

ARTICLE II, *AUTHORITY AND ADMINISTRATIVE PROCEDURES*, OF THE UDC

SECTION 7. ~~PUBLIC HEARING~~-PLANNING AND ZONING COMMISSION ~~AUTHORITY~~

SECTION 7.1: APPROVAL AUTHORITY

The Planning and Zoning Commission shall make decisions, or make recommendations to the ~~City~~ Council, on the following matters:

- (A) Decisions on site plans, building elevations, lighting plans, landscape plans and tree preservation plans as may be required.
- (B) Recommendations to City Council on plats as required by the subdivision ordinance, [*Chapter 38 of Part II, Code of Ordinances*].
- (C) Recommendations ~~on~~ to City Council on replats, when such public hearing is required by the provisions of V.T.C.A., *Local Government Code Chapter 212*.
- (D) Recommendations to City Council regarding text amendments to this ~~[Unified Development Code]~~.
- (E) Recommendations to City Council regarding zoning changes and map amendments, including reclassification of the zoning designations on land, specific use permits, and planned developments.
- (F) Recommendations to City Council regarding special exceptions to this ~~[Unified Development Code]~~.
- (G) Recommendations to City Council regarding amendments to the Comprehensive Plan.
- (H) Recommendations to City Council regarding amendments to the Thoroughfare Plan.
- (I) Recommendations to City Council regarding amendments to ~~the a Master~~ Open Space Plan.

SECTION 7.2: RECOMMENDATION AUTHORITY

Upon closure of the public hearing, and when required to make a recommendation to the ~~City~~ Council, the ~~Planning and Zoning Commission~~ ~~commission~~ may recommend:

- (A) That the request or amendment be approved or enacted; or
- (B) That the request or amendment be approved or enacted as modified to a more restrictive classification or subject to appropriate conditions as permitted by law; or
- (C) That the request or amendment be denied.

SECTION 8. ~~PUBLIC HEARING~~-CITY COUNCIL ~~AUTHORITY~~

SECTION 8.1: AUTHORITY

The ~~City~~ Council shall ~~hold a meeting~~, conduct a public hearing, ~~-- if required by this [Unified Development Code], --~~ and make determinations on the following matters:

- (A) Text amendments to this ~~[Unified Development Code]~~.
- (B) Zoning changes and map amendments, including reclassification of the zoning designations on land, specific use permits, and planned developments.
- (C) Special exceptions or waivers related to site plans for development.
- (D) Amendments to the Comprehensive Plan.
- (E) Amendments to the ~~Master~~ Thoroughfare Plan.
- (F) Amendments to the ~~Master~~ Open Space Plan.
- (G) Variances, special exceptions and appeals as set out in this ~~[Unified Development Code]~~.

(Ordinance No. 06-14, 4-17-2006)

SECTION 8.2: JOINT ~~PUBLIC~~ HEARINGS

The City Council may hold a public hearing, after publishing the required notice, jointly and with any public hearing required to be held by the Planning and Zoning Commission, but the City Council shall not take action until it has received a final report from the planning and zoning commission.

SECTION 8.3: ~~CITY~~ COUNCIL APPROVAL OR DENIAL

~~Following closure of the public hearing, t~~The council may take the following actions ~~concerning the matters outlined in Section 8.1:~~

