



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
P.O. BOX 839966 | SAN ANTONIO TEXAS 78283-3966



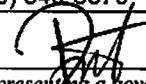
UDC Update Request Application

Part 1. Applicant Information

Name: Donald Oroian Organization (if applicable): _____

Address: 2515 Plumbrook Dr San Antonio, TX 78258

Phone: (210) 340-5670 Email: donald@adacg.com

Signature:  Date: 3-10-2015
(Include title if representing a governmental agency or public/private organization)

Part 2. Basis for Update (check only one)

- Clarification amendments to provide for ease of interpretation and understanding of the existing provisions of the UDC (Note: Clarification amendments should not change or alter the intent or meaning of existing UDC provisions)
- Editing change that does not alter the impact of the provisions being addressed including changes such as spelling, grammar correction, formatting, text selection, or addition of text in compliance with existing ordinance, statutes or case law
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Part 3. Reason(s) for Update (check all that apply)

- Modify procedures and standards for workability and administrative efficiency
- Eliminate unnecessary development costs
- Update the procedures and standards to reflect changes in the law or the state of the art in land use planning and urban design
- See Part 4 (if none of the provided choices in this section apply, please discuss the reasons for the proposed update in Part 4)

Part 4. Summary of Proposed Update with Suggested Text (see application instructions)

Create a new zoning district, C-1.5, which provides the similar use intensities as C-1 but with larger building size limits of 15,000 S.F. (45,000 S.F. aggregate). Currently, the C-1 allows 5,000 S.F. max building size (15,000 S.F. aggregate) with C-2 and C-3 having no limit on building size. For less intensive uses where the building exceeds 5,000 S.F. a C-2 zoning is typically pursued which can be seen as undesirable to surrounding property owners due to the allowed use intensity, this proposal allows for a middle ground commercial zoning and it reasoning is similar to the creation of the O-1.5 district years ago.

Proposal Summary (TEXT) -

The C-1 zoning district is typically used as a negotiation tool during zoning cases to provide a buffer between the desired zoning change (i.e. C-1 or C-2) and surrounding residential uses.

Members of the development community backed an attempted to change the definition of C-1 zoning from 5,000 S.F. max (15,000 S.F. aggregate) to 15,000 S.F. (45,000 S.F. aggregate). This attempted change which was blocked by both the PCTAC and the Planning Commission as this adjustment would have been against various negotiated agreements between homeowners and commercial developers during change of zoning applications. By making a new district in the middle of C-1 and C-2, all parties can be happy. Developers can now request a commercial district with a building > 5,000 S.F. whose uses are not be as intense as C-2 with surrounding property owners being able to attend and voice their opinion during a public meeting.

Formatted Proposal –

Sec. 35-310.10. "C-1," , "C-1.5," "C-2," "C-2P," and "C-3" Commercial Districts

(1) Lot and Building Specifications

(a) "C-1" and "C-1.5" Commercial

STATEMENT OF PURPOSE

"C-1" and "C-1.5" districts accommodate neighborhood commercial uses which depend on a greater volume of vehicular traffic than an "NC" district. "C-1" and "C-1.5" uses are considered appropriate buffers between residential uses and "C-2" and "C-3" districts and uses.

PROPOSAL SUMMARY (TABLE) —

The C-1 zoning district is typically used as a negotiation tool during zoning cases to provide a buffer between the desired change and surrounding residential uses. Most commercial zoning is either C2 or C3 which has an unlimited square footage restriction.

In 2013, members of the development community attempted to change the definition of C-1 zoning from 5,000 S.F. max (15,000 S.F. aggregate) to 15,000/45,000. This attempted change which was blocked by both the PCTAC and the Planning Commission would have been against the negotiated agreements done for over a decade with homeowners during certain change of zoning applications. By making a new district in the middle of C1 and C2, all parties can be happy. Developers can now request a commercial district with a building > 5,000 S.F. yet not be as intense as C2. Residents can have the benefit of public hearings before having abutting property use changed.

