

Planning & Zoning:	1/3/2011	Staff Contact:	Erin Sellers, Planner II
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SUBJECT: Hold a public hearing and consider code amendments to Chapter 157: Unified Development Code; Amending Subchapter 2 Administration; (A)(B) and (D) by reassigning the authority of the Architectural Review Board (ARB) to the Planning and Zoning Commission and removing any references of the Architectural Review Board; Amending Subchapter 9; (F)(5) and (G)(5) by reassigning the responsibilities of the Architectural Review Board (ARB) to the Planning and Zoning Commission; and Amending Subchapter 20 (C) to remove the definition of Preliminary Architectural Plan.

Hold a public hearing and consider code amendments to Chapter 155, Subchapter B: Central Business District; Amending Subsections 155.1202 Site Access and Circulation (E)(3); 155.1206 Landscaping and Screening (C)(1)(f); 155.1207 Site Lighting (D)(3)(d); 155.1305 Signs (O)(2)(j) by reassigning the responsibilities of the Architectural Review Board (ARB) to the Administrator; Amending Subsection 155.1306 Public Art by reassigning the responsibilities of the Architectural Review Board (ARB) to the Planning and Zoning Commission; Amending Subsections 155.1501 Review Bodies; 155.1502 General Review Provisions; 155.1504 Major Permit Review; 155.1505 Criteria for Approval; 155.1507 Modifications to Approved Permits by reestablishing general processes and procedures for plan approval; and Amending Subsection 155.1601 Defined Terms, Preliminary Architectural Plan.

BACKGROUND

This item is staff initiated in order to comply with City Council's direction to dissolve the Architectural Review Board (ARB). The ARB was first established in 2004 by Ordinance No. 735-04-01-27 after the approval of the Downtown Master Plan. At the time of adoption, the ARB was to administer Subchapter B of Chapter 155 Site Development Code, applicable to the Central Business District. The ordinance made a previously administrative process of site development in the Downtown subject to final review by the ARB. Later, the ARB was given an additional duty to include hearing and deciding on variances concerning building articulation, exterior building wall standards and roof treatment for non residential structures city-wide. Currently, any action taken by the ARB is final and may not be appealed to another board. In October 2010, the City Council held its annual worksession with the ARB. Staff recommended the consolidation of the ARB's duties with another board or commission. This recommendation was based on several factors, including:

- Development in the Downtown area slowed in the last couple of years.
- There are few unimproved sites in the Downtown for which development can occur.
- Recruitment of board members has been challenging in the past.

Staff anticipates further code amendments to Chapter 155, Subchapter B regarding processes and zoning regulations. With these amendments, Subchapter B would ultimately reside within Chapter 157, the Unified Development Code, Subchapter 5. Establishment of Overlays and Special Districts.

DESCRIPTION OF ARB

The ARB consists of five members to be appointed by the City Council, each for a term of two years; no more than three terms. To the extent possible, the majority of the members shall be professionals from design-related fields such as architecture, landscape architecture, urban planning, land development or construction; while the remaining members shall be citizens appointed on an at-large basis. Their review responsibilities include:

- a) Approval of Site Development Plans (Major Permit) - (*"No improvement shall be commenced, erected, painted or maintained that requires a major site development permit, nor shall any exterior addition to, or change or alteration to an Improvement, be made, nor shall any site grading or landscaping be undertaken until the plans and specifications thereof (including but not limited to exterior views, exterior materials, colors and elevation) are submitted to, and approved in writing by the Architectural Review Board in accordance with Subchapter B. The ARB shall have the discretion to make final, conclusive and binding determinations in matters of architectural and aesthetic judgment in accordance with this subchapter B. The Architectural Review Board may exempt certain Guidelines of this subchapter B so long as it determined the architectural and aesthetic intent of the code is still satisfied."*)
- b) Preliminary Action on Site Plans (Major Permit) – (preliminary site development review with Applicant at ARB meeting)
- c) Final Action on Site Plans (Major Permit) – (ARB must sign off on Site Plan)
- d) Final Action on referrals of Minor Permits – Appeal decision of the Administrator to ARB.
- e) Hear Variances concerning building articulation, exterior building wall standards and roof treatment for nonresidential structures city-wide.

