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Public Notice

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DALLAS, TX

ZONING ORDINANCE ADVISORY COMMITTEE (ZOAC)

Tuesday, November 15, 2022

9:00 a.m.

A G E N D A

The Zoning Ordinance Advisory Committee meeting will be held by videoconference at <https://bit.ly/ZOAC111522> and in person in Room L1FN at Dallas City Hall, 1500 Marilla Street, Dallas, TX 75201.

The public is encouraged to attend the meeting virtually or by calling: (469) 210-7159 / Access code: 248 597 11685 / Event Password Webinar: zoac

Individuals who wish to speak to an agenda item must complete the Planning and Urban Design Department ZOAC speaker sign-up sheet by visiting <https://forms.office.com/g/PCdcrRFtc2> by 5:00 p.m. Sunday November 13, 2022 and must have their video on when speaking virtually.

Julia Ryan, AICP, Director, Planning & Urban Design Department

Andrea Gilles, AICP, Assistant Director, Planning & Urban Design Department

Sarah May, AICP, Chief Planner, Planning & Urban Design Department

DISCUSSION:

(1) **DCA212-007**

Lori Levy

Consideration of amending Chapter 51A of the Dallas Development Code, Section 51A-4.701(d), "Two year limitation" to revise the applicability of the two-year limitation, the standard for the waiver of two-year limitation, and related regulations.

OTHER MATTERS:

(1) Approval of meeting minutes from October 18, 2022.

ADJOURNMENT:

Handgun Prohibition Notice for Meetings of Governmental Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."

A quorum of the City Plan Commission may attend this Zoning Ordinance Advisory Committee Meeting

Two year limitation

Planner: Lori Levy, AICP

Request: Consideration of amending Chapter 51A of the Dallas Development Code, Section 51A-4.701(d), "Two year limitation," to revise the applicability of the two-year limitation, the standard for the waiver of two-year limitation, and related regulations.

Staff Recommendation: Staff recommends approval of the proposed amendments and to move the item forward to City Plan Commission.

Background:

On May 11, 2022, City Plan Commission (CPC) approved the request of Chair Joanna Hampton, Vice Chair Brent Rubin and Commissioner Michael Jung to initiate a public hearing to consider a code amendment of the Dallas Development Code, Section 51A-4.701(d), "Two year limitation," to revise the applicability of the two-year limitation, the standard for the waiver of two-year limitation, and related regulations. The intent of this code amendment is to review the current two-year waiting period for subsequent zoning and Specific Use Permit (SUP) applications when the property had been granted approval. This report includes additional information regarding the impacts of such limitations, a comparison of how other cities approach these limitations, and staff's recommended amendments.

RESEARCH AND STAFF ANALYSIS

Scope and methodology

In order for staff to understand how other cities impose and apply limitations, waivers, conditions and exceptions, staff researched and reviewed approximately fifteen cities locally and nationally and met with internal staff to discuss the interpretation and application challenges of the current two-year limitation. A comparison of cities is included in the appendix of this report.

Summary

CPC initiated the code amendment to review the current two-year waiting period required between a final decision of an application for a change in zoning or boundary line adjustment and a subsequent application for a change in zoning or boundary line adjustment. The commission initiated the code amendment to revise the section regarding two-year limitation to support the goal to undergo regulatory review to remove barriers to growth and development. The code amendment directly correlates to the Economic Development Policy (EDP) to analyze and improve development review processes to encourage predictability in order to meet the larger goal of leveraging a diverse range of commercial and industrial development opportunities in all areas of the city to meet 10-year demand for business growth. Further, the amendment will reduce the number of two-year waiver applications presented to CPC. The two-year limitation for subsequent applications on a property when a request has been granted could have a direct impact on development and

economic growth; particularly in areas that are experiencing accelerated economic growth and vitality or a resurgence of growth and development.

The current two-year waiting period between an approved zoning or SUP application on a property creates challenges because relief from the waiting period is only granted with a waiver from CPC, which adds at least a month onto the development process in addition to the minimum two additional public hearings by CPC and Council.

