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Introduction

The purpose of development regulations is to promote orderly growth and redevelopment in the City of Liberty Hill in a manner consistent with the adopted Comprehensive Plan. The degree to which the City’s Unified Development Code, or UDC, is effective is largely dependent upon the thoroughness and consistency of implementation. The best regulations are ineffective by themselves and perform their functions only through proper administration on a day-to-day basis.

The purpose of this Procedures Manual is to set forth guidelines for the proper administration of the UDC. Included in the first two chapters are descriptions of the general role of each participant and a discussion of the decision-making process. The latter chapters of this manual are a step-by-step explanation of each type of development request.

Please visit the City’s website at www.lhtexas.com or contact City Hall for the most recent versions of applications and checklists necessary and for a current listing of fees associated with each request.

Icons are found at the beginning of each procedure, to provide a quick visual synopsis of hearing, notice, ordinance, and fee requirements. The legend for these icons is as follows:



Published Notice Required



Mailed Notice Required



Planning and Zoning Commission Public Hearing Required



City Council Public Hearing Required



Ordinance Required

It is important to note that the official procedural requirements are contained in the UDC themselves. This manual is a summary document intended to present the zoning and subdivision process in an easily understood format.

Through the use of the Procedures Manual, the UDC will be applied more equitably and consistently.

Contact Information for the City is provided below:

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Chapter 1 – The Role of Each Participant

The power to enact UDC has been granted to cities and counties by the state enabling legislation as codified in Texas Local Government Code¹. These statutes enable the participation of three separate bodies in the process of administering the regulations: The Planning and Zoning Commission, the Board of Adjustment, and the City Council. The other participant in the development process is the applicant. The following sections summarize the role of each of these participants in the process.

Liberty Hill Planning and Zoning Commission

The Planning and Zoning Commission is primarily an advisory body. Under the zoning regulations, a primary duty of the Liberty Hill Planning and Zoning Commission is to hold a public hearing where public opinion can be expressed regarding the proposed rezoning. In this sense, the Planning and Zoning Commission is a sounding board for community attitudes toward development. It is important for the Planning and Zoning Commission to establish the facts surrounding each development issue as clearly as possible so that decisions are not based on misinformation or conjecture. The Planning and Zoning Commission makes recommendations to the City Council on the following applications:

- Comprehensive Plan Amendments
- UDC Text Amendments
- Zoning Map Amendments
- Planned Unit Developments
- Special Use Permits
- General Development Plans
- Preliminary Plats
- Final Plats
- Variances

Board of Adjustment

The Board of Adjustment is primarily a quasi-judicial body rather than an advisory or legislative one. Its role in zoning administration is specifically limited to two types of tasks:

1. The appeal of an administrative decision or interpretation; and
2. The granting of an Administrative Exception.

In the first case, the responsibility of the Board of Adjustment is to rule on the interpretation of the zoning regulations whenever there is an ambiguous provision or an

¹ The Local Government Code may be accessed online at: <http://www.capitol.state.tx.us/statutes/lg.toc.htm>

alleged error. In the case of an Administrative Exception, the Board of Adjustment is responsible for determining that simple human error result in the state of non-compliance.

The Board of Adjustment is not involved in administering the subdivision regulations (Chapter 5) of the UDC. The powers of the Board of Adjustment are limited to zoning issues.

City Council

The City Council has responsibility for enacting and amending the UDC and Comprehensive Plan after consideration of the recommendations of the Planning and Zoning Commission. This responsibility includes the following final actions:

- Comprehensive Plan Amendment
- UDC Text Amendment
- Zoning Map Amendment (Rezoning)
- Planned Unit Developments
- Conditional Use Permits
- General Development Plans
- Preliminary Plats
- Final Plats
- Acceptance of Public Improvements
- Site Development Permits
- Variances

Applicant

The applicant is responsible for providing complete, accurate and timely information pertaining to his/her project. When the applicant provides this information faithfully, the review and approval process are very smooth, and can many times be accomplished in a shorter time frame than allowed by law.

Chapter 2 – The Basis of Decision-Making

As with other "police powers", the exercise of UDC is subject to certain legal limitations. One of the most important of these limitations requires that UDC cannot be applied in an "arbitrary or capricious" manner. Decisions regarding zoning and subdivision issues cannot be fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances, or significance.

Zoning Issues

Before making any recommendation or decision on a zoning request, the Planning and Zoning Commission must first hold a public hearing. The purpose of the hearing is to allow both sides to express their views on the issue and to discuss all relevant factors. Although the hearing is a valuable mechanism for gauging the community's attitudes toward development and for establishing the facts of each case, it is important that decisions not be based solely on the opinions of the largest or most vocal group of participants. Instead, zoning decisions must be based on the best interests of the entire community, and not just the interests of a particular property owner or neighboring property owners. In addition, the Planning and Zoning Commission should try to distinguish between facts and opinions at a public hearing. Unsubstantiated assertions ("This project would reduce the value of my property by 75 percent") or generalizations ("People who live in apartments always drive fast cars and race up and down the streets") should be analyzed for their validity. Even "expert witnesses" should be pressed to give as factual a basis as possible for their judgments.

Second, zoning decisions should include consideration of long-range community goals as well as short-range needs. The recommendations of the Comprehensive Plan should be the primary source for this information. Because of its importance in the zoning process, the Comprehensive Plan is reviewed by the Liberty Hill Planning and Zoning Commission on a regular basis and amended as necessary to ensure that it remains current.

Third, it is important to zone based on land use issues, not the issues affecting the individual applicant. An error frequently made is approval of a rezoning to accommodate an applicant's personal circumstances without consideration of land use conditions and characteristics. Such rezonings are rarely in the public interest and, if challenged, can be held to be invalid. Instead, decisions should be based on whether the land is appropriate for the proposed zoning district. Appropriate factors for consideration of a rezoning application include:

1. The character of the neighborhood;
2. The zoning and uses of properties nearby;
3. The suitability of the subject property for the uses to which it has been restricted;
4. The extent to which removal of the restrictions (or change of zone) will detrimentally affect nearby property;
5. The length of time the property has remained vacant as zoned;

6. The relative gain to the public health, safety and welfare by not rezoning the property as compared to the hardship imposed on the property owner;
7. The recommendation of staff; and
8. Consistency with the Comprehensive Plan.

It should also be pointed out that the entire class of uses which the zoning district permits should be considered rather than just the use the applicant proposes, since a change in ownership or in market conditions could easily result in a change of the proposed use.

The granting of a special use permit requires a case-by-case approach. The zoning ordinance sets forth conditions which must be met before a special use may be granted. The district regulations also may establish additional conditions. The recommendation to grant a special use permit should be made to the City Commission only after the Planning and Zoning Commission has found all the standards as set forth in the UDC have been met.

The granting of a short term special use is provided in the regulations for temporary uses such as trade shows, street fairs, and other specified public events. Temporary use permits should never be a means to circumvent the code requirements for a permanent structure.

Appeals and Variances

The Board of Adjustment has the important task of interpreting the UDC in situations where the language of the ordinance is alleged to be ambiguous, the specifics of the case are unusual enough to warrant special consideration, or an appeal is made. Thus, the decisions made by the Board of Adjustment must be carefully thought out and clearly stated in order to safeguard the integrity and purpose of the UDC.

