

City of Fayetteville Staff Review Form

2017-0102

Legistar File ID

3/7/2017

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jeremy Pate

2/17/2017

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

ADM 17-5707: Administrative Item (UDC Chapter 160.02/UDC Amendment Official Zoning Map): Submitted by CITY PLANNING STAFF for revisions to UDC Chapter 160.02 to adopt a digital format for the official zoning map and simplify existing codes.

Budget Impact:

| | |
|--|---|
| Account Number | Fund |
| Project Number | Project Title |
| Budgeted Item? <u>NA</u> | Current Budget \$ - |
| | Funds Obligated \$ - |
| | Current Balance \$ - |
| Does item have a cost? <u>No</u> | Item Cost |
| Budget Adjustment Attached? <u>NA</u> | Budget Adjustment |
| | Remaining Budget \$ - |

V20140710

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Approval Date: _____

Comments:

MEETING OF MARCH 7, 2017

TO: Fayetteville City Council

FROM: Andrew Garner, Planning Director

DATE: February 17, 2017

SUBJECT: **ADM 17-5707: Administrative Item (UDC Chapter 160.02/UDC Amendment Official Zoning Map):** Submitted by CITY PLANNING STAFF for revisions to UDC Chapter 160.02 to adopt a digital format for the official zoning map and simplify existing codes.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to amend UDC Chapter 160.02 to modify the format for the official zoning map and simplify existing codes.

Background: The current City of Fayetteville ordinance on official zoning maps, first adopted in 1965, requires a static, hardcopy official zoning map. The official zoning map is located in a large, metal box within the Development Services Department and is a hard copy print-out of each plat page of the city. Each map consists of an aerial photo overlaid with the zoning designation and is signed by the mayor. Each plat page covers approximately a half-mile grid so there are several hundred maps in the metal case. When a rezoning occurs, the plat page affected by the zoning amendment is re-printed and signed by the mayor. The City's GIS Department is responsible for modifying the zoning map, printing the plat page(s) associated with each zoning change, having the mayor sign the maps, and placing them in the metal case.

Proposal: Staff proposes the following code changes as outlined below and shown in the attached document in **highlight and strikeout**:

- 160.02 Official Zoning Map
 - Under (A)
 - Add the ability for an official zoning map to be digital or paper and be rapidly updated whenever City Council passes an ordinance amending the map. Changes must still be filed through the City Clerk.
 - (B) – (F)
 - Removed entirely

The proposed code change in paragraph (A) would eliminate a large amount of wasted time, money, and space required in updating, printing, and storing an official zoning map. By moving toward a mostly-digital system, zoning changes may be quickly updated and ready-to-go with the current GIS system in-place. No further time would be spent printing plat page maps and inserting them in the metal storage box, which saves paper and money.

Under the proposed changes, staff would print out a large zoning map of the entire city once or twice a year. These maps would be signed by the mayor and placed in the City Clerk's office and City Planning Division. These hard copy maps would be cross-referenced with subsequent rezoning ordinances and the digital map in the City Geographic Information System network available on the City's website. The removal of paragraphs (B) through (F) are to help clarify code as a result of the changes to (A). There are no issues anticipated by planning or GIS staff in removing those sections.

DISCUSSION:

This code change was discussed at the February 13, 2017 Planning Commission meeting where it was forwarded with a recommendation for approval by a vote of 8-0-0 (Commissioner Belden was absent).

BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed code changes shown in **highlight and strikeout**
- Planning Commission packet

Proposed Code Changes in **highlight and strikethrough**

160.02 Official Zoning Map

(A) *Map*. The city is hereby divided into zones, or districts, as shown on the official zoning map, which together with all explanatory matter whereon, is hereby adopted by reference and declared to be a part of this chapter. The official zoning map consists of a map and text. The City of Fayetteville shall maintain the map at a convenient location designated by the Mayor and filed with the City Clerk. Although copies of the map or portions thereof may be distributed to the public in paper or digital form, the official zoning map consists of a digital copy as shown on the official City of Fayetteville website, as kept in the City of Fayetteville Geographic Information System, and designated as such, and as amended by ordinance adopted by the City Council and signed by the Mayor.

