

**LAND USE AND ZONING COMMITTEE AMENDMENT**

The Land Use and Zoning Committee offers the following first amendment to File No. 2019-879:

- (1) On **page 13**, **strike lines 8 through 23**, and **insert** the following:

“1. There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Zoning Overlay will have a material negative impact on the viability of the business, or unreasonably restrict the utilization of the property, both existing as of July 1, 2019;

2. There are unique site characteristics such as parcel shape, location, existing utility easements, etc. that prevent development consistent with the Zoning Overlay Regulations;

3. Granting the deviation would not substantially conflict with the intent of this Zoning Overlay;

4. The proposed deviation will not diminish property values in the area surrounding the site and will not interfere with or injure the rights of adjacent properties, but would accomplish an additional public benefit;

5. The unique circumstances on the property, existing as of July 1, 2019, were not created by the owner of the property, and the need for the deviation is not based on a change of use or intensification of use.

6. The requested relief is the minimum adjustment necessary.

7. Granting the deviation will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Overlay.”; and

(2) On **page 14, strike lines 7 through 28, and insert** the following”

“3. Standard of Review. The Council's review of the appeal shall be a *de novo* review, without giving deference or weight to the decision of Zoning Administrator. The Council shall have the benefit of the record below and may include the same in its review as well as applicable law and additional testimony and evidence. The record shall include all evidence and testimony presented to the Zoning Administrator. The Council may affirm, reverse or modify each written decision or it may remand the matter back to the Zoning Administrator with specific instructions for further action, by adopting a written order.

4. Procedural Matters. The Council shall have the authority to:

- a. Accept briefs and other papers to be filed on behalf of any party, provided all papers are submitted at or prior to the Land Use and Zoning public hearing;
- b. Hear oral argument on behalf of any party;
- c. Adjourn, continue, or grant extensions of time for compliance with these rules,

- whether or not requested by a party,  
provided no requirement of law is violated;
- d. Dispose of procedural requests or similar matters including motions to amend and motions to consolidate;
  - e. Keep a record of all persons requesting notice of the decision in each case;
  - f. Grant withdrawal requests by the appellant;  
and
  - g. Enter into settlement agreements regarding the matter appealed, so long as there is no financial impact to the City.
  - h. Individually view the property which is the subject of the appeal.
  - i. Adopt appellate procedures similar to the procedures outlined in sections 656.141 and 656.142, Ordinance Code.

\* \* \*"; and

- (3) On **page 1, line 1**, amend the introductory sentence to add that the bill was amended as reflected herein.

Form Approved:

/s/ Susan C. Grandin

Office of General Counsel

Legislation Prepared By: Susan C. Grandin

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