Further, to grant a waiver, the commission must also consider what is meant by “changed circumstances regarding the property sufficient to warrant a new hearing” for a new, subsequent application on a property that previously received an approval.

During the two fiscal years of 2020-2022, the Planning and Urban Design Department received eight applications, or four per fiscal year, to waive the two-year waiting period. Of those applications, all were granted by CPC. Most waiver applications are made so that a subsequent application and public hearings could occur to correct inconsistencies in the preceding zoning or SUP ordinance, adjust for changes in market conditions, or because an SUP was granted within two years on the same property, often for an unrelated use to the new application requiring a waiver.

Proposed Amendments

Staff proposes removing the two-year limitation for approvals (granting) a specific use permit (SUP) or for a change in zoning district classification or boundary and no change to the two-year limitation when applications for specific use permit (SUP) or for a change in zoning district classification or boundary are denied with prejudice.

Proposed Amendments

Note: ~~Strikeouts~~ are words being removed.

Division 51A-4.700. Zoning Procedures.

SEC. 51A-4.701. ZONING AMENDMENTS.

...

(d) Two year limitation.

- (1) Except as provided in Subsections (d)(2) and (d)(3), after a final decision is reached by the commission or city council ~~either granting or~~ denying a request for a change in a zoning district classification or boundary, no further applications may be considered for that property for two years from the date of the final decision.
- (2) If the commission or the city council renders a final decision of denial without prejudice, ~~or if the city council grants a specific use permit and imposes a time limit of two years or less,~~ the two year limitation is waived.
- (3) A property owner may apply for a waiver of the two year limitation in the following manner:
 - (A) The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the commission shall consider his request and shall advise the applicant of his right to appear before the commission.
 - (B) The commission may waive the time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the commission is required to grant the request. If a rehearing is granted, the applicant shall follow the procedure for an amendment to this article or a request for a change in a zoning district classification or boundary.
 - (C) If the commission denies the request, the applicant may appeal in writing to the city council by filing an appeal with the director.

Appendix

SEC. 51A—4.701. ZONING AMENDMENTS. (EXCERPT) [SEC. 51A-4.701. ZONING AMENDMENTS. \(amlegal.com\)](#)

OTHER CITIES COMPARISON

**SEC. 51A-4.701. ZONING AMENDMENTS.
EXCERPT**

SEC. 51A-4.701. ZONING AMENDMENTS.

...

(d) Two year limitation.

- (1) Except as provided in Subsections (d)(2) and (d)(3), after a final decision is reached by the commission or city council either granting or denying a request for a change in a zoning district classification or boundary, no further applications may be considered for that property for two years from the date of the final decision.
- (2) If the commission or the city council renders a final decision of denial without prejudice, or if the city council grants a specific use permit and imposes a time limit of two years or less, the two year limitation is waived.
- (3) A property owner may apply for a waiver of the two year limitation in the following manner:
 - (A) The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the commission shall consider his request and shall advise the applicant of his right to appear before the commission.
 - (B) The commission may waive the time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the commission is required to grant the request. If a rehearing is granted, the applicant shall follow the procedure for an amendment to this article or a request for a change in a zoning district classification or boundary.
 - (C) If the commission denies the request, the applicant may appeal in writing to the city council by filing an appeal with the director.

