

To: City of St. Louis Planning Commission
From: Don Roe, Executive Director
Subject: Submittal of Resolution for Recommendation of Zoning Text Change to Zoning Process and Planning Commission standing (Zoning Text Amendment) –All City Blocks
Date: August 27, 2021

Summary

Submittal: Proposed amendment of Zoning Code by initiation for Planning Commission review and recommendation.

Proposal: In an effort to bring the planning practices and procedures of the City of St. Louis, to national best practice Staff is proposing the following changes to the City's code:

- Chapter 26 zoning code
 1. public hearings for zoning items that meet Missouri state statute requirements, to take place at the Planning Commission; legislative public hearings would remain in place
 2. Board of Adjustment to consider conformance to the City's Comprehensive Plan in decision making processes

While not the purview of the Planning Commission, the following legislation is being considered for introduction as a companion bill with the aforementioned legislation:

- Chapter 3 – Administration
 - A recommendation of the Planning Commission only be overturned by a two-thirds majority of the members of the board of aldermen, rather than a simple majority

The proposed legislation is therefore a result of learning from other communities', while ensuring our locally adopted regulations remain within the confines of the Missouri state legislation.

1.0 Background

In order to ensure that the City of St. Louis enacts requirements which are both within the parameters set by the State of Missouri, as well as protecting the health, safety and welfare of the citizens of the City of St. Louis which is the purpose of the zoning code, PDA Staff, in partnership with the Zoning Section and the City Counselors Office set out to find common and best practices from other municipalities across the state and nation with regard to the administration of public hearings and planning and zoning practices.

Draft Board Bills for changes to Chapter 26 of the City's Code, the Zoning Code, is attached as **Exhibit "A"** and detailed rationale is provided below.

Public Hearings at the Planning Commission

The Missouri State Statute Chapter 89.050 requires that a public hearing be held for any change in regulations, restrictions or boundary changes "at which parties in interest and citizens shall have an opportunity to be heard." Additionally, the state statute requires that "at least fifteen days' notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in such municipality."

In the City of St. Louis, this requirement has been met by a public hearing in the legislative process which already includes a public hearing for any type of legislation. While this may be set up in a way to "hit two birds with one stone," adding a public hearing to the planning commission would accomplish 4 things:

1. Allow the public to attend and be heard at a meeting in the evening, for which many more individuals would be able to attend; and
2. Provide the Planning Commissioners to hear from the public in determining their recommendation to the Board of Aldermen; and
3. Follow best practices whereby the public hearing in most municipalities in the St. Louis Region, as well as peer cities such as Des Moines, Pittsburgh, Chicago, New York City, Cincinnati, Kansas City, and Louisville, among others, takes place at the Planning Commission; and
4. Eliminate confusion for the Board of Aldermen around which legislation requires 15-day advance posting, and which do not.

It is important to note, that in order to ensure that Planning and Zoning Staff can meet the posting requirement for a public hearing at the Commission, a local requirement that previously required the planning commission to review all zoning requests within 45 days will need to be amended to 60 days to allow postings to be completed in compliance with state law. While this, at face value, appears to add 15 days to a rezoning request, the legislative process will no longer need to meet the state statute requirement and therefore that time is simply removed from the legislative process and added to the planning commission process. Additionally, most petitions today are reviewed at the planning commission long before the 45th day; 13 petitions were reviewed in the last year, and the average time to review was 26 days.

Board of Adjustment to consider Comprehensive Plan

Today, the Board of Adjustment grants variances to the strict letter of the code “relating to use, construction or alteration of buildings or structures or the use of land so that the spirit of the code shall be observed, public safety and welfare secured and a substantial justice done.” The proposal before the commission would also be that the granting of the variance is in keeping with the City’s Comprehensive Plan. This language was derived to mirror that language that exists in other cities in Missouri such as St. Joseph’s, Columbia, Springfield, and Maryland Heights.

The Board of Adjustment currently reviews about 6 variance requests every 2 weeks. While in an ideal world, this amendment would mean that zoning staff would be able to provide a review of the Strategic Land Use Plan (SLUP) or plan or plans adopted as an amendment to the comprehensive plan for the Board of Adjustment, they are not currently trained to do so and their capacity to take it on is limited for the time being. Therefore, in practicality, planning staff will begin reviewing the requests and, in the case of a non-conformity, providing a letter or appearing before the Board of Adjustment to give insight into its non-conformity. This will allow the City to ensure that neighborhood plans, which are now going to be developed for all neighborhoods of the City, are in sync with approvals granted to vary from the City’s code.

City Code Chapter 3: Administration

While changes to Chapter 3 of the City’s code is NOT in the purview of the Planning Commission, the goal is to provide context for these changes that could affect the Planning Commission.

Given that the Planning Commission is one of two boards that meets in the evenings for the City of St. Louis, and are now being asked to consider public testimony, therefore bringing further stature to the planning commission decisions and recommendations, this change should be met with additional stature of decisions. This would include a higher bar by which the board of alderman can overturn a negative recommendation of the planning commission.