FORMATTED PROPOSAL —

Table 310-1 Lot and Building Dimensions Table													
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)
	LOT DIMENSIONS						BUILDING ON LOT				BUILDING		
Zoning District	Lot Size (min)	Lot Size (max)	Density (max) (units/acre)	Street Frontage (min)	Width (min)	Width (max)	Front Setback (min) * * * *	Front Setback (max)	Side Setback (min)	Side Setback (max)	Height (max) (feet/#of stories)	Size - Individual Building Size (max)	Size - Aggregate Building Size (max)
C-1	—		—	50	50	—	—	20	10	30 ²	25	5,000	15,000
C-1.5	—		—	50	50	—	—	20	10	30 ²	25	20,000	60,000
C-2	—		—	20	—	—	—		10 ²	30 ²	25	—	—
C-2P			—	20	—	—	—	35	10 ²	30 ²	25	—	—
C-3	—		—	20	—	—	—		30 ²	30 ²	35	—	—

* * * *

Table 310.10-1

(A) District	(B) Maximum Building Size (sf) (Individual)	(C) Maximum Building Size (sf) (Aggregate)	(D) Design Standards
C-1	5,000	15,000	RP, F
C-1.5	20,000	60,000	RP, F
C-2	N/A	N/A	N
C-2P	N/A	N/A	RP, F
C-3	N/A	N/A	N



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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)
<u>See attached.</u>

PROPOSAL SUMMARY (TEXT) –

The UDC allows the Planning Commission to hear plat applications with or without variances. When an applicant attempts to submit a plat without a variance to the planning commission due to a UDC interpretation disagreement, staff requires the applicant to submit a variance application and pay the variance fee for the issue to be heard by the Planning Commission. This practice contrasts the UDC.

UDC 35-432(c) grants approval authority for minor plats to the Director of Development Services with approval authority for major plats or plans with variances to the planning commission. Because this section of the UDC allows for an applicant to either revise a non-conforming aspect, request a variance, or file without variance to the planning commission, the proposed amendment would clarify what it means to submit a plat to the planning commission without variance. If an applicant wants to plead an interpretive disagreement with staff to the planning commission as allowed by the UDC, it should be treated as such and not as a variance and certainly not incorporate a variance fee. The standard public hearing fee already being paid covers the hearing.

Furthermore, this amendment is in line with Texas Local Government Code Section 212.0065(c) which requires the designated person (i.e. Development Services Director) who may refuse to approve a plat to the municipal authority responsible for approving plats (i.e. planning commission). To summarize, City council delegates plat approval authority to the Director of Development Services for a minor plat who may only disapprove a plat if there is a non-conformance to an adopted regulation by City Council. If the issue at bay is purely interpretive and not undeniably non-conforming and Development Services refuses to approve, they are obligated to forward to the planning commission for approval which is most likely the reason why the current UDC allows for an applicant to forward, without variance, to the planning commission.

This amendment will promote Development Services staff to react to interpretive conflicts to the UDC as they arise using either Rule Interpretation Decisions (RID) or Information Bulletins (IB) so the public can be treated the same.

FORMATTED PROPOSAL –

Sec. 35-431. Application for Plat Identification Number/Letters of Certification.

* * * *

- (c) **Completeness Review.** Upon receipt of a request for letters of certification, the director of planning and development services shall classify the request as a tentative major subdivision or a tentative minor subdivision. However, a plat that the director of planning and development services finds is for the sole purpose of amending one (1) or more building setback lines shall be submitted to the planning commission for consideration without review by any other agency. Such plat shall be referred to as a building setback line plat (BSL) and shall comply with all provisions of Chapter 212 of the Texas Local Government Code. It is noted that while the city has created an expedited review process and waived the public hearing notification fee, the proposed BSL plat will have to comply with the public hearing provisions noted in article IV.

The appellate agency for purposes of completeness review (see subsection 35-402(c) of this chapter) shall be the planning commission. When a certifying department determines that the proposed plat or any of the required accompanying data does not conform with the requirements

of this chapter, the certifying department shall so notify the applicant and director of planning and development services. If the certifying department issues a letter of certification recommending disapproval of the proposed plat, the letter shall indicate the section and specific requirement of the regulations and the manner in which the request does not comply. The applicant may then revise the nonconforming aspects or may file the proposed request with the planning commission pursuant to section 35-432 of this chapter, with or without a request for a variance (section 35-483 of this article) provided, however, that if no variance request is submitted and approved and the application does not conform to this chapter, the application shall be denied. Requests submitted without variance shall not require additional application forms beyond a request letter from the applicant nor shall they incur additional fees to be heard before the planning commission.