In deciding an appeal, the Board of Adjustment must interpret sections of the UDC, as well as preserve the intent and consistency of the regulations. The specifics of the applicant's situation are largely irrelevant, since the ruling of the Board of Adjustment will affect not only the case at hand, but will also set precedent, and so will affect each subsequent use of that section of the UDC.

The granting of a variance requires a very careful examination of the applicant's situation. Although P&Z and Council should be careful to avoid setting any unintentional precedents, the variance process requires a case-by-case approach. Before a variance can be granted, facts must be presented supporting the standards set forth in the Liberty Hill UDC. These conditions require the existence of practical difficulties or unnecessary hardship, and that any variance granted be consistent with the intent of the regulations, the general welfare of the community, and the rights of adjacent property owners.

In each of the duties described above, it is important to point out that it is not the role of the Board of Adjustment or Planning and Zoning Commission to change or weaken the intent of the zoning ordinance. If the ordinance needs changing, a text amendment should

be passed by the City Council after the Planning and Zoning Commission's review and recommendation. This is a problem that many communities have fallen into, and is sometimes referred to in contradictory terms as “planning by variance”.

Subdivision Plats

The decision to approve or disapprove a preliminary or final plat should be based on technical standards that can be set out in written form. Standards for subdivision design are included in the subdivision regulations. Standards for engineering design and construction are described in the adopted Round Rock Design and Construction Standards, as amended. Fundamentally, the division of land must ensure that adequate public facilities (road access, water and wastewater serviceability, etc.) are available.

There are other elements of "good subdivision design", however, that are not easily quantified or expressed in writing. These include aesthetics, compatibility with adjoining subdivisions, relationship to topographic conditions, efficiency of the utility layout, and general suitability of the lot and block design to the intended use of the land. These issues will have to be resolved in the best judgment of the Planning and Zoning Commission after consideration of the plans for the applicant.

In reviewing a subdivision plat, there are two distinct sets of interests to be considered: the interests of the property owner or owners and the City-at-large. Initially the “subdivider” or applicant is the property owner, but eventually lots in the subdivision are likely to be sold to a variety of people. The property owner(s) needs a subdivision design that can be developed easily and economically. This means an efficient street and utility layout, and lots which have the appropriate size, shape and topography to develop and maintain for their intended use. The broader community needs a subdivision design that blends well with the development pattern of the City, and that will not be a financial drain on local government. This means that the subdivider must adhere to appropriate standards for design and construction, and give adequate financial guarantees to ensure that all public improvements are installed.

Chapter 3 – By-laws

The By-laws for the Planning and Zoning Commission have been approved and adopted by the City Council for the City of Liberty Hill. For the most recent version of the By-laws of the Planning and Zoning Commission of the City of Liberty Hill, please visit the City's website at, www.lhtexas.com or contact City Hall.

Chapter 4 – Code of Conduct

The Code of Conduct for the Planning and Zoning Commission have been approved and adopted by the City Council for the City of Liberty Hill. For the most recent version of the Code of Conduct of the Planning and Zoning Commission of the City of Liberty Hill, please visit the City’s website at, www.lhtexas.com or contact City Hall.

Chapter 5 – Policy-Related Applications

This chapter describes in further detail the process for administering the UDC as it relates to policy-related applications. Policy-related applications are differentiated from subdivision and other development applications in that they require careful consideration (and specific process) of precedence and ensure conformance with all applicable policies, codes and statutes.



Comprehensive Plan Amendment

From time to time, new situations may arise in the City’s jurisdiction which requires a renewed look at portions of the Comprehensive Plan. Based on these changed conditions or situations, an amendment to the Plan may be necessary. A proposal for an amendment of the Plan is generally initiated by either the Planning and Zoning Commission or the City Council of the City of Liberty Hill. A citizen may also begin the amendment process by submitting the proposed change to the City Manager or designee, with a request for consideration by P&Z on the next regular meeting agenda. Such a request must be made in accordance with the submittal schedule for P&Z items. There are no forms necessary to initiate a UDC Text Amendment request, but the request should be made in writing, addressed to the P&Z Chairperson.

Notice Requirement

The City Manager or designee shall be responsible for having an official notice of the public hearing published in a newspaper of general circulation at least 15 days prior to the hearing. The notice shall fix the time and place of the hearing and describe in general terms the proposed change. At the public hearing, citizens and parties of interest shall have an opportunity to be heard. No mailed notice is required.

Planning and Zoning Commission Public Hearing

The public hearing may be adjourned from time to time, and upon its conclusion the Planning and Zoning Commission shall prepare and adopt its recommendation to the City Council. The recommendation shall be submitted along with an accurate record of the public hearing.

What should be considered by P&Z and Council

P&Z and Council should generally find that the amendment promotes the health, safety, or general welfare of the City and the safe, orderly and healthful development of the City. While this is a broad statement, these deliberations should involve careful consideration of, but not limited to, the following items: land use availability, traffic patterns and circulation, availability of utilities, adjacent land uses and compatibility, changing demographic patterns, influences from outside of the city’s jurisdiction, and community character.

City Council Public Hearing

The City Council shall consider the Planning and Zoning Commission's recommendation and may either approve the recommendation; override the Planning and Zoning Commission's recommendation; or return the proposed amendment to the Planning and Zoning Commission for reconsideration, as prescribed in the adopted zoning regulations. If received for reconsideration, the Planning and Zoning Commission shall consider the City Council's reasons for failure to approve or disapprove and may resubmit its original recommendation or a revised recommendation. Upon receipt of the recommendation, the City Council may approve or disapprove the proposed Comprehensive Plan amendment.

Ordinance

If the City Council approves the requested change, it shall adopt an ordinance to that effect. The Ordinance should state the dates of the required public hearings, the recommendation of P&Z, and specific reference and language of the section of the Comprehensive Plan that is being amended.

Follow-up

The City Manager or designee will make the revision to the Comprehensive Plan and provide the revised pages or exhibits of the document to all members of the Council, P&Z and City Staff within 15 days of the date of the Ordinance. The pages should clearly reflect in the header or footer that the Plan is amended, the date, and the Ordinance Number.



UDC Text Amendment

A proposal for an amendment of the text of the Zoning Ordinance is generally initiated by either the Planning and Zoning Commission or the City Council of the City of Liberty Hill. A citizen may also begin the amendment process by submitting the proposed change to the City Manager or designee, with a request for consideration by P&Z on the next regular meeting agenda. Such a request must be made in accordance with the submittal schedule for P&Z items. There are no forms necessary to initiate a UDC Text Amendment request, but the request should be made in writing, addressed to the P&Z Chairperson.

Notice Requirement

No mailed notice is required.

Planning and Zoning Commission Public Hearing

The Planning and Zoning Commission shall prepare and adopt its recommendation to the City Council.

City Council

The City Council shall consider the Planning and Zoning Commission's recommendation and may either approve the recommendation; override the Planning and Zoning Commission's recommendation; or return the proposed amendment to the Planning and Zoning Commission for reconsideration, as prescribed in the adopted zoning regulations. If received for reconsideration, the Planning and Zoning Commission shall consider the City Council's reasons for failure to approve or disapprove and may resubmit its original recommendation or a revised recommendation. Upon receipt of the recommendation, the City Council may approve or disapprove the proposed zoning text amendment.

Ordinance

If the City Council approves the requested change, it shall adopt an ordinance to that effect. The Ordinance should state the dates of the required public hearings, the recommendation of P&Z, and specific reference and language of the section of the UDC that is being amended.