- (A) *Approval of an item.* The City Council may approve the request or amendment either as requested, or in the form of a more restrictive district, and subject to such appropriate conditions as are allowed by law. Such approval of any request for a text amendment to this [Unified Development Code] or a zoning change and map amendment shall be granted only if the City Council determines that the request or amendment is consistent with the Comprehensive Plan and the purposes of this [Unified Development Code]. In the event the request or amendment concerns a text amendment to this [Unified Development Code] or a zoning change and map amendment, the City Council shall enact an ordinance amending this [Unified Development Code] or amending the official zoning map, whichever is applicable.
- (B) *Denial of an item.* The City Council may deny ~~the a~~ request or amendment with prejudice. If a request or amendment is denied with prejudice, a new application may be submitted for the same lot or tract of land, or any portion thereof, within one (1) year only if the new request is for a more restrictive or less intense use or development. ~~Unless the new proposal is more restrictive or less intense than the previously denied proposal, then no other application pertaining to a change of zoning and map amendment may be submitted on the same lot or tract of land, or any portion thereof, for a period of one year from the date of its denial by the Council.~~ For applications pertaining to a change of zoning and map amendment, a new proposal may not be submitted unless it is more restrictive or less intense than the previously denied proposal for any tract of land, or any portion thereof, for a period of one (1) year from the denial date. If a request or amendment is denied by the City Council without an indication of “with” or “without” prejudice, then the action shall be considered to be “denied with prejudice.”
- (C) *Denial without prejudice.* The City Council may deny the request or amendment without prejudice, in which case an application for ~~the same request a change in zoning and map amendment other than that which was requested on the original application~~ may be filed at the applicant's discretion.
- (D) *Reapplication due to changed conditions.* A ~~proposal to rezone a tract or parcel of land~~ request or amendment, which has been previously rejected with prejudice by the City Council, may be resubmitted within one (1) year only if there is an actual change in conditions relating to ~~zoning principles of~~ the tract or parcel of land or the property surrounding it. In ~~that this~~ event, the applicant must submit to the Director of Planning and Zoning, in writing, a ~~resume~~ request describing such changed conditions. The Director of Planning and Zoning shall investigate ~~the property or cause such an investigation to be made and the claim and~~ shall report to the Planning and Zoning Commission whether or not such changed ~~of~~ conditions exist. Upon hearing this report, the Planning and Zoning Commission shall either grant or deny the request to refile the ~~proposal for rezoning~~ request or amendment.

#### SECTION 8.4: PROTEST OF PROPOSED CHANGE IN ZONING

Property owners adjacent to and within a radius of 200 feet of a property for which a change in zoning is being considered have the right to file a written protest against the request. The land area of this 200 ~~foot feet~~ radius includes streets, alleys and other public right-of-way.

Whenever such written protest is signed by the owners of 20 percent or more of the area of the lots or land included in such zoning change, or of the lots or land immediately adjoining the same and within the above mentioned 200-foot radius, or if such change is recommended for denial by the Planning and Zoning Commission, such change in zoning shall require a favorable vote of three-fourths of all eligible members of the City Council.

For purposes of determining representation on this written protest, the written protest of any one (1) owner of land owned by two or more persons shall be presumed to be the protest of all owners.

(Ordinance No. 06-14, 4-17-2006)

#### SECTION 8.5: CRITERIA FOR GRANTING SPECIAL EXCEPTIONS

The City Council may make special exceptions to the standards in this [Unified Development Code] that are consistent with the general purpose and intent of the [Unified Development Code]. The Planning and Zoning Commission shall make recommendations on special exceptions.

Special exceptions are subject to appropriate conditions and safeguards to ensure that the special exceptions are consistent with the general purpose and intent of this [Unified Development Code] and the City's Comprehensive Plan.

The City Council, pursuant to the powers conferred upon it by state law, the ordinances of the City and this article may grant special exceptions to the provisions of this *Unified Development Code* upon finding that:

- (A) Such special exception will not substantially or permanently injure the appropriate use of adjacent property in the same district;
- (B) Such special exception will not adversely affect the health, safety or general welfare of the public;
- (C) Such special exception will not be contrary to the public interest;
- (D) Such special exception will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the exception is sought is located, except as provided elsewhere in this *Unified Development Code*;
- (E) Such special exception will be in harmony with the spirit and purpose of this *Unified Development Code*;
- (F) Such special exception will not alter the essential character of the district in which **the property** is located ~~the property~~ for which the exception is sought;
- (G) Such special exception will not substantially weaken the general purposes of the zoning regulations established for the district in which the property is located; and
- (H) Such special exception is within the spirit and intent of the City's Comprehensive Plan and other policies.