(1) Tentative Minor Subdivisions. Respective reviewing departments and agencies shall report to the director of planning and development services whether the request for letters of certification is complete within five (5) days after submittal of the request.

(2) Tentative Major Subdivisions. Respective reviewing departments and agencies shall report to the director of planning and development services whether the request for letters of certification is complete within ten (10) days after submittal of the request.



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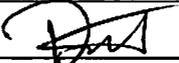
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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)

PROPOSAL SUMMARY (TEXT) –

Texas Local Government Code, Section 212.006 grants plat approval authority to the municipal planning commission. If a regulation used to review plats is not specific enough where an applicant or city reviewer must make a judgment call, those interpretations should be determined by the planning commission, the municipal authority responsible for approving plats.

Adopting this into the UDC is in line with powers granted to the planning commission under City Charter Section 118, Part 2, Subsection (1) and allows the applicant, staff, and other concerned parties the ability to speak and inform on interpretive decisions that may affect all citizens.

FORMATTED PROPOSAL –

Sec. 35-431. Application for Plat Identification Number/Letters of Certification.

* * * *

(d) **Decision.**

* * * *

(1) **LOC Technical Minor Subdivisions Plat Review.** After respective certifying departments and agencies have determined whether the request for letters of certification and required technical data is complete each certifying department shall issue a letter of certification within ten (10) working days. The applicant may at his/her option revise any nonconforming aspects. However, if any data are revised and resubmitted, the certifying department shall have an additional ten (10) days from the latest date of submission to issue or deny a revised letter of certification.

(2) **LOC Technical Major Subdivisions Plat Review.** After respective certifying departments and agencies have determined whether the request for letters of certification and required technical data is complete each certifying department shall issue a letter of certification within fifty (50) days. When a certifying department or agency determines that the proposed plat or any of the required accompanying data does not conform with the requirements of this chapter, the applicant may at his/her option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department/agency shall have up to fifty (50) days from the latest date of submission minus the number of days used for the initial review to issue or deny a letter of certification. In no case shall the certifying department have fewer than ten (10) days to review a resubmittal.

(3) **Failure to Submit Letter of Certification.** If a letter of certification is not issued or denied within the time periods prescribed in subsections (1) or (2), above, the same shall be deemed issued and the applicant may submit an application for subdivision plat approval pursuant to section 35-432, below, without submitting the letter of certification.

(4) **Appeal of respective certifying departments and agencies.** The applicant may appeal a LOC reflecting denial from any respective certifying departments and/or agencies to the planning commission at any time separate from the plat completeness application in a manner consistent to section 35-483 (as applicable) of this article if the applicant contends said denial is purely interpretive as opposed to specific non-compliance with a technical specification of the UDC or if the denial is based on a Rule Interpretation Determination or Information Bulletin not ratified by a public hearing. If successful, fees associated with said appeal shall be waived.



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PROPOSAL SUMMARY (TEXT) –

The section of the UDC is carried over verbatim from Texas Local Government Code Section 212.016 regarding amending plats statewide. This provision is never allowed to be used here in San Antonio because the City has no definition for "residential improvement area". Currently, the planning commission, after a public hearing, hears and approves planned unit developments (PUD's) and master development plans (MDP's) which denote areas designated for residential improvement. In addition, during public hearings our City Council decides on zoning changes to base and/or overlay districts for residential development (i.e. improvement) areas, such as the R-3, R-5, or NP districts.

Past argument against allows land owners to use 35-441(a)(10) to amend a plat is that since a church or school is allowed in any zoning district, our city does not have a zoning district that truly classifies any to be for (solely) residential improvement. A State law that grants a land owner the ability to amend their plat cannot be superseded by a blanket municipal regulation to remove it its entirety the right of said land owner. The UDC must be clarified as to what constitutes meeting the burden of 35-441(a)(10)(C) to respect land owner rights granted by the Texas Local Government Code.

FORMATTED PROPOSAL –

Sec. 35-441. Amending Plats.

