

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 155 SITE DEVELOPMENT CODE, 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 (D)(3)(D), 155.1305 SIGNS (O)(2)(J) BY REASSIGNING THE RESPONSIBILITIES OF THE ARCHITECTURAL REVIEW BOARD TO THE ADMINISTRATOR; AMENDING SUBSECTION 155.1306 PUBLIC ART BY REASSIGNING THE RESPONSIBILITIES OF THE ARCHITECTURAL REVIEW BOARD 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, AND 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; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council approved the Unified Development Code on September 8, 2009, which included provisions and authority of the Architectural Review Board; and

WHEREAS, the Planning and Zoning Commission has conducted a public hearing and recommended approval of this Ordinance; and,

WHEREAS, the City Council approves amending Subchapter B, 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; and

WHEREAS, the City Council approves amending Subchapter B, Subsection 155.1306 Public Art by reassigning the responsibilities of the Architectural Review Board (ARB) to the Planning and Zoning Commission; and

WHEREAS, the City Council approves amending Subchapter B, 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

WHEREAS, the City Council approves amending Subchapter B, Subsection 155.1601 Defined Terms, Preliminary Architectural Plan by changing the reference to the Architectural Review Board; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

I.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155 Subchapter 155.1202 Site Access and Circulation, Section E, Provision 3, which said provision shall read as follows:

Chapter 155.1202 Site Access and Circulation

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

II.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155 Subchapter 155.1206 Landscaping and Screening, Section (C)(1), Provision (f), which said provision shall read as follows:

Chapter 155.1206 Landscaping and Screening

- (C) General Landscaping Standards
 - (1) Required Minimum Plantings:
 - (f) Deviation from the types of trees and shrubs listed in Tables 6 and 6a shall require Administrator approval.

III.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155 Subchapter 155.1207 Site Lighting, Section (D)(3), Provision (d), which said provision shall read as follows:

Chapter 155.1207 Site Lighting

- (D) Illumination Standards
 - (3) The maximum illumination permitted at the edge of a Lot line set forth below. Where a Development is unified with shared parking, the maximum illumination levels shall apply only to the exterior Lot lines of the projects (an Interior Lot lines shall be exempt from this paragraph).
 - (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.

IV.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155 Subchapter 155.1305 Signs, Section (O)(2), Provision (j), which said provision shall read as follows:

Chapter 155.1305 Signs

(O) Awning/Canopy Signs

(2) Standards

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

V.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1306 Public Art, Section (B), Provisions (12) and (13), and Section (C), Provision (2); which said provisions shall read as follows:

Chapter 155.1306 Public Art

(B) Standards

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

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

(C) Safety and Liability

(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.

VI.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1501 Review Bodies; which said subchapter shall read as follows:

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.

VII.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1502 General Review Provisions, Sections (A)(B)(C) and (D); which said sections shall read as follows:

§ 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.

VIII.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1504 Major Permit Review; which said subchapter shall read as follows:

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.

IX.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1505 Criteria for Approval; which said subchapter shall read as follows:

§ 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.

X.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1507 Modifications to Approved Permits; which said subchapter shall read as follows:

§ 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.

XI.

THAT the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 155, Subchapter 155.1601 Defined Terms; which said definition shall read as follows:

§ 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.

XII.

Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

XIII.

Effective Date.

This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this ___ day of February 8, 2011.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Jeff Coleman, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

Floyd Akers, City Attorney