Follow-up

The City Manager or designee will make the revision to the text of the UDC and provide the revised pages of the UDC to all members of the Council, P&Z and City Staff within 15 days of the date of the Ordinance. The pages should clearly reflect in the header or footer that the UDC is amended, the date, and the Ordinance Number.

Zoning Map Amendment (Rezoning)



A proposal for a change in district classification (rezoning) may be initiated by the City Commission, the Planning and Zoning Commission, or by application of the owner of property affected.

Forms

The applicant shall first obtain the proper application form and checklist from City Hall. The City may elect to post these forms on the City's website, too.

Submittal Requirements

The rezoning application form shall be completely filled out and returned to the City Manager or designee with the appropriate filing fee and required information. An application shall not be scheduled for public hearing until the application form has been fully completed, the fee paid, and all required information submitted by the prescribed date on the submittal schedule (Note: An application may be received prior to the submittal date. It is the applicant's responsibility to ensure that the application is complete, and therefore it is recommended that the applicant enter the application prior to the submittal date.) A complete legal description (e.g., Lot 7, Block B of the Oz Subdivision, or a metes and bounds description prepared by a surveyor is required) must be provided.

Notice Requirements

The Planning and Zoning Commission shall hold a public hearing at which time citizens and parties of interest shall have an opportunity to be heard. The City shall be responsible for having an official notice of the public hearing published in a newspaper of general circulation at least 15 days prior to the hearing. The notice shall fix the time and place of the hearing and shall describe generally the change requested.

A written notice shall also be mailed to notify surrounding property owners (within 200') of the public hearing and of their right to file protest petitions and shall explain the protest procedure. The applicant provides the address information, which can be obtained from the Williamson County Appraisal District office in Georgetown. The City should verify this information during its review of completeness. The applicant pays the fees for mailing the notice. The written notice must be mailed at least 10 days prior to the P&Z hearing, and the receipts are kept on file in case of dispute. It should be noted that it is the obligation of each property owner in the City to maintain a current address on file with the Appraisal District. In the case of undeliverable/returned mail that was correctly sent to the property owner address on record, the City would have met its obligation of written notice.

Planning and Zoning Commission Hearing

P&Z shall hold a public hearing on the matter, to receive input from the public prior to making its decision. Generally, the hearing order is as follows:

The Chairperson opens the hearing and asks staff to give a brief summary of the application.

1. The applicant, or his/her agent, presents its request to the Commission.
2. Members of the Commission may ask questions of the applicant/agent.
3. Members of the public present their input to the Commission
4. Members of the Commission may ask questions of either the public or the applicant/agent
5. Staff provides its recommendation to the Commission.
6. When the Commission is satisfied that all issues have been brought forward, the Chairperson may close the public hearing.

Upon its conclusion, P&Z shall prepare and make its recommendation to the City Council. The recommendation should state the facts considered by the Commission in support of its recommendation for approval or disapproval. This recommendation shall be submitted along with an accurate record of the public hearing to the City Council for its next regular meeting.

City Council Public Hearing

Following a public hearing on the matter (in similar hearing order to the P&Z hearing, at the Mayor's discretion), the City Council shall consider the Planning and Zoning Commission's recommendation and either take action to approve the amendment, disapprove the amendment, or return the proposed amendment to the Planning and Zoning Commission for reconsideration. If received for reconsideration, the Planning and Zoning Commission shall consider the City Council's reasons for disapproval and may resubmit its original recommendation or a revised recommendation. Upon receipt of the recommendation, the Council may approve or disapprove the proposed zoning district amendment.

Protest Provision for Rezoning (LGC §211.006)

A vote of $\frac{3}{4}$ of the Council (i.e., five affirmative votes) is required to pass a rezoning ordinance which has been protested by the owners of at least 20% of either the land area proposed to be rezoned, or, 20% of the land area within 200 feet of the proposed rezoning. Note that the protest provision in LGC §211.006 does not mean 20% of the land owners. There is no "protest form", but the protest must be made in writing to the City Council, and must be entered prior to Council action on the item in order to be deemed valid. The Council may call for a temporary recess between the public hearing and action item in order to verify that the 20% has or has not been met.

Ordinance

If the City Council approves the requested change, it shall adopt an ordinance to that effect. The ordinance should state the dates of the hearings held on the matter, the

recommendation of the Planning and Zoning Commission, the physical address of the property, the original zoning district, the amended zoning district, and a copy of the metes and bounds and a map showing the parcel should be attached.

Map Change

Within 15 days of adoption of the rezoning Ordinance, the City Manager or designee shall make (or cause to be made) the change on the official zoning map. The City Manager or designee may wish to make the changes initially by hand on the official zoning map, and then annually, or sooner as necessary, have the map regenerated from CAD/GIS and ratified by the Mayor.

Planned Unit Development

<Forthcoming>

Conditional Use Permit



A request for a conditional use permit follows the same procedure as the Zoning Map Amendment (Rezoning) with respect to fees, form, notice, required hearings, and ordinance. A Conditional Use permit application is appropriate when an applicant proposes a use for a property that is designated with a “C” in Table 4-2 of the UDC. The Ordinance itself, when signed, is the Conditional Use Permit.

What should be considered by P&Z and Council

Section 4.10 of the UDC outlines specific criteria that P&Z and Council are required to consider in their review of a Conditional Use Permit application. P&Z and Council may attach conditions to the proposed use of the property, based on their review of these criteria:

1. Consistency with the Comprehensive Plan.
2. Conformance with applicable regulations in this Code and standards established by the regulations.
3. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk, scale, setbacks and open spaces, landscaping and site development, and access and circulation features.
4. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent that such impacts exceed those which reasonably may result from use of the site by a permitted use.
5. Modifications to the site plan which would result in increased compatibility or would mitigate potentially unfavorable impacts or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.
6. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.
7. Protection of persons and property from erosion, flood or water damage, fire, noise, glare and similar hazards of impacts.
8. Location, lighting and type of signs; and relation of signs to traffic control and adverse effect on adjacent properties.
9. Adequacy and convenience of off-street parking and loading facilities.

P&Z Findings of Fact

In delivering its recommendation to the City Council, the Planning and Zoning Commission must state its findings that:

1. The proposed use is in accord with the objectives of these regulations and the purposes of the district in which the site is located.
2. That the proposed use will comply each of the applicable provisions of these regulations.

3. That the proposed use and site development, together with any modifications applicable thereto, will be completely compatible with existing or permitted uses in the vicinity.
4. That the conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses and ensure compatibility with existing or permitted uses in the same district and the surrounding area, and that the prescribed Site Development Regulations do not provide enough mitigation of the impacts identified, thus warranting stricter standards, if so recommended.
5. The Commission has given due consideration to all technical information supplied by the applicant.
6. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

Types of Conditions

P&Z and Council may specify conditions to attach to the permit. The idea behind these conditions is to enable a use of the property which will negate any unfavorable conditions that the use might present. The conditions must be reasonable and in rough proportion to the level of impact that is being mitigated. Such conditions may include, but are not limited to, the following, and should be crafted such that the Commission can make its findings of fact:

1. requirements for special yards,
2. open spaces,
3. buffers,
4. fences, walls and screening,
5. landscaping,
6. erosion control,
7. street improvements and dedications,
8. regulation of vehicle ingress and egress and traffic circulation,
9. regulation of signs, hours and other characteristics of operation,
10. requirements for maintenance of landscaping and other improvements,
11. establishment of development schedules or time limits for performance of completion, and
12. any other conditions the Commission deems necessary to insure compatibility with surrounding uses, preserving public health, safety, and welfare, and to enable the Commission to make its findings

Council Public Hearing and Ordinance

City Council will consider an Ordinance which embodies the Planning and Zoning Commission's Finding of Fact and Conditions, as well as a description of the property, structures, proposed use of the property, and dates of the public hearings. A copy of the property's legal description and a location map must be attached. The Council may add or remove conditions, but must reiterate and confirm the findings of fact in order to do so.