<i>Type of Development</i>	<i>Major Permit</i>	<i>Minor Permit</i>
Residential – New Development		
Up to 4 Units (Multifamily)		✓
5 or More Units (Multifamily)	✓	
Residential – Additions		
Adding Up to 4 Units (Multifamily)		✓
Adding 5 or More Units (Multifamily)	✓	
Nonresidential – New Development		
Under 5,000 SF Impervious Cover		✓
Over 5,000 SF Impervious Cover	✓	
Nonresidential – Additions		
Additions Under 10% Gross Floor Area or 500 SF Impervious Cover		✓
Additions Over 10% Gross Floor Area or 500 SF Impervious Cover	✓	
Modifications		
Substantial Modification to Approved Permit	✓	
Minor Modification to Approved Permit		✓

DISCUSSION:

Site Development is generally an administrative process that clearly identifies content requirements of the Site Plan for approval. By having an administrative Site Plan process, the review/approval times are substantially reduced thus making the development process more stream-lined and efficient. The Downtown Vision report of 2009 recommended that a neighborhood conservation district (NCD) and an Old Town zoning district be created. With the creation of these districts referenced in the Downtown Vision report, long-term development processes will be established. The proposed code amendments are intended to address short-term processes while staff researches and prepares alternative, objective processes that may include greater administrative authority.

CHAPTER 157 UDC PROPOSED CHANGES:

Generally, all duties assigned to the Architectural Review Board are proposed to be reassigned to the Planning and Zoning Commission.

CHAPTER 155 (Central Business District) PROPOSED CHANGES:

Similar to the code changes referenced above, only some duties assigned to the ARB are proposed to be reassigned to the Planning and Zoning Commission. However, the remaining duties that are typically handled by the Administrator on a city-wide basis, will transfer to the Administrator. For example, in the Central Business District, if trees proposed on the landscape plan are not referenced in the Approved Tree List table, the applicant would have to go to the ARB and request a waiver with the current process. Staff proposes that this provision and similar provisions be reviewed by the Administrator at their discretion. ARB duties regarding architectural design are proposed to transfer to the Planning and Zoning Commission. Please refer to the excerpt below for the specific code amendments proposal. Since Chapter 155 is only related to site development requirements, a recommendation from the Planning and Zoning Commission is not required for amendments. Staff

included these amendments due to the potential expanded purview of the Planning and Zoning Commission identified in the proposed amendments of Chapter 155.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed text amendment as presented.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommends approval of the proposed text amendment.

NOTIFICATION:

Newspaper Notification Published on December 23, 2010.

ATTACHMENTS:

Excerpt of Chapter 157: Unified Development Code with proposed amendments

SUBCHAPTER 2. ADMINISTRATION

(A)(2)(a) Appointments. The City Council appoints and removes members of the Planning and Zoning Commission (P&Z), Board of Adjustment (BOA), Parks and Recreation Commission and Capital Improvement Advisory Committee.

(B)(4) Powers and duties. The Commission shall exercise the following powers pursuant to Section 8.08 of the City Charter or this chapter:

- (a) Comprehensive Plan Amendments. The Planning and Zoning Commission makes, amends, extends and adds to the Comprehensive Plan for the physical development of the City and recommends the Comprehensive Plan to the City Council for approval in accordance with Subchapter 3 of this Chapter.
- (b) The Comprehensive Plan for the City is intended to be a living document that is periodically revised in accordance with changing socioeconomic conditions and Development. In that regard, the Commission shall have the following duties and responsibilities:
 - (i) The Planning and Zoning Commission will recommend revisions, amendments, extensions and additions to the Comprehensive Plan for the Development of the City and make recommendations regarding the Comprehensive Plan to the City Council.