* * * *

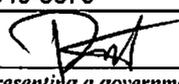
(a) **Applicability.** Pursuant to V.T.C.A. Local Government Code § 212.016, a plat may be amended, and the director may issue an amending plat, if the amending plat is signed by the applicants only and is solely for one (1) or more of the following purposes

* * * *

- (10) To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
- (A) The changes do not affect applicable zoning and other regulations of the city;
 - (B) The changes do not attempt to amend or remove any covenants or restrictions; and
 - (C) The area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area. [An example of this criteria would be a Community Land Use Plan, Planned Unit Development \(PUD\) or Master Development Plan \(MDP\) stipulating only non-multi-family type residential use for the subject area \(i.e. single family or duplex homes\).](#)



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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)

PROPOSAL SUMMARY (TEXT) –

Currently, amending plats can consist of a myriad of amendments but the City of San Antonio established UDC 35-441 amending plats to create fire lanes in response to the requirements that off-site utilized fire lanes must be platted. The only way to currently modify a platted fire access easement is to use UDC 35-441(a)(11) which is an all encompassing section allowing an applicant to use the amending plat to "replat" or potentially alter in a promenade way, the plat. Since fire access easements exists solely to allow for adequate fire protection and safety for the community at large, using this section to not only create, but to modify, is appropriate. This will allow these sort of adjustment without categorizing the plat as more that it really is and allow for a more limited and quicker review without including reviewing agencies who are not warranted.

FORMATTED PROPOSAL –

Sec. 35-441. Amending Plats.

* * * *

(a) **Applicability.**

* * * *

- (13) To establish, remove, or otherwise alter fire lanes.



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PROPOSAL SUMMARY (TEXT) –

The purpose of limited circulation is to allow minor amendments without undergoing unnecessary submittals and reviews by uninvolved agencies. UDC 35-441 allows for 15 different “purposes” for an amending plat. Limited review is typically granted to amending plats purposes outside of UDC 35-441(a)(10) or (11).

Limited review therefore is typically granted to those plats whose purpose is very minor and would not affect a utility company which makes sense as to why UDC 35-441(b) restricts limited review when an amending plat adds, relocates or alters easements. In the 2001 version of this section of the UDC, the restriction regarding easements and ability for limited review was not present. Nor was this the case in the 2005 or 2006 version. It wasn't until recently, when amending plat purposes 35-441(a)(14)-15 were created, the language regarding limited review and easements appear. The issue with this is that without stipulating easements to mean utility easements, in theory altering a fire lane easement or ingress/egress easement, take away the ability for limited review, which was never the intent.

By changing the language to what is proposed below, the allowance for limited review becomes consistent with the long term intent and makes sure affected agencies outside of the city are included in review of amending plats when warranted.

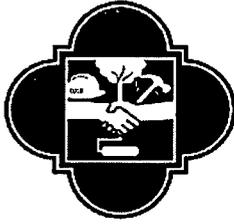
In addition, the current language does not include the word “alter” in the request. This was a point of conflict between an applicant and the City. For example, if a plat has a 12 ft easement and an amending plat increases the easement to 14 ft of width, is that an addition or relocation of the easement? The addition of the word “alter” covers all the bases and provides clarity to the language.

FORMATTED PROPOSAL –

Sec. 35-441. Amending Plats.

* * * *

(b) **Initiation.** A subdivider wishing to amend an approved plat shall file with the department of planning and development services the amending plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed. The director of planning and development services will determine the extent to which the amending plat will require review by the various departments and agencies of the city. It is noted, however, if the request is to add, alter, relocate or delete an easement or restriction, with the exception of a no build or conservation easement, fire lane easement, or other non-utility easements; then ~~limited circulation shall not apply~~ the plat shall also be routed to those non-city agencies associated with the easement or restriction being amended. If the plat being amended has been recorded, the additional recordation fee shall be deposited with the city at the time of plat filing.



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PROPOSAL SUMMARY (TEXT) –

This provision appears to incorrectly require a vote by the board of adjustment as opposed to the planning commission.

FORMATTED PROPOSAL –

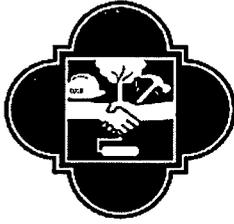
Sec. 35-483. Subdivision Variances.

* * * *

(f) **Subsequent Applications.** The following time limitations shall be imposed so that no application for a variance shall be received or filed with the planning commission.

- If within the previous twelve (12) months an application for a variance or exception was received, considered and denied on the same lot, lots or blocks of land.
- If within the previous six-month period an application for a variance or exception was withdrawn from consideration by the applicant or his representative before the planning commission.