Follow-up

Within 15 days of approval of the Ordinance, the City Manager or designee shall forward a copy of the adopted Ordinance to the applicant.

Chapter 6 - Subdivision-Related Applications

The process of dividing a parent tract of land into multiple lots is known as subdividing and is a critical component of developing the city's tax base and infrastructure. The initial key distinction to make from an administrative point is whether the proposed division of land will require the dedication of public facilities. Those which require public facilities (new streets, water, wastewater, drainage facilities, parks) require P&Z review and Council approval. Those which do not may in some circumstances be administratively approved. In instances in which a division of land into two parts each greater than 5 acres is proposed, a plat is not required. This Chapter discusses the requisite steps in platting and how the steps are different for Council-approved plats and administrative plats.

Generally, §212 of the Local Government Code covers the powers enumerated to cities with respect to plat approval authority. In all cases of platting, a 30 day timeline is required (see §212.009) of the Council to either approve or disapprove the plat. Given that the City has a Planning and Zoning Commission, the 30 day timeline starts once P&Z has made a recommended action on the plat. If the Council does not take action on the plat within the 30 day period, the plat will be considered statutorily approved.

Minor Plat

A minor plat is a plat to divide a tract into 5 lots or less, in which all lots have the minimum frontage to a public street and does not require the dedication of public improvements (streets, waterlines or wastewater lines) to the City. A minor plat does not require P&Z or Council approval, and may be approved by the City Manager or designee. If the City Manager or designee is unable to approve the minor plat, the applicant may request an appeal. (Refer to an Appeal of an Administrative Decision).

Process

The applicant may meet with the City Manager or designee at a pre-development conference to determine that the proposed division is eligible for following the minor plat process.

Submittal Requirements

The application for a Minor Plat requires the items to be submitted, in accordance with the checklist.

The City Manager or designee or designee will review the application for completeness. If the application is complete, the City Manager or designee will review the plat for technical compliance with the code, within 12 days of the determination of completeness.

Approval Process

If the City Manager or designee determines that the plat does not meet the approval criteria, he or she will summarize the comments in a letter to the applicant. The applicant must respond within 12 days of the date of the comment letter, or the application will be forwarded to the Planning and Zoning Commission, followed by action by Council. The applicant may request that the plat may be forwarded to the Planning and Zoning Commission and City Council, which will take final action.

Once the City Manager or designee has determined that the plat meets all approval criteria, he or she will contact the applicant and request one Mylar copy and three bond copies of the plat for final signatures. It is the applicant's responsibility to have the Mylar plat filed for record with the County Clerk. Only a recorded plat is considered valid for the purposes of title transfer or building permits, and any entity wishing to apply for a building permit must present a copy of the recorded plat from the County Clerk's office.

Amending Plat

In certain instances of an error being made on a plat, a procedure can be undertaken to correct the error without requiring P&Z or Council approval, and is specifically laid out in §212.016 of the Local Government Code. The City's role in the process is to follow this section of the Local Government Code and objectively determine that the amending plat process is utilized to correct an error, and not bestow a development right which without the process would not be there.

Process

The applicant may meet with the City Manager or designee at a pre-development conference to determine if the proposed division is eligible for the amending plat process. At the conclusion of the pre-development conference, the City Manager or designee will determine if the proposed division is eligible for an amending plat process. (Note: if the applicant disagrees with the City Manager or designee decision, the applicant may request an appeal. Refer to Appeal of an Administrative Decision).

Submittal Requirements

The application for an Amending Plat requires items to be submitted, in accordance with the checklist.

The City Manager or designee will review the application for completeness. If the application is complete, the City Manager or designee will review the plat for technical compliance with the code. If the City Manager or designee determines that the plat does not meet the approval criteria, the applicant may request that the plat may be forwarded to the Planning and Zoning Commission and City Council, which will take final action.

Once the City Manager or designee has determined that the plat meets all approval criteria, he or she will contact the applicant and request one photographic Mylar copy and three bond copies of the plat for final signatures. It is the applicant's responsibility to have the Mylar plat filed for record with the County Clerk. Only a recorded plat is considered valid for the purposes of title transfer or building permits, and any entity wishing to apply for a building permit must present a copy of the recorded plat from the County Clerk's office.

Replat



The purpose of a Replat is to resubdivide all or part of a Recorded Plat, without the vacation of the preceding plat, and to allow for a review by the Planning and Zoning Commission. Some replats require mailed notice and cannot be done administratively. See §§212.014 and 212.015 of the Local Government Code.

Process

The applicant may meet with the City Manager or designee at a pre-development conference to determine that the proposed division is eligible for following the replat process. If the City Manager or designee determines the proposed division is/is not eligible for a replat, the applicant may request an appeal. Refer to Appeal of an Administrative Decision.

Submittal Requirements

The application for a Replat requires items to be submitted, in accordance with the checklist.

The City Manager or designee will review the application for completeness within 5 days of receipt of the submittal materials. If the application is complete, the City Manager or designee will review the plat for technical compliance with the code, within 12 days of the determination of completeness. The City Manager or designee will also schedule a public hearing before the next regularly scheduled Planning and Zoning Commission. Published notice is required.

If the City Manager or designee determines that the plat does not meet the approval criteria, he or she will summarize the comments in a letter to the applicant. The applicant must respond within 12 days of the date of the comment letter, or the application will be recommended for statutory disapproval. In other words, the applicant must meet all the technical requirements, or the plat cannot be approved under the 30-day timeline.

At the public hearing, the Planning and Zoning Commission will consider staff comments and recommendation, the applicant's testimony, and public comment during the hearing. After consideration of these, P&Z will make a recommendation to the City Manager or designee to either approve or disapprove the replat.

If the plat is approved by both P&Z and the City Manager or designee, he or she will contact the applicant to begin the signature and recordation process. It is the applicant's responsibility to have the Mylar plat filed for record with the County Clerk. Only a recorded plat is considered valid for the purposes of title transfer or building permits, and any entity wishing to apply for a building permit must present a copy of the recorded plat from the County Clerk's office.

General Development Plan

The purpose of the General Development Plan is to provide for review of certain developments for compliance with the Comprehensive Plan, other relevant plans (water, wastewater, drainage, etc.), the UDC, compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development. In other words, the General Development Plan provides an opportunity to look at larger scale compatibility and coordination issues before the platting process begins.

The City Manager or designee will determine during a predevelopment conference whether a General Development Plan is required, based on the following criteria:

1. The property is undeveloped, is under one ownership, and is greater than 50 acres.
2. The property is to be developed in phases; or
3. The property will require off-site road, drainage or utility connections or improvements that will have a substantial effect on other properties or developments; or,
4. The property is proposed for a Planned Unit Development.