Many peer and aspirational cities, including Des Moines (3/4 majority vote), Pittsburgh (7 of 9), New York City (3/4 majority vote), and Cincinnati (2/3 majority vote), among others, and local regional municipalities such as Maplewood (5 of 6), and Kirkwood (2/3 majority vote), require greater than a majority of the legislative body to overturn a decision of the planning commission.

2.0 Comments

PDA staff has reviewed the proposed amendments and found that they are in compliance with the Strategic Land Use Plan and therefore staff recommends approval of the city-wide zoning text changes.

2.1 Public Input

The Board of Alderman’s Housing, Urban Development and Zoning (HUDZ) committee will conduct a public hearing as part of the legislative process.

2.2 Requested Action

City of St. Louis Ordinance #64687, Section 8, Sub-Paragraph 1 states that the Planning Commission shall be the official planning agency for the City. It shall also be the zoning commission for the City and perform all functions required by applicable state law to be performed by a municipal zoning commission.

City of St. Louis Ordinance #64687, Section 8, Sub-Paragraph 4 states that the Planning Commission shall recommend changes in the zoning ordinances and zoning district maps to the Board of Aldermen. No ordinance changing the zoning ordinances and zoning district maps shall be adopted over the negative recommendation of the Planning Commission, unless approved by a majority vote of all members of the Board of Aldermen.

Requested Recommendation

That the Planning Commission finds the zoning text change to hold public hearings for zoning items that meet Missouri state statute requirements, at the Planning Commission, and to ensure the Board of Adjustment consider conformance to the City's Comprehensive Plan in decision making processes, to be in conformity with the City's Strategic Land Use Plan and **recommends approval** to the Board of Alderman.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ST. LOUIS PLANNING COMMISSION AS FOLLOWS:

1. The zoning text change to hold public hearings for zoning items that meet Missouri state statute requirements, at the Planning Commission; to ensure the Board of Adjustment consider conformance to the City's Comprehensive Plan in decision making processes, to be in conformity with the City's Strategic Land Use Plan.
2. The zoning text change is in keeping with the purpose of the zoning code to protect the health, safety, and general welfare of the City of St. Louis while in compliance with Missouri State Statute is recommended for approval.
3. The Executive Director of the Planning and Urban Design Agency of the City of St. Louis is hereby directed to notify the Board of Aldermen of the City of St. Louis of this recommendation.

1 An ordinance amending Section 24 of Ordinance #59979, codified in Chapter 26.92 of
2 the Revised Code of the City of St. Louis, relating to public notice of hearings by Planning
3 Commission on making a change in the boundary of a zoning district map; requiring the
4 Planning Commission to publish notice of such hearings as provided herein; this ordinance has
5 an effective date.

6 WHEREAS, it is usual in many Missouri cities that the statutorily required and posted
7 public hearing for zoning changes occurs at the Planning Commission hearing; and

8 WHEREAS, the Planning Commission public hearing would be more convenient for
9 attendance by constituents who would not have to take off work to attend; and

10 WHEREAS, changing the statutorily required and posted public hearing to the Planning
11 Commission would eliminate confusion for the public as to which meeting to attend for public
12 input on the zoning change as opposed to the proposition of a board bill.

13 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

14 **SECTION ONE.** Section 24 of Ordinance #59979, codified in chapter 26.92 of the
15 Revised Code of the City of St. Louis is hereby amended to be read as follows:

16 **26.92.010. – Initiation of Change.** Any amendment or change in the boundaries or
17 regulations herein shall be initiated in the following manner:

18 A. By motion of the Planning Commission; or

19 B. By the filing of a petition with the City Zoning Administrator, by the owner or
20 owners of the property within the district.

21 **26.92.020. - Petition Procedure.** The said petition shall be in writing on a form supplied
22 by the Zoning Administrator and shall contain a complete description of the property involved

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1 and shall set forth fully the grounds of such petition and contain a recital of all the facts relied on
2 by the Ppetitioner. A fee, set forth in Chapter 26.98, shall be paid to the City upon the filing of a
3 petition, and under no conditions shall said filing fee or any part thereof be returned in the even
4 of unfavorable findings or recommendations on said petition by the Commission. After a study
5 and investigation and within ~~sixty forty five~~ **(60 45)** days of filing the petition, the Planning
6 Commission **shall hold a public hearing after public notice and hearing as provided in**
7 **Section 26.92.040 and** shall report to the Ppetitioner its findings and recommendations. Where
8 the Planning Commission recommends modification in the requested change, amendment or
9 supplement, said Ppetitioner may incorporate the recommended modification in the petition and
10 forward it to the Planning Commission for further study and said Commission shall report to the
11 Ppetitioner its findings and recommendations.