The aforementioned time limitations may be waived if new substantial evidence is presented to the [Planning Commission](#) ~~board of adjustment~~ and only after receiving five (5) affirmative votes shall the time limitation be waived. If granted, a new application shall be filed in the office of the director of planning and development services following the procedures outlined in [section 35-403](#), notice provisions.



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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)

PROPOSAL SUMMARY (TEXT) –

Development Plat Variances

References to Planning Commission should be replaced with Director of Development Services, adding the planning commission as the appellate agency.

These two sections appear to be carried down from 35-483 regarding subdivision variances however 35-484 which deals with Development Plat variances grant variance authority to the Director of Development Services and therefore these two subsections 35-484(f) and (g) should be written in this context.

FORMATTED PROPOSAL –

Sec. 35-484. Development Plat Variances.

* * * *

(f) **Subsequent Applications.** The following time limitations shall be imposed so that no application for a variance shall be received or filed with the [Director planning commission](#).

- If within the previous twelve (12) months an application for a variance or exception was received, considered and denied on the same lot, lots or blocks of land.
- If within the previous six-month period an application for a variance or exception was withdrawn from consideration by the applicant or his representative [to the Director, or in the case of appeal](#), before the planning commission.

The aforementioned time limitations may be waived if new substantial evidence is presented to the planning commission and only after receiving [five \(5\) nine \(9\)](#) affirmative votes shall the time limitation be waived. If granted, a new application shall be filed in the office of the director of planning and development services following the procedures outlined in [section 35-403](#), notice provisions.

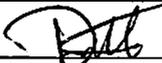
(g) **Scope of Approval.** Where a variance is granted by the [Director, or in the case of appeal](#) [the](#) planning commission and no building permit is granted within six (6) months after the date [granted of the hearing thereon](#), the variance becomes null and void and of no force or effect. The planning commission may extend this time period for successive six-month periods, for a total time period not exceeding two (2) years, if the applicant files a request for an extension prior to the expiration thereof.



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
P.O. BOX 839966 | SAN ANTONIO TEXAS 78283-3966



UDC Update Request Application

Part 1. Applicant Information	
Name: <u>Donald Oroian</u>	Organization (if applicable): _____
Address: <u>2515 Plumbrook Dr</u> <u>San Antonio, TX 78258</u>	
Phone: <u>(210) 340-5670</u>	Email: <u>donald@adacg.com</u>
Signature: <u></u>	Date: <u>3-10-2015</u>
<small>(Include title if representing a governmental agency or public/private organization)</small>	

Part 2. Basis for Update (check only one)	
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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)	

PROPOSAL SUMMARY (TEXT) –

Switch out “NPDES” with “TPDES”

FORMATTED PROPOSAL –

Sec. 35-504. Stormwater Management.

* * * *

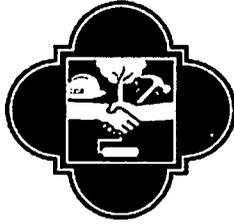
(e) Site Design and Grading.

* * * *

(1) All land disturbing or land filling activities or soil storage shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation, and to safeguard life, limb, property and the public welfare in accordance with the NPDES construction site regulation ordinance, Ordinance No. 94002, as amended, and the document entitled "Complying with the Edwards Aquifer Rules; Technical Guidance on Best Management Practices, " by Michael E. Barrett, Ph.D., P.E. Center for Research in Water Resources, Bureau of Engineering Research, University of Texas at Austin, (RG-348, June 1999), which documents are hereby incorporated by this reference.

(2) Erosion and sedimentation controls in accordance with the specifications established by the director of public works in compliance with the ~~National~~ [Texas](#) Pollution Discharge Elimination System ([TPDES](#)) (~~NPDES~~) permitting requirements for the city are required.

(3) Projects shall not be considered complete until restoration has been made in accordance with [TPDES](#) ~~NPDES~~ requirements.



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PROPOSAL SUMMARY (TEXT) –

This plat note was revised and provided in Development Services Information Bulletin #526 regarding Standard Plat Note Layout. This plat note however did not stem from a broad notation requirement of the UDC but is in fact provided in the UDC as a specific note to be required under certain circumstances and therefore should be changed to reflect the intended text per IB 526.

FORMATTED PROPOSAL –

Sec. 35-504. Stormwater Management.