Process

If a General Development Plan is required, the applicant will submit the following on or before the submittal date of the adopted schedule:

1. Completed application form
2. Five copies of a summary letter describing the proposed development, how it is to be phased, how it is to be served by utilities, and how it is consistent with the Comprehensive Plan.
3. Five copies of a concept plan drawing, showing the general location of roads, development type and densities, major infrastructure and connectivity/coordination with adjacent properties.
4. Review fee of _____.

The City Manager or designee will review the application for completeness. Any outstanding items must be submitted before the submittal deadline, or the application will be scheduled for the following month's cycle.

Once complete, the City Manager or designee will review the plans for consistency with the Future Land Use Plan, the Future Thoroughfare Plan, the policies and programs of the Comprehensive Plan, adjacent developments and connectivity, schematic utilities, and compatibility of land uses. The City Manager or designee will provide written comments of the review to the applicant within 12 days of the determination of completeness.

Applicant response is requested at least 5 days prior to the scheduled P&Z meeting. The P&Z agenda item should be worded something to the effect of:

“DISCUSSION AND POSSIBLE RECOMMENDATION TO COUNCIL ON A GENERAL DEVELOPMENT PLAN FOR _____, BEING X.X ACRES OF LAND LOCATED _____”

The Commission will hear the staff recommendation and a presentation by the applicant on the proposed development. The Commission will make a recommendation to Council, which will hear the item at its next regularly scheduled meeting. City Council takes final action on the General Development Plan. The agenda item is worded as follows:

“DISCUSSION AND POSSIBLE ACTION ON A GENERAL DEVELOPMENT PLAN FOR _____, BEING X.X ACRES OF LAND LOCATED _____”

Follow up

Within 5 days of the Council action, the City Manager or designee will notify the applicant in writing of the Council decision and instructions on submitting the preliminary plat.

Preliminary Plat

A preliminary plat is required for any division of land into six or more separate parcels, and any plat that requires a dedication of land or public improvements to the City. The goal of the preliminary plat process is to develop a preliminary design level subdivision plan prior to the development of the final plat and construction plans, to ensure compatibility, connectivity, and utility serviceability.

Process

The applicant may meet with the City Manager or designee at a predevelopment conference to discuss the development plans. The applicant will submit the following items either prior to or on the date for submittal specified in the adopted calendar:

1. A completed application form
2. A copy of an approved General Development Plan, if required.
3. Plat information as defined in the checklist
4. Review fee.

The City Manager or designee will review the application for completeness. Any outstanding items must be submitted before the submittal deadline, or the application will be scheduled for the following month's cycle.

Once the application has been determined complete, the City Manager or designee will review the application for technical compliance with the code. The preliminary plat should demonstrate conformance with the approved general development plan (if applicable), consistency with the Comprehensive Plan, consistency with Chapter 5 of the UDC, and utility serviceability. The City Manager or designee will combine his/her comments with the City Engineer's and provide a copy of the comments to the applicant within 12 days of submittal. The applicant should respond to the comments at least 5 days prior to the Planning and Zoning Commission meeting.

Planning and Zoning Commission

The item will be placed on the P&Z agenda, worded something to the effect of:
"DISCUSSION AND RECOMMENDATION TO COUNCIL ON A PRELIMINARY PLAT OF THE _____ SUBDIVISION, BEING ___ ACRES OF LAND IN THE _____ SURVEY."

Generally, the item will follow this procedure:

1. The Chairperson opens the item for discussion.
2. Staff provides background and its recommendation
3. The applicant may make a presentation.
4. P&Z may ask questions of staff or the applicant
5. P&Z makes its recommendation to Council for approval or disapproval.

In the case of recommending disapproval, P&Z should note the specific requirements of the Code or make reference to specific provisions of the Comprehensive Plan that are its grounds for disapproval.

The item will then proceed to the next regularly scheduled City Council meeting for consideration by Council. The agenda item should read something like this:

“DISCUSSION AND ACTION ON A PRELIMINARY PLAT OF THE _____ SUBDIVISION, BEING _____ ACRES OF LAND IN THE _____ SURVEY.”

Council is required under State Law to take action on the plat within 30 days of the Planning and Zoning Commission meeting. If no action is taken on the plat, the Council must arrange for a meeting within the 30 day timeline to take action.

Follow-up

Within 5 days of Council action on the preliminary plat, the City Manager or designee will forward written notice to the applicant of the Council’s decision. A preliminary plat is valid for 24 months from the date of approval.

Final Plat

The final plat is intended to demonstrate for public record all of the individual lots and public improvements and dedications associated with the subdivision. A recorded final plat demonstrates that the developer has completed all of his or her necessary obligations to create legal lots for sale and development. A Final Plat application and Site Development Permit application can run concurrently. An approved final plat means that the property has had plans prepared for a subdivision which are in compliance with the codes, but it does not mean that the necessary public improvements have been completed and accepted for maintenance. A plat is only eligible for recordation if the improvements have been completed and inspected, or adequate fiscal surety has been posted.

Process for Review of the Final Plat

Following a mandatory pre-application conference, the applicant will make a submittal to the City Manager or designee in accordance with the checklist. The City Manager or designee will determine if the application is complete and notify the applicant within 5 days of the original submittal of any outstanding items. It is the applicant's responsibility to have a complete package by the submittal deadline prescribed on the calendar. Once the application is complete, the City Manager or designee will disseminate the package to reviewing entities. The City Manager or designee will notify Williamson County Engineering Department of any plat applications that are proposed in the ETJ.

The City Manager or designee will review the plat for compliance with the UDC. At the final platting stage, most of the review will involve the following:

1. Verification of minimum lot frontage and size
2. Verification of adequate public road frontage
3. Verification of dedicated easements, setbacks and bufferyards.
4. Verification of road alignments and connectivity to adjacent properties.
5. Construction plan review for adequacy of public facilities:
6. Street, alleys, bridges, lighting, rights-of-way, sidewalks and signalization.
7. Water system, including wells (where used), utility easements, distribution lines, fire hydrants, valves, pumps, pressure tanks, water towers and other water facilities.
8. Sanitary sewer system, or approval of the Williamson County Health Department for an On-Site Sewage facility (OSSF).
9. Drainage System, including easements, culverts, channels, storm sewer lines, inlets, basins, control structures.
10. Utilities for electric and telephone service and associated utility easements, as evidenced in a letter of review and approval by the respective utility provider.
11. Gas and cable TV service and associated utility easements, as evidenced in a letter of review and approval by the respective utility provider.

The other significant component of the review pertains to the status of the public improvements. In order for the final plat to be approved, the improvements must be in

place and inspected to the City Engineer's satisfaction, or fiscal surety must be provided in accordance with Section 7.05.03 of the UDC.

The Planning and Zoning Commission will review the plat at a regularly scheduled meeting in accordance with the adopted submittal schedule. The agenda item should be worded something to the effect of:

“DISCUSSION AND RECOMMENDATION TO COUNCIL ON A FINAL PLAT OF THE _____ SUBDIVISION, BEING ___ ACRES OF LAND IN THE _____ SURVEY.”

P&Z must either recommend approval or disapproval of the plat. The City Council will take final action on the plat. The agenda item for Council will be worded something like:

“DISCUSSION AND POSSIBLE ACTION ON A FINAL PLAT OF THE _____ SUBDIVISION, BEING _____ ACRES OF LAND IN THE _____ SURVEY.”