- (ii) After the Comprehensive Plan, or a portion thereof, has been adopted or revised, in accordance with the terms and provisions of this Chapter, the Commission will:
1. Receive, review, revise and make recommendations to the City Council on all proposals to adopt or amend City Development regulations related to, among other things, zoning, subdivision, Site Plans, building code, transportation, utilities, environmental concerns and other police powers regarding use or Development of land within the City; and
 2. Conform to the goals and intent of the Comprehensive Plan.
- (iii) The Commission will submit annual comments to the City Council, not less than 120 days prior to the beginning of the budget year containing a list of recommended capital improvements, or any other such items desired or required to keep the Comprehensive Plan, or any individual element of the Comprehensive Plan, current over the course of time.
- (iv) The Commission will exercise control over platting, subdivision and Site Plan, as applicable, in order to ensure consistency with the Comprehensive Plan, or any individual element of the Comprehensive Plan.
- (v) At least every two years after the date of its adoption, the Commission will prepare a thorough review, analysis and evaluation of the Comprehensive Plan for the benefit of the City Council.
- (vi) The Commission shall perform its duties and obligations under this Chapter as an advisory body to the City Council.
- (c) Grants or denies or approves waivers greater than 20% of the minimum standards within the Suburban, Urban and Urban Center planned districts as related to site development standards and requirements.
- (d) **Shall hear and decide variances concerning building articulation, exterior building wall standards and roof treatment for nonresidential structures, as specified in Subchapter 9 Site Development Standards.**
- (e) Shall review and then issue, issue with conditions or deny an application for a major site Development permit or a referral by Administrator of a minor site Development permit, as specified in Chapter 155, Site Development Code, Subchapter B, Central Business District.
- (f) Approves or disapproves plats of proposed subdivisions submitted to the City in accordance with the Unified Development Code. In considering plats, the Commission

requires the proposed subdivision to meet, so far as is practicable, all the standards of layout and street and sidewalk construction applicable to comparable property within the City's corporate limits. Further, the Commission requires restrictions on the use of the property consistent with the restrictions on comparable property within the City's corporate limits.

- (g) Drafts rules and regulations governing platting and subdividing of land that are consistent with the state constitution and laws and recommend them to the City council for adoption.
- (h) Annually recommends an annexation plan to the City Council.
- (i) Annually submits a five-year capital improvements plan to the City Council and City Manager, at least 120 days before the beginning of the budget year. The plan lists projects in order of preference with a recommendation for the year of construction for each project.
- (j) Meets at least once each month.
- (k) Performs other duties and is vested with other powers as the City Council shall from time to time prescribe.

D. (RESERVED)

Subchapter 9 (F)(5) Corporate identities that conflict with the building design criteria shall be reviewed on a case-by-case basis and approved by the Planning and Zoning Commission.

Subchapter 9 (G)(5) Corporate identities that conflict with the building design criteria shall be reviewed on a case-by-case basis and approved by the Planning and Zoning Commission.

Subchapter 20 (C) Remove the definition of Preliminary Architectural Plan.

Excerpt of Chapter 155: Site Development Code, Subchapter B with proposed amendments

Chapter 155.1202 Site Access and Circulation

(E)(3) - *Stacking Areas*. Vehicle stacking standards shall apply unless otherwise expressly modified by the Administrator.

Chapter 155.1206 Landscaping and Screening

(C)(1)(f) - Deviation from the types of trees and shrubs listed in Tables 6 and 6a shall require Administrator approval.

Chapter 155.1207 Site Lighting

(D)(3)(d) - The Administrator may adjust the standards for the maximum illumination at the edge of a property adjacent to another nonresidential Use if it is determined that the design and nature of the adjacent Use creates a need to either reduce or increase the maximum illumination.

Chapter 155.1305 Signs

(O)(2)(j) - All awning and canopies shall be assessed on case-by-case basis by the Building Official.

Chapter 155.1306 Public Art

(B)(12) - Title to the art shall be presented to the Planning and Zoning Commission before final approval.

(B)(13) - The Planning and Zoning Commission shall determine whether a project is inappropriate for the display of art.

