

City of Fayetteville Staff Review Form

2022-0729

Legistar File ID

9/6/2022

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

Britin Bostick

8/19/2022

LONG RANGE PLANNING (634)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approve ADM-2022-0039: Administrative Item (Amend UDC Chapter 157 - Notification and Public Hearings) Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 157.02 - Development. The proposed code change would amend public notification requirements to include administrative items considered by the Planning Commission and Planning Commission variance items.

Budget Impact:

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

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF SEPTEMBER 6, 2022

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Britin Bostick, Long Range Planning/Special Projects Manager
Sherry Marie Smith, Long Range & Preservation Planner

DATE: August 19, 2022

SUBJECT: ADM-2022-0039: Administrative Item (Amend UDC Chapter 157 - Notification and Public Hearings): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 157.02 - Development. The proposed code change would amend public notification requirements to include administrative items considered by the Planning Commission and Planning Commission variance items.

RECOMMENDATION:

City staff and the Planning Commission recommend approval of an amendment to the Unified Development Code amending § 157.02, Development in Chapter 157, Notification and Public Hearings, and amending § 157.02(B), Applicability, to include variances from development requirements and administrative items in the list of applicable development applications. The recommendation also includes amending § 157.02(C), Notice of Public Hearing, to specify that notice for a public hearing is for the applicable development applications listed in § 157.02(B) when related to specific properties.

BACKGROUND:

Chapter 157 of the Fayetteville Unified Development Code (UDC) outlines public notification requirements for projects with public hearings. Among these requirements, § 157.02(B) specifies notification requirements for preliminary plats, concurrent plats, and large scale developments. Administrative items and development variances reviewed by the Planning Commission are not listed in that set of development applications. While items with a public hearing do require notification, and both administrative items and development variances reviewed by the Planning Commission are required to have public hearings, the language in this section of the code is not explicit regarding those two development application types.

The City's Planning Commission has considered 23 administrative items thus far in 2022, not yet reaching the peak of 2018-2019 with 40 and 41 applications, respectively. Development variances considered by the Planning Commission have reached 46 thus far in 2022 and are on track to be the largest number of development variance applications considered since at least 2017.

Applications Reviewed by the Fayetteville Planning Commission, 2017-2022 (current)

| Application Type | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 (to date) |
|-------------------------|-------------|-------------|-------------|-------------|-------------|-----------------------|
| Administrative Item | 28 | 40 | 41 | 17 | 31 | 23 |
| Variance | 36 | 58 | 48 | 37 | 35 | 46 |

With this large number of applications, there is a need for clarity in the code regarding notification requirements for applications with a public hearing. This has a two-fold benefit. It provides clear expectations for applicants, and it also ensures that the public receives notice when variances or alternative standards are requested. By including administrative items and development variances in the notification requirements under § 157.02(B), both items will have clarity in the requirement for notice via signs and letters, 15 days prior to the Planning Commission meeting. The requirement and practice are already in place as policy, but this amendment would codify that requirement in the section of the UDC that addresses public notification for applications in the same category.

DISCUSSION:

The purpose of this amendment is to make the UDC requirements for public notification clearer to those who apply for development approval when seeking a variance or other development-related approval submitted as an administrative item. This clarification on notification also benefits the public by providing for two forms of notice to them, consistent with other development application types and with current policy. As development in Fayetteville continues at a rapid pace, the public, especially nearby property owners, may have questions, concerns or comments about applications. Public notification requires applicants to issue clear information about where to address those questions, concerns and comments. As a note, development variances differ from zoning variances, and are considered by separate bodies. Variances from development requirements listed in § 156.03(C) and § 156.07(A) are reviewed by the Planning Commission. Zoning variances are publicly notified prior to a Board of Adjustment hearing under a separate process described in § 157.07.

At their August 8, 2022 meeting, the Planning Commission evaluated the amendment described above before forwarding to the City Council, recommending approval. Commissioner Winston made the motion to forward with Commissioner Garlock providing the second. A vote of 8-0-0 followed. The Commissioners did not have questions or discussion on the item as it had been considered in the Long Range Planning Committee without objection. Public comment received prior to the Planning Commission meeting was that the agenda item caption was confusing, and the caption was updated to clarify that the notification requirements apply only to development variances and administrative items reviewed by the Planning Commission.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Proposed Ordinance – Exhibit “A”
- Proposed Ordinance Amendment in Strikeout/Highlight

EXHIBIT 'A'
ADM-2022-0039

157.02 Development

Notification of public hearings for development applications shall occur as follows:

- (A) **Public Hearing Required.** A public hearing shall be held at the meeting of the Subdivision Committee and/or Planning Commission, in accordance with the Unified Development Code the established bylaws of the Planning Commission.
- (B) **Applicability.** Development applications include, for the purpose of notification, preliminary plats, concurrent plats, large scale developments, variances from development requirements as listed in Sec. 156.03(C) and Sec. 156.07(A), and administrative items. If an application does not require a public hearing, notification is not required.
- (C) **Notice of Public Hearing.** For all development applications related to specific properties, the applicant shall provide the following notice:
 - (1) **Who Gets Notice.** Notice of the proposed action shall be given to all landowners and residents with separate addresses within 200 feet of the boundary line of the property on which the use is proposed. Residents with separate addresses shall be notified by first class letter addressed to the 'current resident' to each address found in the city's address point file.
 - (2) **Methods of Notice.** Notice shall be provided by the following methods, as required by this chapter:
 - (a) **Written Notice.** Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) **Posted Notice.** The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
- (D) **Large Scale Development applications** that are subject to administrative approval are exempt from the notification requirements of this code subsection, however, they are subject to and shall complete the public notification requirements for a Large Site Improvement Plan application.

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- (D) Large Scale Development applications that are subject to administrative approval are exempt from the notification requirements of this code subsection, however, they are subject to and shall complete the public notification requirements for a Large Site Improvement Plan application.

(Code 1965, App. C., Art. IV, §1; App. A., Arts. 5, 5(IIA), 8(12), 12(1); App. C., Art. V, §F; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 1903, 3-6-73; Ord. No. 2379, 9-20-77; Ord. No. 2538, 7-3-79; Ord. No. 2582, 12-4-79; Ord. No. 2603, 2-19-80; Ord. No. 2633, 5-20-80; Ord. No. 2710, 3-24-81; Ord. No. 2779, 11-17-81; Ord. No. 2980, 2-7-84; Ord. No. 3128, 10-1-85; Ord. No. 1747, 6-29-70; Code 1991, §§159.54, 159.68, 160.032, 160.035, 160.121(L), (M), 160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §§6, 7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5183, 10-7-08; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 6212, §2, 8-6-19)