* * * *

(f) **Stormwater Detention and Other Stormwater Management Facilities.**

* * * *

(4) **Easement Requirments.**

* * * *

(B) Full detention basin design may be deferred until the building permit stage IF the property owner submits a "request for detention deferral" demonstrating an understanding of the implications of such design deferral AND the following notes are placed on the subdivision plat AND supporting documentation is provided.

~~1. "Stormwater detention is required for this property. The engineer of record for this subdivision plat has estimated that an area of approximately _____ acres and a volume of approximately _____ acre feet will be required for this use. This is an estimate only and detailed analysis may reveal different requirements."~~

~~2. "No building permit shall be issued for this platted property until a stormwater detention system design has been approved by the City of San Antonio or Bexar County for commercial properties within the ETJ."~~

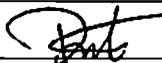
Storm water detention is required for this property. Building permits for this property shall be issued only in conjunction with necessary storm water detention approved by the City of San Antonio. The property may be eligible to post a fee in lieu of detention (FILO) if offsite drainage conditions allow but only when approved by the City of San Antonio. Maintenance of on-site storm water detention shall be the sole responsibility of the lot owners and/or property owners association and their successors or assignees.



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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)	
<u>See attached.</u>	

PROPOSAL SUMMARY (TEXT) –

Submitting the location of sidewalks and curbs within a 2,000 ft radius is ridiculous, especially for a small commercial project where the scope and inter-connectivity of the plan in question (large neighborhood versus one commercial lot) is not the same.

FORMATTED PROPOSAL –

Sec. 35-506. Transportation and Street Design.

* * * *

(a) **Applicability.**

* * * *

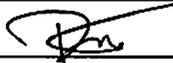
(3) **Variance.** A variance to the requirements of this section may be granted by the planning commission if the commission finds that there are special circumstances or conditions, unique to the land involved, such that strict application of these requirements would be unreasonable and the granting of the variance would not be detrimental to the public health, safety, or welfare. No variance shall be granted that reduces the number of traffic lanes or waives the construction of any traffic lane required by the major thoroughfare plan. Application for a variance shall be submitted in writing to the development services director accompanied by the variance fee specified in Appendix "C" to this chapter and an eight and one-half by eleven ($8\frac{1}{2} \times 11$) inch site plan indicating the location of the variance request and the location of existing sidewalks and curbs within a ~~one~~ two thousand-foot radius.



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PROPOSAL SUMMARY (TEXT) –

Aside from amending plats processed under purpose 35-441(a)(10) to (11), amending plats are minor in nature and do not constitute a major revision. Amending plats processed under 35-441(a)(1) through (6) are currently included. What is requested to be added are amending plats submitted under:

UDC 35-441(a)(7) – correct errors in courses and distances. Since the purpose of such an amending plat is to correct an error, it should be included.

UDC 35-441(a)(8) – relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement. Since a building or other improvement has to exist to submit an amending plat under this section, there is no change to the intent of the project (it's already built). The purpose is to make the plat match what was built under the original project.

UDC 35-441(a)(9) – relocate one or more lot lines between one or more adjacent lots. Since there is not increase to the number of lots, and what is proposed has to meet lot size requirements, the intent of the development (i.e. plat) is not changed. The overall geographic land use of the project (i.e. outline boundary of plat being amended) remains the same.

UDC 35-441(a)(12) / (13) / (15) – amending a plat to incorporate no build easements, fire lanes, and conservation areas do not result in a larger impact of development. In fact, these sort of amending plats reduce potential usability of the project.

UDC 35-441(a)(14) – amending an unrecorded plat (i.e. a redline amending plat) is done within 3 years of plat approval since once a plat is approved, they are given a 3 year window for recordation (i.e. construction of improvements, payment of fees, etc.). Upon application, this 3 year window may be extended to a maximum of 6 years either administratively or through the planning commission. Allowing such amending plats to keep a single-phase project as “minor” would be consistent with Texas Local Government Code Section 245.005 regarding dormant projects and its 5 year minimum time limit without progress towards completion. Since the five years is considered a minimum and to achieve an unrecorded plat to extend past the three year window requires an application, review and approval by the City, which itself would be considered progress towards completion, allowing these amending plats results in adherence to the Texas Local Government Code.

UDC 35-441(a)(11) – which allows for the replat of a previous plat with limitations should only be included if the purpose of the amendment reduces the number of lots, which results in the potential reduction of imperious cover and number of buildings allowed, or adjust easements to match availability of the surrounding infrastructure.