Recordation

A plat is eligible for recordation once all remaining conditions have been satisfied and the improvements are complete or fiscal surety is provided and in effect. Please refer to the checklist for recordation.

The applicant will bring the required items to the City Manager or designee's office. Once all of the items have been received, the City Manager or designee will secure the necessary signatures on the plat and submit the plat for recordation with the County Clerk.

Construction Plans

Construction plan review is handled by the City Engineer. The applicant shall submit 3 copies of the construction plans to the City Manager or designee along with the review fee. The City Manager or designee will distribute one set of the plans to the City Engineer, one set to the Planning and Zoning reviewer, and one set for the file. The City Engineer will review the plans for compliance with the UDC and the adopted Design and Construction Standards (DACS). The DACS are available through the City of Round Rock Public Works Department online (http://ci.round-rock.tx.us/public-works/dacs/dacs_index.htm) or may be purchased in hard copy format through Document Engine in Round Rock.

The initial review period for construction plans is 14 days. Subsequent review periods depend on the nature of revisions, unresolved issues, and accurate and timely submittals by the applicant.

When the City Engineer has determined that the plans are complete and satisfactory, he/she will issue a site development permit and sign the construction plans. The site development permit may take the form of a letter, stating that the plans have been approved and any conditions of approval that must be met during and after construction, and prior to acceptance of any public improvements. The letter will reference City Council action on the applicable preliminary plat, final plat, or site plan. The letter will be copied to the City Manager or designee, Planning and Zoning Commission Chairperson, and the Mayor.

The construction plans must include a signature block for the City Engineer, which reads:

“The plans contained herein have been reviewed and approved for construction on this date. The Engineer of Record is solely responsible for the completeness, accuracy and adequacy of design, whether or not the application is reviewed for code compliance by the City of Liberty Hill.

Signature, City Engineer

Date

Fiscal Surety

If the applicant elects to construct the required public improvements prior to recording the plat (after the plat has been approved), the construction will be inspected while in progress and must be approved upon completion by the City Engineer. If the applicant elects to post fiscal surety in lieu of completing construction prior to final plat approval, he or she may elect to issue the City a performance bond or irrevocable letter of credit equal to 110% of the estimated cost of construction. Section 7.05.02 of the UDC applies.

Acceptance of Public Improvements

As public improvements are completed (usually in phases with a larger subdivision), they are inspected for proper installation according to city standards. This is a task of the City Engineer. Once all of the improvements have been satisfactorily installed, the developer provides a certification from his/her engineer that the improvements have been installed in conformance to plans and specifications and a petition for acceptance. The developer also provides the City Engineer with a set of as-built Mylar drawings, for permanent record. Finally, the developer provides the City Manager or designee with a Maintenance Bond. Once these items have been received, the City Engineer will make a recommendation to Council for acceptance of the public improvements. Council takes final action on the acceptance of improvements.

Chapter 7 – Other Development-Related Applications

There are a number of other types of applications which are commonly dealt with through the City Manager or designee. This chapter discusses these in brief process.

Zoning Verification Letter

A Zoning Verification Letter is simply what it implies – a verification of the zoning district that a property is covered by. The City Manager or designee may prepare such a letter which reads as follows and is issued on City letterhead:

<Date>

<Requestor>

<Requestor Address>

RE: Zoning Verification for <Physical Address>

<Salutation>:

The property located at <address> is situated in a <district code>, <name of zoning district> per the Official Zoning Map of the City of Liberty Hill, effective date <effective date of the zoning map>.

Attached please find a copy of the general area of the subject property, a copy of the permitted uses associated with that district (Table 4-2, UDC), and a copy of Table 4-4: Lot Design Standards.

The <district code> district is intended for <insert the appropriate text for the district, from Sections 4.06, 4.07, and 4.08>.

If you are considering a development activity on this property, the City encourages you to read the provisions of the City's Unified Development Code and Comprehensive Plan. The City may also require a pre-application conference prior to the submittal of an application. Please do not hesitate to contact me at (512) 778-5449 if you have any other questions or concerns.

<closing>

cc: file

Attachments

Legal Lot Verification Letter

A Legal Lot Verification Letter provides a determination for the applicant that a lot is “legal” and eligible for building permits without any additional platting requirements. Any lot which is on record with the County Clerk and described as “Lot X, Block Y, Section Z of the Sesame Street Subdivision” is a legal lot by definition. The applicant must simply provide a copy of the plat.

Any lot which is in its same configuration as it existed on May 1, 2005 is a legal lot (grandfathering – See Section 5.03.06 of the UDC). To demonstrate this, the applicant must provide a copy of both the current deed to the property and the prior deed in the chain of title. The legal descriptions of these deeds are compared to determine that the property is, or is not, in the same configuration. In some instances it is not possible to present a copy of the prior deed, but the applicant may be able to demonstrate inversely that the property is in the same configuration by supplying evidence of adjacent property configuration prior to May 1, 2005.

The letter is a simple form:

<Date>

<Requestor>

<Requestor Address>

RE: Legal Lot Verification for <Legal Description, (e.g. 39.25 acres out of the Cookie Monster Survey, Ptd.)>, also known as <Physical Address>

<Salutation>:

Based upon the information provided by the applicant, and attached hereto for reference, the above-referenced property <is, is not> determined to be a legal lot for the purposes of site development. Should you have any additional questions or concerns, please do not hesitate to contact me at (512) 778-5449.

<closing>

cc: file
Attachments

Written Interpretation

From time to time, the City Manager or designee may be asked to interpret the UDC with respect to a particular provision, applicability of a requirement, or general clarification. The City Manager or designee's focus here is to objectively provide this interpretation in a manner which is consistent with other related provisions of the code, known precedent, and in a manner which calls attention to the area of ambiguity. The City Manager or designee may determine that a Text Amendment or an Administrative Exception is the more appropriate process. As the cases vary widely, there is no "form" letter for providing the written determination. As a guideline, this letter should acknowledge the requestor, the specific Code Section to be interpreted, the date, and all of the information known to the City Manager or designee about the situation at the time.

Master Sign Plan

In reviewing a sign permit application, or a master sign plan (a system of signage designed for a particular development), the City Manager or designee first reviews Table 6-2 of the UDC (Permitted Signs by Zoning District). Once it has been determined that a sign is permitted, the limitations on that signage are found in Table 6-3 of the UDC.

The procedures for processing the sign permit application are clearly described in Section 6.12.05.E. of the UDC. The applicant simply needs to supply measured drawings of the proposed signage and a location map of the property describing where the signs are proposed to be placed.

There is a fee associated with the sign permit.

Site Plan Review and Permit

A site development permit shall be required for all site developments unless they are smaller than the following sizes of development:

1. Construction that involves paving or other impervious surface alteration totaling seventy five hundred (7,500) square feet, including existing improvements; or modifications to a drainage channel or pipe or other storm drainage feature with a catchment's area, whether on-site or off-site, less than or equal to five (5) acres, may be reviewed and permitted by the City Manager or designee, without requiring City Council approval. If larger than these criteria, the Site Development Permit requires City Council approval.
2. Construction or expansion of a building other than a single-family or duplex residential building, with a floor area of one thousand (1,000) square feet.
3. Construction or expansion of a parking lot or any other impervious surface of one thousand (1,000) square feet.
4. Conversion of a residential or nonresidential structure to a nonresidential use in which the floor area of the building is one thousand (1,000) square feet.