~~(B) *Signature/Seal*. The official zoning map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the city under the following words:~~

~~"This is to certify that this is the Official Zoning Map referred to in Section 1. of Ordinance No. _____ of the City of Fayetteville," together with the date of the adoption of the ordinance.~~

~~(C) *Location*. The official zoning map shall be located in the office of City Planning. A conformed copy of the official zoning map shall be located in the office of the City Clerk.~~

~~(D) *Changes*.~~

~~(1) *Entry on Map*. If in accordance with the provisions of the state law, changes are made in the district boundaries or other matter portrayed on the official zoning map such changes shall be entered on the official zoning map as promptly as is possible after the amendment has been approved by the City Council, with an entry on the official zoning map as follows:~~

~~"Amended to _____ by Ordinance No. _____."~~

~~(2) *Effective Date*. Amendments to this ordinance which involve matters portrayed on the official zoning map shall be effective upon the passage, approval, and publication of the amended ordinance.~~

~~(3) *Changes/Unauthorized*. No changes of any nature shall be made in the official zoning map or matter shown except in conformity with the procedures set forth in this chapter.~~

~~(E) *Damaged/Destroyed*. In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such corrections shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the city under the following words:~~

~~"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. _____ of the City of Fayetteville."~~

~~(F) *Preservation.* Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.~~

TO: Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Harry Davis, Planner

MEETING DATE: February 13, 2017

SUBJECT: **ADM 17-5707: Administrative Item (UDC Chapter 160.02/UDC Amendment Official Zoning Map):** Submitted by CITY PLANNING STAFF for revisions to UDC Chapter 160.02 to modify the format for the official zoning map and simplify existing codes.

RECOMMENDATION:

Staff recommends that the Planning Commission forward **ADM 17-5707** to the City Council with a recommendation for approval.

ZONING MAP BACKGROUND:

The Planner's Dictionary provides several definitions of a "zoning map", which are as follows:

- *The map delineating the boundaries of zones which, along with the zoning text, comprises the zoning ordinance. (North Liberty, Iowa)*
- *The map or maps that are a part of this zoning code and that delineate the boundaries of all mapped zoning districts within the physical boundary of the city. (Newport, R.I.)*
- *A map that graphically shows all zoning district boundaries and classifications within the city, as contained within the zoning code, which is signed by the community development director and on file in the planning department. (Escondido, Calif.)"*
(Davidson, Michael and Dolnick, Fay. A Planners Dictionary. American Planning Association. 2004.)

Arkansas State Code (§ 14-56-416 - Zoning ordinance.) states:

- (2) The ordinance shall consist of both a map and a text.

Assistant City Attorney Blake Pennington in the attached memo explains that the Arkansas State Code is still rooted in pre-1960's ideas about zoning and does not address the possibility of a digital zoning map taking the place of paper maps.

FAYETTEVILLE ZONING MAP:

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BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed code changes shown in **highlight and ~~strikeout~~**
- Assistant City Attorney's memo



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE




Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Harry Davis, Planner**

CC: **Andrew Garner, Planning Director**
Kit Williams, City Attorney

FROM: **Blake Pennington, Assistant City Attorney** 

DATE: **January 17, 2017**

RE: **Digital Zoning Map**

As you're aware, Arkansas law requires a zoning ordinance to consist of both a map and a text. See Ark. Code Ann. § 14-56-416(a)(2). Nothing in that section restricts the map to a physical format, probably because the drafters of this pre-1960 statute never imagined anything else as a possibility. The Arkansas Supreme Court has held that "the purpose of the map requirement is to give notice of a zoning proposal so that, before adoption, residents may object or make suggestions, and after adoption, land purchasers and users may acquaint themselves with zoning restrictions." Brooks v. Benton, 308 Ark. 571, 576 (1992). Amending our ordinance to utilize a digital map, which can be updated immediately after any zoning changes, would clearly uphold this purpose.

We must also look at Ark. Code Ann. § 14-56-422, which sets forth the process for adoption of zoning ordinances. § 14-56-422(5) provides that "following adoption by the legislative body, the adopted [] ordinances [] shall be filed in the office of the city clerk."

In 1990, the Arkansas Supreme Court was considering a challenge to a zoning ordinance with a map that had been filed not in the city clerk's office but in the city planner's office, which was accessed through the city

clerk's office. The Court held that "compliance with [the map and text] provision of the statute is mandatory, and failure to comply with it will render a zoning ordinance void." However, the Court also relied the language of Brooks v. Benton above and held that the City of Camden had substantially complied with the statute because "the existence of a map is the essence of the enabling statute and of the zoning ordinance, while the place a map is filed is not." Osborne v. City of Camden, 301 Ark. 420, 423 (1990).

Our statutes have not kept up with technology so we are, in a way, breaking new ground in Arkansas. We should attempt to strictly comply with all of the statutory requirements since our move to a digital map is not explicitly authorized. I would suggest changing the draft you sent for review to reflect that a copy is also filed with the City Clerk's office. You will also need to ensure that the City Clerk's office has the ability to "file" an electronic version of the official zoning map with each zoning ordinance that is approved by the City Council and signed by the Mayor. It is my opinion that as long as a digital copy of the map is filed with the City Clerk, we will be in compliance with these statutes.