**OTHER CITIES COMPARISON
FOR TWO YEAR LIMITATION FOR SUBSEQUENT APPLICATIONS**

	Dallas	Atlanta	Austin	Baltimore	Boston	Buffalo	Columbus	El Paso
Application (Subsequent) Limitation	Y	Y	Y	Y	Y	Y	N	Y
Waiting Time Period (in Years)	2	2	1-1/2	1	2	1	N/A	1
Decision Impacted	Approvals/ Denials – change in a zoning district classification or boundary	Applications for any change affecting same property or any part thereof	Denials – zone or rezone to a property or a portion of the property to the same or a less restrictive zoning district	Denials – the same applications for the same properties for variances and conditional uses	Denials - SUP's or permits	Denials	N/A	Change of zoning for a given property
Waiver	Y	Y	N	Y	Y	Y	N/A	Y
Exceptions	1. Denial w/o prejudice 2. If SUP is granted with imposed time limit of two years or less (2 yr. time limit is waived) or 3. Property owner may apply for waiver in writing	Planning Bureau or Council may initiate a change on same property not less than 1 year (1 yr. time frame may not be waived)	N/A	Substantial new evidence is available	1. Unanimous vote of board of 3 members; or 2. Vote of 4 members of a board of 5 members; or 3. Two-thirds vote of a board of more than five members	Substantial new evidence or a mistake of law or of fact	N/A	Y
Conditions	1. Applicant must submit waiver request in	N/A	Applicant may not file another application within 1-1/2 yrs. if application:	Application must include: 1. Detailed description of how	1. Specific and material changes in conditions upon which	Applicant must submit detailed statement justifying consideration	N/A	A finding that a substantial change in conditions has occurred

**OTHER CITIES COMPARISON
FOR TWO YEAR LIMITATION FOR SUBSEQUENT APPLICATIONS**

Dallas	Atlanta	Austin	Baltimore	Boston	Buffalo	Columbus	El Paso
<p>writing to Director;</p> <p>2. Changed circumstances that warrant a new hearing; and</p> <p>3. A vote of a simple majority of the Commission</p>		<p>1. Is not recommended by the Land Use Commission as requested by applicant and withdrawn by applicant before Council votes on application;</p> <p>2. Is not recommended by Land Use Commission as requested by applicant and is denied by Council;</p> <p>3. Is amended by applicant before Land Use Commission makes recommendation and applicant withdraws application before Council votes on</p>	<p>application is substantially different request or how substantially new evidence justifies consideration</p>	<p>decision was made;</p> <p>2. Describes such changes in record of proceedings; and</p> <p>3. Unless all but one of the members of the planning board consents thereto and after notice to parties in interest of such time and place of proceedings of such question of consent will be considered</p>			

**OTHER CITIES COMPARISON
FOR TWO YEAR LIMITATION FOR SUBSEQUENT APPLICATIONS**

	Dallas	Atlanta	Austin	Baltimore	Boston	Buffalo	Columbus	El Paso
			application; or 4. Is amended by the applicant before the Land Use Commission makes a recommendation and Council denies the application.					
Reapplication Decision Maker	Planning Commission	City Council may approve ordinance to waive 2 yrs.	N/A	Zoning Administrator must summarily deny if Administrator finds that application is not appropriate for hearing	Planning Board	Ordinance Administrator may deny if Administrator determines no grounds to justify consideration of a hearing	N/A	Planning Commission

**OTHER CITIES COMPARISON
FOR TWO YEAR LIMITATION FOR SUBSEQUENT APPLICATIONS**

	Dallas	Ft. Worth	Houston	Minneapolis	Philadelphia	San Antonio	San Diego	San Francisco	San Jose
Application (Subsequent) Limitation	Y	Y	Y	N	Y	Y	N	Y	Y
Waiting Time Period (in Years)	2	1	1	N/A	1	6 mos.	N/A	1	1
Decision Impacted	Approvals/ Denials – change in a zoning district classification or boundary	Denials (with prejudice)	Denials	N/A	Denials	Denials	N/A	Planning Code, General Plan, conditional use or variance	Denials – same zoning or rezoning for same property or any part thereof
Waiver	Y	Y	N	N/A	Y	N	N/A	N	N
Exceptions	1. Denial w/o prejudice 2. If SUP is granted with imposed time limit of two years or less (2 yr. time limit is waived) or 3. Property owner	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**OTHER CITIES COMPARISON
FOR TWO YEAR LIMITATION FOR SUBSEQUENT APPLICATIONS**

	Dallas	Ft. Worth	Houston	Minneapolis	Philadelphia	San Antonio	San Diego	San Francisco	San Jose
	may apply for waiver in writing 4. Applicant requests withdrawal 5 full working days before the date of the hearing								
Conditions		Original Applicant must: submit a written statement of substantially changed conditions	N/A	N/A	Zoning Board must hold a public hearing limited to two issues: 1. whether the Dept. of License and Inspections (L&I) properly applied the One Year Rule; and 2. whether because of materially	N/A	N/A	N/A	N/A