Submittal Requirements

Applications which require Council action should be submitted in accordance with the adopted schedule. Applications which require only City Engineer / City Manager or designee approval may be submitted at any time during normal business hours. The applicant should complete the application form which covers basic contact information and a legal description of the property. The applicant should also submit the following items to the City Manager or designee:

1. A copy of the recorded plat
2. Copies of letters from utility providers stating that utility service is available at the site.
3. Copy of approved TxDOT driveway permit, if applicable.
4. Five copies of a site plan, which includes the following information:
 1. Property Boundary dimensions
 2. All setbacks and easements
 3. Location of any existing physical improvements, including buildings, parking lots, driveways, landscaping, accessory structures, and septic facilities, as applicable.
 4. Location of any proposed physical improvements, including buildings, parking lots, driveways, landscaping, accessory structures, and septic facilities as applicable.
 5. Location of any adjacent utilities in the ROW, including culverts, headwalls, fire hydrants, valves, sanitary clean-outs, manholes, etc..
5. A summary letter describing the proposed improvements including a statement by a registered professional engineer that the proposed improvements will not result in any adverse drainage impact to properties upstream or downstream. The summary letter should address the requirements of the Stormwater Permit (next section below).

6. A statement from a registered professional engineer or licensed sanitarian that the septic system (if applicable) is in safe operating condition for the proposed use.

Review Process

The City Manager or designee will review the application for completeness and provide a list of outstanding items within 5 days of initial submittal. See section 3.04.04 of the UDC for further information on completeness review. When the application is determined to be complete, the City Manager or designee will forward a copy of the site plan and all required supporting documentation to the City Engineer for review.

The City Engineer will review the application for compliance with engineering criteria of the Code and issue a letter report to the City Manager or designee summarizing his comments. The City Manager or designee will review the site plan concurrently for setback, easement, and zoning issues. The City Manager or designee will combine and enumerate all comments in a letter to the applicant at least 10 days prior to the scheduled City Council meeting (if the application requires Council action). For applications which require only administrative approval (City Engineer and City Manager or designee), the summary letter must be prepared within 15 days of an application that is determined to be complete.

Prior to final approval of any site plan, the City Engineer will need to certify that the requirements for a stormwater permit are met by the site plan.

Criteria

Technical compliance with the UDC in effect at the time of submittal is the main criterion for a recommendation for approval or disapproval of the site plan. Additional criteria include:

1. Compliance with the general development plan, development agreement or ordinance governing the parcel (e.g., PUD, Conditional use permit, etc.)
2. Compliance with any zoning overlay district requirements

Stormwater Permit

A stormwater permit is required prior to any land disturbance within the city limits or ETJ. An application for a stormwater permit must be prepared by a licensed professional engineer.

Submittal requirements

The application for a stormwater permit is usually made in conjunction with a site plan application. The stormwater permit application includes the following:

1. 3 copies of a to-scale drawing showing on one or multiple sheets:
 - A. Property Boundary dimensions
 - B. All setbacks and easements
 - C. Location of any existing physical improvements, including buildings, parking lots, driveways, landscaping, accessory structures, and septic facilities, as applicable.
 - D. Location of any proposed physical improvements, including buildings, parking lots, driveways, landscaping, accessory structures, and septic facilities as applicable.
 - E. Location of any adjacent utilities in the ROW, including culverts, headwalls, fire hydrants, valves, sanitary clean-outs, manholes, etc..
 - F. The location of the 100-year floodplain, if applicable.
 - G. The location of proposed erosion control measures
 - H. The existing and proposed drainage areas
 - I. Existing and proposed flowpaths
 - J. A summary table of existing and proposed discharges, velocities, and depth of flow.
 - K. A stage-discharge table for proposed detention ponds.
 - L. A stage-storage table for proposed detention ponds.
 - M. A signature block for the City Engineer which states:
“The plans and specifications contained herein have been reviewed and are found to be in compliance with the stormwater management requirements of the City of Liberty Hill.
<City Engineer> <Date>”
2. An engineer’s summary letter to demonstrate:
 - A. The method of analysis
 - B. Determination of runoff, including design storm, time of concentration, and runoff coefficient
 - C. Adequacy of conveyance for open channel or closed conduits, as applicable.
 - D. Any other information necessary to demonstrate that the proposed improvements do not adversely impact properties upstream or downstream of the project.
 - E. Any other information necessary to demonstrate that erosion will be mitigated.

3. Copies of any applicable permits from the TCEQ, USEPA or other entity, or a statement to reflect the status of these applications.

Review Process

The City Engineer will review the permit application for completeness and notify the applicant within 5 days of any outstanding, required items. Once the application has been determined complete, the review period will be fifteen days or less.

Approval of the stormwater permit will consist of a letter to the applicant stating that the application is in compliance with the stormwater management requirements of the City of Liberty Hill. The City Engineer will sign three copies of the plan sheets at the signature block provided: one for the City Manager or designee's files, one for the City Engineer's files, and one copy for the applicant. It is recommended that the applicant provide a Mylar copy of the approved stormwater permit plans (or site plan) upon receipt of the City Engineer's letter. The City Engineer will sign the Mylar and arrange for necessary reproduction at a convenient reproduction shop.

If the City Engineer determines that modifications to the plans are necessary, he/she will summarize his/her comments in a letter to the applicant.

Administrative Decision

An administrative decision is a decision or interpretation made by the City Manager or designee concerning the applicability of the Code or Procedures Manual. As an example, the City Manager or designee may decide that an amending plat process is not possible, and that an applicant must replat. This decision is not a Council decision, but an administrative one, and may not be agreeable to the applicant. The decision depends on a number of conditions within the City Manager or designee's purview. See "Appeal of an Administrative Decision".



Appeal of an Administrative Decision

The appeal process for an administrative decision is fully explained in Section 3.08.04 of the UDC. Where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the UDC, or of any ordinance adopted pursuant thereto, that interpretation may be appealed to the Board of Adjustment. In its deliberations, the Board of Adjustment must only consider whether or not the interpretation in question conformed to what was actually written in the regulations. The Board may not declare the zoning regulations unfair or attempt to act contrary to their purpose. The Board can clarify ambiguities or resolve conflict between opposing sections. Since the Board's decisions will affect future applications of the regulation in question, the specific hardships of the applicant should not be considered when reaching a determination.

Process

The applicant shall first meet with the City Manager or designee to receive a full explanation of the requirement in question as currently interpreted. If an appeal is to be made, an application shall be obtained.

The applicant shall present a letter to the City Manager or designee and pay the appropriate fee. The letter shall include an explanation of the decision being appealed and a statement of the reasons for the appeal. Drawings of the property in question and a list of all surrounding property owners may be required, depending on the nature of the appeal. An application shall not be processed unless it has been fully completed, the fee paid, and all required information submitted.

Fee

The fee for processing an appeal of an administrative decision is \$100.

Published Notice

When an application has been fully completed, the fee paid and all required information submitted, the City Manager or designee shall then schedule a regular meeting of the Board of Adjustment and send copies of the application to members of the Board of Adjustment. Fifteen (15) days prior to the Board meeting, an official notice to the public shall be published in a newspaper of general circulation in the City explaining the appeal and the time and place of the scheduled hearing. A copy of the notice shall be mailed to each party of interest and to the Planning and Zoning Commission.