FORMATTED PROPOSAL –

Sec. 35-715. Modification to Project or Permit.

* * * *

(b) **Amendment to a Single-Phase Project.** Amendments to a previously approved plan shall be classified as a minor or major revision. Minor amendments may be administratively accepted and will not lose the original vesting date. Minor amendments include the following:

- (1) Changes to the timing or phasing of the proposed project provided the use and overall geographic land area remains the same.
- (2) Minor adjustments of building footprint within the boundaries of the site plan provided the use and overall geographic land use remains the same.
- (3) A reduction in the square footage for the proposed building footprint or number of buildings provided the use and overall geographic land use remains the same.
- (4) A decrease in the overall proposed impervious cover.
- (5) Project name change affecting a master development plan or subdivision plan.
- (6) To correct a scrivener error as described in subsections 35-441(a)(1) through 35-441(a)(6).
- (7) Changes required by a regulatory agency in the location of easements.
- (8) Changes required by a regulatory agency in the location of stormwater detention facilities.
- (9) Changes required by a regulatory agency in the location of ingress and egress points.
- (10) Changes required by a regulatory agency in the location of drainage areas.
- (11) Changes required by the discovery of previously undiscovered archeological resources/sites or environmental features excluding those sites visible when the project commenced.
- (12) Changes made to increase the preservation ratio of trees for those projects subject to either the 1997 or 2003 tree preservation provisions of this chapter.
- (13) Amendments to a plat described in subsections 35-441(a)(7) - 35-441(a)(9) and subsections 35-441(a)(12) - 35-441(a)(15) that are approved without variances.
- (14) Amendments to a plat described in subsection 35-441(a)(11) which reduce the number of lots and/or add, delete, or relocate utility easements.

All other revisions shall be classified as major amendments and shall be processed as a new project submittal.



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Part 4. Summary of Proposed Update with Suggested Text (see application instructions)

PROPOSAL SUMMARY (TEXT) –

The practice of surveying includes locating real property boundaries. If a plat has been signed & sealed by a surveyor licensed to practice in the State of Texas and recorded in the county records, that plat is a record instrument. Certain amending plats and replats that do not alter the boundary, its monumentation, or create/alter easements that do not parallel boundary lines are not considered the practice of professional surveying. Examples of plats which do not include the practice of surveying:

- *Adding or adjusting the width of easements or setback lines which parallel a platted boundary line*
- *Removing easements and setback lines*
- *Correcting street names and lot numbers*

Allowing Engineers to prepare certain plats is in line with:

Texas Occupations Code, Chapter 1001. Engineer

Subchapter I. Practice of Engineering

Section 1001.401(e) – A license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

Furthermore, the General Rules of Procedures and Practices (revised February 2014) issued by the Texas Board of Professional Land Surveyors, Section 661.33 provides a section regarding easement depiction which exempts easements from adhering to rules promulgated by the Board that are blanket easements, that can be clearly defined and located without a metes & bounds description, or where the easement adjoins a platted boundary line.

If an amending plat or replat does not alter the established boundary and simply reflects the platted boundary, easements, and monumentation exactly from the previous recorded plat and references the RPLS who certified said previous plat then the amending plat or replat is not considered the practice of surveying. For the City of San Antonio to restrict an engineer from performing those certain amending plat or replats would be a violation of Texas Occupations Code Section 1001.401(e).

Furthermore, the number of active licensed professional surveyors has been on the decline since the mid-1980's. In early 1980 there were ~ 4,000 active Texas Surveyors while today there are around ~2,700. By allowing Texas engineers to prepare certain plats it would be beneficial to land owners by opening up the allowable pool of firms that can be hired to perform amending plats (more choice = more competition = lowers cost).

FORMATTED PROPOSAL –

Sec. 35-B121(f) Certification and Forms.