(C)(2) - Automobile Liability Insurance. Insurance in which the insurer agrees to pay all sum for which the insured is legally obligated because of bodily injury or property damage arising from the ownership, maintenance, or use of a vehicle. This insurance is required any time the artist or subcontractors will be using any vehicle to provide the services as stated in the presentation to the Planning and Zoning Commission.

Chapter 155.1501 Review Bodies

(A) *Administrator*. The Administrator shall have the review and approval authority established in Subchapter 2 Administration of the Unified Development Code. This section does not restrict the powers and duties of the Administrator granted or assigned by other sections of the City's Code of Ordinances.

(B) *Review Bodies*.

(1) *Review Responsibilities*.

(a) *Approval of Plans and Specifications*. No Improvement shall be commenced, erected or maintained that requires a major site Development permit, nor shall any exterior addition to, or change or alteration to any Improvement, be made, nor shall any site grading or landscaping be undertaken until the plans and specifications thereof (including but not limited to exterior views, exterior materials, colors and elevation) are submitted to, and approved in writing by, the Planning and Zoning Commission in accordance with this subchapter B. The Planning and Zoning Commission shall have the discretion to make final, conclusive and binding determinations in matters of architectural and aesthetic judgment in accordance with this subchapter B. The Planning

and Zoning Commission may exempt certain Guidelines of this subchapter B so long as it determines the architectural and aesthetic intent of the code is still satisfied.

(b) *Preliminary Action on Major Permits.* An applicant shall meet with the Planning and Zoning Commission at a preapplication conference at which the Planning and Zoning Commission shall review and provide the applicant comments on the Preliminary Architectural Plan prior to the submittal of a major site Development permit.

(c) *Final Action on Major Permits.* The Planning and Zoning Commission shall review and then issue, issue with conditions or deny the application for a major site Development permit.

(d) *Final Action on Referrals of Minor Permits.* The Planning and Zoning Commission shall review any application for a minor site Development permit referred by the Administrator.

§ 155.1502 GENERAL REVIEW PROVISIONS.

(A) *Applicability.*

(1) The site Development permit review process assures any future Development will occur in a planned, orderly and attractive manner.

(2) No Construction or site Improvement work may commence until the issuance of a site Development permit.

(3) A site Development permit shall be required as a condition to the Development of any site within the CBD except for: buildings or other Structures exclusively for agricultural or accessory Use.

(B) *Preapplication Conference for a Minor Site Development Permit.*

(1) Prior to the submission of an application for a minor site Development permit, it is recommended that each applicant schedule a preapplication conference with the Administrator to discuss the procedures, requirements and Guidelines required for approval in the CBD.

(2) There is no required format for a minor preapplication conference; it may occur in any form so long as the potential applicant receives the information described above.

(C) *Preapplication Conference for a Major Site Development Permit.*

(1) A mandatory preapplication conference with the Planning and Zoning Commission shall be required for applicants requiring a major site Development permit.

(2) At the preapplication conference, the applicant shall submit a Preliminary Architectural Plan to the Planning and Zoning Commission, applying the Guidelines of this subchapter B and considering the approval criteria in section 155.1505 below. The Planning and Zoning Commission shall comment on the Preliminary Architectural Plan to aid the applicant in preparing its major site Development permit.

(3) Completion of a preapplication conference does not imply or assume subsequent approval of the final permit or application.

(D) *Application Submittal.*

(1) Submittal of a major or minor site Development permit application may be undertaken by the Owner of the affected property or an authorized agent.

(2) An application for a major or minor site Development permit shall be submitted in accordance with following table.

Chapter 155.1504 Major Permit Review

(A) *Administrator Review.*

(1) After completion of the preapplication conference and comments on the Preliminary Architectural Plan by the Planning and Zoning Commission as described in section 155.1502(C), the applicant for a major site Development permit shall submit legible copies of a complete application to the Administrator in the amount and to the specifications indicated in the Site Development Code Supplemental Schedule.

(2) Upon receipt of a complete application, the Administrator shall distribute the application to the proper reviewing authorities.

