in accordance with Section 25-5-62 (*Extension of Released Site Plan by Director*) or ~~Section 25-5-63 (*Extension of Released Site Plan by The Land Use Commission*)~~.

#### 4. Managed Growth Agreements – Recommendation Criteria

Summary of Motion: The criteria for the Director to recommend approval of an MGA are set forth in Section 25-1-553 at pages 11-12 of the ordinance. As currently written, these criteria would prohibit recommending an MGA for any project that claims grandfathering, is located in the Barton Springs, or requires variances. I move to delete that language and insert new language that makes compliance with current code a criteria for the director to consider, but not an absolute requirement for recommending an MGA. I also move to insert language requiring that a project be “substantially superior environmentally” in order for the Director to recommend approval of an MGA.

Text of amendment: Delete Subsection (B) and re-letter the remaining subsections accordingly. Replace Section 25-1-553(D)(2), which will be re-lettered (C)(2), with the following language:

(2) make a recommendation to approve or deny the agreement based on:

(a) the extent to which the project complies with the current regulations of this title; and

(b) whether the project is likely to:

(i) require a longer period of time to construct than the timeframes established under Section 25-1-552 (*Expiration of Projects Begun On or After {Insert Effective Date}*);

(ii) substantially further specific goals and policies of the Imagine Austin Comprehensive Plan; and

(iii) result in development that is substantially superior environmentally to the minimum standards applicable to the project under Chapter 25-8 (*Environment*), as determined based on a recommendation from the environmental officer.

##### **5. Managed Growth Agreements – Application Criteria**

Summary of motion: Move to amend Section 25-1-552<sup>3</sup>(C) to allow MGA applications to be submitted before a project expires, rather than at the very beginning of the process.

Text of amendment: Replace Subsection (C) with the following language:

(C) An application for a managed growth agreement must:

(1) contain all information required by the director, including a proposed project expiration date; and

(2) be submitted before the project expires, *one year prior to expiration*

##### **6. Prospective Expiration Periods**

Summary of motion: Move to amend Section 25-1-552 to give projects an automatic life of 9-years, unless they expire under the general provision whereby “if all permits for a project expire, the project expires.” Also move to amend this section to allow projects that begin with a Fair Notice

application to remain alive if they submit a permit application before the Fair Notice expires.

Text of motion: At pages 10-11 of the ordinance, delete Subsections (B), (C), (E), (F), and (G), re-letter the remaining subsections accordingly, and change (re-lettered) Subsections (B) and (C) to read:

(B) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a fair notice application (new project) submitted under Section 25-1-536 (*Fair Notice Application*), the project expires one year after the date the application was submitted unless the applicant submits a permit application prior to the expiration of the fair notice application.

(C) Except as provided in Subsection (B) of this section or in Section 25-1-551(C) (*Expirations Generally*), a project expires nine years after the vesting date approved for the project under Section 25-1-541 (*Vested Rights Determination*).