(1) Form A: Surveyor's Certificate. A surveyor's certificate ~~is all follows:~~ [is required in all cases except when the plat application does not constitute the practice of surveying as defined by the Texas Board of Professional Land Surveying.](#)



TEXAS BOARD OF PROFESSIONAL ENGINEERS

1917 IH-35 SOUTH AUSTIN, TEXAS 78741 • (512) 440-7723

FAX NUMBERS: LICENSING (512) 442-1414 • COMPLIANCE (512) 440-5715 • ADMINISTRATIVE (512) 440-0417 • IT/FINANCE (512) 440-2934

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SUGAR LAND

DALE BEEBE FARROW, P.E.
EXECUTIVE DIRECTOR

Release: July 7, 2009

From: Dale Beebe Farrow, P.E., Executive Director

HB 2649: Additional Certifications for Professional Engineers

During the 2009 Session, the 81st Texas Legislature passed House Bill 2649, which is in effect as of June 19, 2009. Section 3 of this bill amended the Texas Engineering Practice Act, Section 1001.401, as follows:

(e) A license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

This new section affects the requirements for engineering work set by any public or private entity, including but not limited to cities, counties, school districts, state agencies, private businesses, or any other groups or individuals that require seals on engineering work. These entities can not require a professional engineer licensed in Texas to obtain or possess any certifications in addition to their professional engineer license in order to perform or offer to perform engineering services.

Any current or future rule, regulation, code, or other requirement should be reviewed and modified if necessary to comply with the new statutory requirement.

The Texas Engineering Practice Act (TEPA) and Board Rules require that a license holder only practice engineering in areas in which they can demonstrate competency. If any licensed Texas professional engineer practices in an incompetent manner, practices outside of their area of competency, does not meet/follow applicable codes or regulations, or in some other manner violates the TEPA or Board Rules, the Texas Board of Professional Engineers should be notified.

Contact Information:

Lance Kinney, P.E., Deputy Executive Director

lance.kinney@tbpe.state.tx.us

General Rules of Procedures and Practices

Revised February, 2014

The Board

§661.1. Name.

The name of the Board shall be Texas Board of Professional Land Surveying. For the purpose of brevity in succeeding rules this organization shall be subsequently referred to as the Board.

§661.2. Headquarters.

The headquarters of the Board shall be in Austin.

§661.3. Chair.

The chair shall, when present, preside at all meetings, except as otherwise provided herein. The chair shall appoint such committees as the Board may authorize from time to time. The chair shall sign all certificates.

§661.4. Vice Chair.

The vice chair may in the absence or incapacity of the chair exercise the duties and may possess all the powers of the chair, as permitted by law.

§661.5. Executive Director.

The Executive Director shall conduct and care for all correspondence in the name of the Board. The Executive Director shall maintain all records prescribed by law. The Executive Director shall keep a record of all meetings and maintain a proper account of all business of the Board. The Executive Director shall be the custodian of the official seal and affix the seal to all certificates and other official documents upon the orders of the Board. The Executive Director shall check and certify all bills and check all vouchers (claims) and shall approve same, if appropriate, and shall perform such other duties as directed by the Board. The Board shall furnish the Executive Director the necessary equipment, supplies, and assistance, paying for these items directly on vouchers (claims) handled as prescribed herein and by law.

§661.7. Executive Committee.

The executive committee may consist of three members of the Board. Its duties shall be to transact all business instructed by the Board, during the intervals between Board meetings, and to report thereon to the Board at its meetings. It shall also recommend to the Board such actions in respect to policies and procedures as it may consider desirable.

§661.8. Standing Committees.

(12) Seal--An embossed or stamped design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice land surveying services to the public in the State of Texas and has legal consequence when applied.

§661.33. Easement Depiction.

(a) An easement depiction prepared by any person registered or licensed under the Act shall adhere to all rules promulgated by the Board except where:

(1) the easement area can be clearly ascertained without reference to a metes and bounds description of the easement; and

(2) the easement does not bisect or protrude into the tract (leaving non-easement areas on opposite sides of the easement strip).

(b) An easement's legal description or plat depiction meets the requirements of the exception to this rule when the easement:

(1) is a blanket easement; or

(2) the easement:

(A) is within a tract of land or lot depicted in a recorded subdivision plat;

(B) can be clearly defined and located without a metes and bounds description; and

(C) is adjoining to a platted boundary line.

(c) A "construction estimate", as used in §1071.004 of the Act, means a depiction of a possible easement route for planning purposes.

Applications, Examinations, and Licensing

§661.41. Applications.

(a) An applicant qualified by law who wishes to take an examination for certification or for registration to practice professional land surveying and/or state land surveying in Texas shall be furnished duplicate application forms, one to be returned to the office of the Board, the other to