(3) Not longer than 21 days following the submittal of a complete major site Development permit application, the Administrator shall review the application for compliance with the submittal requirements, and the requirements and Guidelines of this subchapter considering the approval criteria in section 155.1505 below, present the applicant with comments regarding the review and forward a written recommendation to the Planning and Zoning Commission.

(4) Not longer than 60 days following the presentation of the Administrator's comments requiring revisions to the application, the applicant must submit revised copies of the application.

(5) The Administrator must review and submit comments to the applicant and the applicant must either revise the application or submit additional information as required in continual cycles in accordance with subsections (3) and (4) above until all comments are addressed and the Administrator forwards a written recommendation to the Planning and Zoning Commission or the applicant requests submission to the Planning and Zoning Commission.

(6) The Administrator may establish procedures for administrative review necessary to ensure compliance with this code and state statutes, and may assign staff to review the application and make a preliminary report.

(B) *Planning and Zoning Commission Final Action.*

(1) Within 30 days of its receipt of the Administrator's recommendation or the applicant's request for submission, the Planning and Zoning Commission shall hold a public hearing, at which time it shall review the application, applying the Guidelines of this subchapter and considering the approval criteria in section 155.1505 below.

(2) The Planning and Zoning Commission may then issue, issue with conditions, or deny the application for a major site Development permit.

(3) An application before the Planning and Zoning Commission shall be considered approved by a simple majority vote of all members of the Planning and Zoning Commission.

(4) The time within which the decision shall be rendered may be extended by mutual consent of the petitioner and the Planning and Zoning Commission.

(5) The final site development application, including any conditions imposed by the Planning and Zoning Commission, shall be reviewed by the Planning Department prior to the issuance of the Building Permit by the Building Official.

§ 155.1505 CRITERIA FOR APPROVAL.

The Administrator or Planning and Zoning Commission, as designated by this subchapter B, shall determine whether to grant a site Development permit based on the following criteria:

(A) The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.

(B) The application illustrates compliance with the requirements and Guidelines of this subchapter.

(C) The application exhibits compatibility of the design with surrounding properties.

(D) The application exhibits no substantial negative impacts on the historic, cultural or architectural nature of the site or surrounding area, or successfully mitigates such impacts.

§ 155.1507 MODIFICATIONS TO APPROVED PERMITS.

(A) *Substantial Modifications.*

(1) A substantial modification to an approved major site Development permit shall be reviewed in accordance with section 155.1504. A substantial modification to a minor site Development permit shall be reviewed in accordance with section 155.1503. However, any modification to a site Development permit (major or minor) for a single-family or two-family residence shall be reviewed in accordance with section 155.1503.

(2) In reaching a decision as to whether or not proposed changes are to be considered a substantial modification, the Administrator shall, after reviewing the record of the project, determine if any of the following changes are proposed.

(3) In general, any modifications that affect the building envelope or the perimeter of the proposed site shall be considered a substantial modification.

(4) Substantial modifications shall include:

- (a) Increase in building area;
- (b) Relocation or addition of parking;
- (c) Increase or relocation of stormwater facilities;
- (d) Addition or substantial relocation of an access point; and
- (e) Any change in either:
 - (i) the architectural design;
 - (ii) schematic landscape plan that decreases the height or quantity

of plants; or

(iii) any other conditions specifically approved or required by the Planning and Zoning Commission.

(B) *Minor Modifications.* A minor modification shall mean any modification other than a substantial modification above, and shall be reviewed in accordance with section 155.1503.

§ 155.1601 DEFINED TERMS.

PRELIMINARY ARCHITECTURAL PLAN. A plan submitted for review by the Planning and Zoning Commission comprised of elevations of the four sides of the building at a scale of 1/8"=1-0' minimum and a clear indication of openings and fenestration. Elevations should be augmented with dimensions and notes describing major Construction materials. Delineations by varying line weights

and/or shade and shadow to depict a flat three-dimensional image is encouraged, as is any other technique that helps to explain the Structure. The plan shall also include a basic footprint of the site showing placement of buildings and landscaping.