**OTHER CITIES COMPARISON
FOR TWO YEAR LIMITATION FOR SUBSEQUENT APPLICATIONS**

	Dallas	Ft. Worth	Houston	Minneapolis	Philadelphia	San Antonio	San Diego	San Francisco	San Jose
					changed circumstances, the application should be considered not withstanding the One Year Rule				
Reapplication Decision Maker		City Council	N/A	N/A	Zoning Commission	N/A	N/A	N/A	N/A



Zoning Ordinance Advisory Committee (ZOAC) Meeting Minutes
October 18, 2022
Room L1FN /Videoconference
9:00 a.m.

ATTENDEES:

ZOAC Members Present: Joanna Hampton (Chair), Lorie Blair (Vice-Chair), Enrique MacGregor – present at 9:10 a.m., Ryan Behring, Larry Hall, Mark Rieves, Amanda Popken – present at 9:11 a.m.

ZOAC Members Absent: Ann Bagley

City Plan Commission Members Present: None

City Council Members Present: None

City Staff: Andrea Gilles, Arturo Del Castillo, Steven Doss, Mike King, Sarah May, Megan Wimer, Lori Levy, Jenniffer Allgaier (Planning and Urban Design), Brian King, Suzanne Knuppel (City Attorney’s Office), David Nevarez (Transportation Development Services)

The meeting was called to order at 9:02 a.m. by Joanna Hampton (Chair).

DISCUSSION

- | | |
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| <p>(1) DCA212-006
Steven Doss</p> | <p>Consideration of amending the Dallas Development Code Sections 51A-2.102 Definitions, 51A-4.408 Maximum Building Height, and related sections to modify how building height is measured.</p> |
|--|--|

Mr. Doss read the item into the record. Mr. Doss presented updates to the staff report and opened the discussion calling for questions from ZOAC members, and Ms. May and Mr. Doss provided clarification as needed. Chair Hampton led the discussion and opened the meeting to registered speakers however, none were present or registered. Motion for DCA212-006 was made.

MOTION #1

Motion to forward case DCA212-006 to City Plan Commission with the following recommendations:

- 1. **Revise Section 51A-2.201 Definitions (45) Grade, to include item (C) within definition, or otherwise clarify that items A & B are applicable to all sites.**
- 2. **Revise Section 51A-4.408 Maximum Building Height, (a)(2)(A)(ii)(aa) to read “ the cumulative area of projection is a maximum of one-third of the roof area.”**
- 3. **Provide research regarding Section 51A-4.408 Maximum Building Height, “Note” regarding Residential Proximity Slope (page 9 of 12 in case report) to confirm original intent of the provision and any additional consideration if removed [Note: The heights allowed in Subsection (a)(2) are subject to any residential proximity slope height restrictions that may be contained in the district regulations for a particular district. (See Divisions 51A-4.100 et seq.)]**
- 4. **No change to Section 51A-4.412(b)(1) Residential Proximity Slope.**

Motion: Vice Chair Lori Blair
2nd: Larry Hall

Result: Passed: 7-0
For: Blair, Hampton, Rieves, Popken, Hall, MacGregor, Behring
Against: None
Absent: Bagley

MOTION #2

Motion to approve the amended minutes from the October 4, 2022 ZOAC meeting.

Motion: Vice Chair Lori Blair
2nd: Larry Hall

Result: Passed: 7-0
For: Blair, Hampton, Rieves, Popken, Hall, MacGregor, Behring
Against: None
Absent: Bagley



MOTION #3

Motion to approve the 2023 ZOAC meeting calendar.

Motion: Larry Hall
2nd: Vice-Chair Lorie Blair

Result: Passed: 7-0
For: Blair, Hampton, Rieves, Popken, Hall, MacGregor, Behring
Against: None
Absent: Bagley

The meeting was adjourned at 10:43 am.

NOTE: For more detailed information on discussion of an issue(s) heard during this meeting, refer to the audio recording retained on file in the Planning & Urban Design Department, Dallas City Hall, Room 5BN.