Board of Adjustment Meeting

At its scheduled meeting, the Board shall hear all facts and testimony from all parties wishing to be heard concerning the appeal. The appeal must be heard by the Board within a reasonable period of time from the completed application and fee submittal and a written decision must be rendered without unreasonable delay.

The Board of Adjustment may affirm, reverse, or modify the order, requirement or interpretation at issue. The determination, in written form, shall be sent to all affected parties including the Planning and Zoning Commission. A recorder shall keep minutes of the public meeting including evidence presented during the proceedings and the findings of the Board.

Administrative Exception

The process for an administrative exception is fully explained in Section 3.08.05 of the UDC. This also requires Board of Adjustment approval. The purpose of the administrative exception is to provide a means to correct unintentional errors. An example of this might be if erroneously a house was constructed in the setback. The error was not caught by the building inspector, and the encroachment on the setback is less than one foot. The administrative exception here does not permit this to continue in the subdivision with the construction of other homes, but rather serves to clear the title for the land owner in this particular instance.

Variance



When an applicant feels that the strict application of the requirements of the zoning regulations would create an undue hardship, he or she may request a variance from the City Council. The City Council must base its decision, to as great a degree as possible, on factual evidence, and not the personal opinion of the applicant, neighbors, or others. The request for a variance should be based on a conflict between the restrictions on the development of the property due to specific provisions in the UDC and the restrictions on the development of the property due to its physical characteristics. A variance should be issued only to the specific restrictions on physical construction and not to the list of permissible land uses within a given zone. In other words, it is not possible to grant a variance to enable a use not otherwise permitted in the zoning district.

Application Requirements

The applicant shall first meet with the City Manager or designee and receive a complete explanation of the development requirement in question, the variance procedure, and an application form. A variance is accomplished by Council passage of an ordinance.

The applicant shall submit a completed application form and pay the appropriate fee within the required submittal cycle schedule. As a part of the application, a sketch map shall be submitted showing proposed and existing structures and uses on the property for which the variance is being requested. The sketch map may take the form of a title survey (preferably) or copy of the plat. A legal description is required, either as a Lot/Block/Subdivision description or metes and bounds description. An application shall not be processed unless it has been fully completed, the fee paid, and all required information submitted.

Notice Requirements

Upon receipt of a fully completed application, the City Manager or designee will schedule the item for the next Planning and Zoning Commission meeting. Fifteen (15) days prior to the Planning and Zoning Commission meeting, an official notice to the public shall be published in a newspaper of general circulation in the City which lists the property address, the Ordinance number, explains the variance request, and the time and place of the scheduled hearings before P&Z and Council. A copy of the notice shall be mailed to each party of interest.

A written notice shall also be mailed to notify surrounding property owners (within 200') of the public hearings. The applicant provides the address information, which can be obtained from the Williamson County Appraisal District office in Georgetown. The City should verify this information during its review of completeness. The applicant pays the fees for mailing the notice. The written notice must be mailed at least 10 days prior to

the P&Z hearing. It should be noted that it is the obligation of each property owner in the City to maintain a current address on file with the Appraisal District.

Planning and Zoning Commission Public Hearing

The Planning and Zoning Commission public hearing/recommendation agenda item should read something similar to:

A. PUBLIC HEARING TO CONSIDER A REQUEST FOR VARIANCE FROM SECTION X.XX.XX OF THE UNIFIED DEVELOPMENT CODE (Requested by Applicant)

B. DISCUSSION AND RECOMMENDATION TO COUNCIL ON ORDINANCE NO. _____, ESTABLISHING FINDINGS OF FACT RELATED TO THE REQUEST FOR VARIANCE FROM SECTION X.XX.XX OF THE UNIFIED DEVELOPMENT CODE.

At the scheduled meeting, the Planning and Zoning Commission shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In making the required findings, P&Z and Council shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. In each case, the Planning and Zoning Commission shall not recommend favorably on a variance unless it finds, based on the evidence presented, facts which conclusively support all of the following findings:

1. Extraordinary Conditions

That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of its land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.

2. Preservation of a Substantial Property Right

That the variance is necessary for the preservation of a substantial property right of the applicant.

3. No Substantial Detriment

That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code.

4. Other Property

That the conditions that create the need for the variance do not generally apply to other property in the vicinity.

5. Applicant's Actions

That the conditions that create the need for the variance are not the result of the applicant's own actions.

6. Comprehensive Plan

That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code.

7. Utilization

That because of the conditions that create the need for the variance, the application of the Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

When evaluating the merits of a variance case, it should also be considered that the following types of possible findings are not sufficient grounds:

1. That the property cannot be used for its highest and best use.
2. That there is a financial or economic hardship.
3. That there is a self-created hardship by the property owner or its agent.
4. That the development objectives of the property owner are or will be frustrated.

City Council Public Hearing and Action

At the next regularly scheduled meeting, the City Council will conduct a public hearing on the Ordinance concerning the variance request. The agenda item should be worded something to the effect of:

- A. PUBLIC HEARING TO CONSIDER PUBLIC COMMENT ON ORDINANCE NO. _____, A REQUEST FOR VARIANCE FROM SECTION X.XX.XX OF THE UNIFIED DEVELOPMENT CODE (Requested by Applicant)

- B. DISCUSSION AND POSSIBLE ACTION ON ORDINANCE NO. _____, ESTABLISHING FINDINGS OF FACT RELATED TO THE REQUEST FOR VARIANCE FROM SECTION X.XX.XX OF THE UNIFIED DEVELOPMENT CODE

The City Council will receive a recommendation from the Planning and Zoning Commission, to include P&Z's findings of fact. Council has the option of accepting P&Z's findings, modifying P&Z's findings, setting specific stipulations, or rejecting those findings. In addition to the criteria listed above, the Council must also consider the following:

The City Council may not grant a variance when the effect of the variance would be any of the following:

1. To allow the establishment of a use not otherwise permitted in the applicable zoning district.
2. To increase the density of a use above that permitted by the applicable district.

3. To extend physically a nonconforming use of land.
4. To change the zoning district boundaries shown on the Official Zoning Map.

Further, three other relevant issues concerning some variance applications should be considered by the Council:

1. The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.
2. No variance for a sign may increase the overall permitted area of a sign. Sign-related variances may only be granted, in accordance with this section, for height or other location restrictions.
3. The City Council shall make a final decision on any variance request from floodplain or stormwater management regulations. The City Engineer will assist in developing the findings of fact.

Follow-up

Within 5 days of the Council action, the City Manager or designee shall forward a copy of the approved ordinance to the applicant. If the ordinance is disapproved, the City Manager or designee shall forward a certified copy of the minutes from the Council meeting, within 5 days of approval of the minutes of the meeting in question.

Temporary Use Permit

A temporary use permit can be granted for temporary uses, such as vendor stands, festivals, trade fairs, or other public events. Temporary uses are to be evaluated on a case-by-case basis, and conditions may be attached to ensure public health, safety and convenience. A temporary use permit should always have a time limitation attached as a condition. Otherwise, the use is not “temporary” and is afforded rights that are not afforded to other forms of commerce which comply with all zoning and building code issues.

Section 3.10.04 provides a thorough description of the approval criteria for evaluating a temporary use permit application. The City Manager or designee may at any time require P&Z and Council action on the permit.