

NOTICE OF PROPOSED RULE POSTING DATE April 22, 2016

The Director of Development Services Department proposed to adopt the following rule after May 24, 2016.

Comments on the proposed rule are requested from the public. Comments should be submitted to Donna Galati, 505 Barton Springs Road, 4th floor, Austin Texas, 78704, (512)974-2733, or via email at donna.galati@austintexas.gov. To be considered, comments must be submitted before May 23, 2016, the 31st day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

EFFECTIVE DATE OF PROPOSED RULE

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before May 24, 2016 (the 32nd day after the date of this notice) or not after July 21, 2016 (the 90th day after the date of this notice). If a proposed rule is not adopted on or before July 21, 2016 it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

TEXT OF PROPOSED RULE

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Development Services Department, located at 505 Barton Springs Rd., 4th Floor, Austin, TX 78704

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas 78701

BRIEF EXPLANATION OF PROPOSED RULE

Section 15 of the Building Criteria Manual

15.3 Conceptual Site Plans

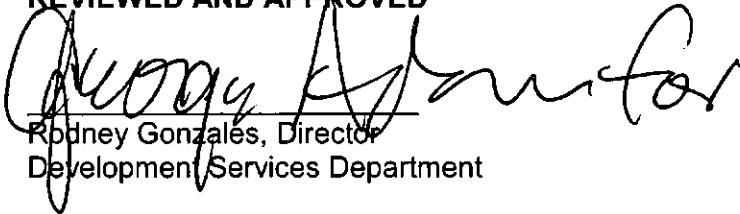
Create a Concept Site Plan process: an optional and voluntary tool for obtaining a determination from the City of Austin regarding how City development regulations apply to a proposed project.

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AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for the adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is established in Chapter 1-2 of the City Code. The authority to regulate site plans and subdivisions is established in Chapter 25-1-1 and 25-1-2 of the City Code.

REVIEWED AND APPROVED

A handwritten signature in black ink, appearing to read 'Rodney Gonzales', is written over a horizontal line. The signature is fluid and cursive, with a large initial 'R' and 'G'.

Rodney Gonzales, Director
Development Services Department

§ 15.3 CONCEPT SITE PLANS

(A) General Background.

Concept Site Plans, as described below, are an optional and voluntary tool for obtaining a determination from the City of Austin regarding how City development regulations apply to a proposed project. The process is designed to help applicants evaluate the development potential of a project in advance of submitting a fully designed site plan. However, a Concept Site Plan does not authorize construction and is not required to initiate, continue, or complete a project.

(B) Concept Site + Fair Notice—New Projects Filed under Current Regulations.

If an applicant plans to submit a project for review under current regulations, a Concept Site Plan/Fair Notice Application can be used to obtain comments from staff regarding any issues with the project and to “lock-in” regulations applicable to the project for a period of one-year.

(1) *Required Submittals | Completeness Check.*

- (a) Submit a Concept Site Plan (Appendix A) describing essential features of the proposed project and a Fair Notice Application (Appendix B) attesting that the project is filed for review under current regulations.
- (b) Within 10 days of receiving the Concept Site Plan + Fair Notice Application, staff will determine whether the submittal is complete.
- (c) If staff determines that it is not complete, the applicant will be informed what additional information is required and will have a total of 45-days (from the date of initial submittal) to provide any additional information required to complete the application. The application expires if it is not complete at the end of the 45-day period.

(2) *Effect of Concept Site Plan + Fair Notice Application.*

If the Concept Site Plan + Fair Notice is determined to be complete:

- (a) Staff Comments. Staff will provide comments within 30-days, outlining any deficiencies with respect to:
 - i. The following requirements of Chapter 25-2 (*Zoning*) or other applicable zoning regulations:
 - Impervious cover limits;
 - Setbacks;
 - Height;

- Floor-to-Area Ratio
 - Design Standards; except that a request for Alternative Equivalent Compliance extends the 30-day comment period to 45-days.
- ii. The following requirements of Chapter 25-8 (*Environmental*):
- Impervious cover limits
 - Critical Environmental Features
 - Water Quality Controls.
- iii. Parkland and Right-of-Way dedication requirements. If an applicant requests payment of a fee in-lieu of Parkland Dedication, as authorized under City Code § 25-1-605, the 30-day staff comment period is extended to 45-days.
- (b) Binding One-Year Period. The following rules apply to any site plan application submitted within one-year from the date that the Concept Site Plan + Fair Notice is determined to be complete:
- i. Comments issued under Paragraph (2)(a), above, are binding and cannot be rescinded or substantially modified.
 - ii. No changes to applicable rules or regulations apply, except for those exempted from vested rights protections under Local Government Code § 245.004.
- (c) Expiration. A Concept Site Plan + Fair Notice expires if a site plan application is not submitted within the binding one-year period.
- (d) Administrative Appeals. If a staff comment or other determination made in response to a Concept Site Plan is subject to a right of administrative appeal, the applicant may file the appeal subject to the requirements of Chapter 25-1, Article 7, Division 1 (*Appeals*). An appeal "stops the clock" on the one-year life of the Concept Site Plan until the relevant board or commission makes a final decision.

(C) Concept Site Plan + Vested Determination—Projects Submitted for Review under Older Regulations.

This provision describes how a Concept Site Plan may be used in connection with a project claiming vested rights to earlier City of Austin regulations.

(1) Summary of Vested Rights Process.

When an applicant believes that a project is entitled to vested rights (aka "grandfathering"), he or she must follow the process established in Chapter 25-1,

Article 12 (*Vested Rights*) to obtain a Vested Rights Determination. That process, in a nutshell, is as follows:

- (a) Applicant submits a Vested Rights Petition, explaining why the project is entitled to vested rights, along with a Development Plan (Appendix C) describing essential features of the project.
- (b) Within 10-days from submittal of the petition and Development Plan, the director issues a determination on whether the project is entitled to vested rights and a list of any missing items required to complete the application.
- (c) The applicant then has the remainder of the 45-day application period to submit a completed development application.

(2) *Effect of Concept Site Plan + Vested Rights Determination.*

In lieu of submitting a complete development application, as described in Paragraph (C)(1), above, an applicant who has obtained a Vested Rights Determination may instead choose to submit a Concept Site Plan within the 45-day application period. If an applicant chooses this option, the following rules apply:

- (a) Staff Comments. Staff will provide comments within 30-days, outlining any deficiencies with respect to the type of regulations described under Paragraph (B)(2)(a), above. The only difference is that, rather than looking at current regulations, staff will make comments based on the City regulations in effect on the earlier date established by the Vested Rights Determination.
- (b) Binding One-Year Period. Staff comments made in response to a Concept Site Plan + Vested Rights Determination are binding for a one-year period, as specified in Paragraph (B)(2)(b), above.
- (c) Expiration. A Concept Site Plan + Vested Rights Determination expires if a site plan application is not submitted within the binding one-year period. However, expiration of the Vested Rights Determination does not by itself have the effect of terminating a projects vested rights. It does mean, though, that a new Vested Rights Petition will be required for any subsequent applications claiming vested rights to the same project.

Code Authority: City Code Sec. 25-1-62 (*Development Assessment*); City Code Sec. 25-1-82 (*Application Requirements and Expiration*); City Code § 25-1-534 (*Contents of Vested Rights Petition*); and City Code Sec. 25-1-535 (*Fair Notice Application*).