12 **26.92.030 - Action by Board of Alderman.** Upon receipt of the recommendation for the
13 Planning Commission or the expiration of ~~sixty forty five~~ **(60 45)** days from the date of first
14 filing said petition, change or supplement in the form of a proposed ordinance may be introduced
15 in the Board of Aldermen. Upon introduction in the Board of Aldermen in the form of an
16 ordinance, the Planning Commission shall forward to said Board its findings and
17 recommendations. Any amendment, supplement or change in the form of an ordinance pursuant
18 to the provisions of this chapter shall be introduced into the Board of Aldermen within one (1)
19 year from the date of the Planning Commission findings and recommendations. The Board of
20 Aldermen, ~~after public notice and hearing as provided in Section 26.92.040,~~ may amend,
21 supplement or change the boundaries or regulations herein or subsequently established.

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1 **26.92.040 - Notice of proposed change.** When any bill petition that has as its purpose the
2 making of a change in the boundary of a zoning district map is ~~introduced in~~ **filed with** the
3 ~~Board of Aldermen~~**Planning Commission**, the committee to which it is referred for
4 consideration **the Planning Commission** shall require the Clerk of said ~~Board~~ Zoning
5 Administrator to:

- 6 a. Have a placard containing the words “Proposed change in zoning ordinance in
7 this block” printed in large type, placed in a conspicuous place on or in the
8 immediate vicinity of the property and block in which a change in zoning district
9 boundaries is proposed at least fifteen (15) days prior to any public hearing held
10 by the ~~Committee having jurisdiction thereof~~**Planning Commission**. Such
11 placard shall also have prominently displayed such relevant facts and information
12 pertaining to the proposed change, a designation by street address of the
13 property(s) to be changed and the date when those interested may appear before
14 the committee and be heard. ~~The bill proposing such zoning change shall also be~~
15 ~~attached to the placard beneath the relevant facts and information.~~
- 16 b. Have notice of the public hearing on the bill and the proposed changes published
17 in the official paper of the City of St. Louis or a paper of general circulation, at
18 least fifteen (15) days prior to said hearing.

19 ~~2.~~ 1. When a bill proposing an amendment to the provisions of the Zoning Code is
20 introduced in the Board of Aldermen, the committee to which it is referred for
21 consideration shall consider the board bill ~~require that notice of the public hearing in~~
22 **keeping with the rules of the Board of Alderman for committees.** ~~and the proposed~~

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1 ~~changes be published in the official paper of the City of St. Louis or a paper of general~~
2 ~~circulation at least fifteen (15) days in advance.~~

3 **SECTION TWO.** All of the remaining provisions of Ordinance 59979 shall remain in full
4 force and effect.

5 **SECTION THREE.** This ordinance shall have an effective date of January 1, 2022.

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1 An ordinance amending Ordinance #64195, codified Section 26.84.050 of the Revised
2 Code of the City of St. Louis, relating to the Board of Adjustment; requiring consideration of
3 variance to be in keeping with the City’s adopted Comprehensive Plan; this ordinance has an
4 effective date.

5 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

6 **SECTION ONE.** Ordinance #64195, codified in Section 26.84.050 of the Revised Code
7 of the City of St. Louis is hereby amended to read as follows:

8 **26.84.050. Jurisdiction** - The Board shall have the following powers:

9 A. To hear and decide appeals where it is alleged there is error in any order, requirement,
10 decision or determination made by an Administrative Official or Agency in the enforcement of
11 the Zoning Code;

12 B. To permit the extension of a use district where the boundary line of a district divides a
13 lot in a single ownership on April 25, 1950;

14 C. To interpret the provisions of the Zoning Code in such a way as to carry out the intent
15 and purpose of the plan, as shown upon the maps fixing the several districts accompanying and
16 made a part of the Zoning Code where the street layout actually on the ground varies from the
17 layout as shown on the maps aforesaid;

18 D. In passing upon appeals, where there are practical difficulties or unnecessary
19 hardships in the way of carrying out the strict letter of the Zoning Code, to vary or modify the
20 application of any of the regulations or provisions of such code relating to the use, construction
21 or alteration of buildings or structures or the use of land so that the spirit of the code shall be
22 observed, public safety and welfare secured a substantial justice done., **and that the granting of**
23 **the variance is in keeping with the City’s comprehensive plan.**

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1 E. In exercising the above-mentioned powers, the Board may, in conformity with the
2 provisions of law, reverse or affirm, wholly or partly, or may modify the order, requirement,
3 decision or determination appealed from, and may make such order, requirement, decision or
4 determination as ought to be made, and to that end shall have all the powers of the Building
5 Commissioner or the Board of Public Service. The concurring vote of four (4) of the members
6 of the Board shall be necessary to reverse any order, requirement or determination of the
7 Building Commissioner or the Board of Public Service, or to decide in favor of the applicant on
8 any matter upon which it is required to pass under the Zoning Code; provided, however, that the
9 action of the Board shall not become effective until after the resolution of the Board setting forth
10 the full reason for its decision and the vote of each member participating therein has been spread
11 upon the minutes. Such resolution immediately following the Board's final decision shall be filed
12 in the office of the Board and shall be open to public inspection;

13 F. The Board of Adjustment shall cause to be published in the City Journal a statement
14 showing disposition of each appeal and shall mail a copy of said statement to the Aldermen of
15 the ward in which the property affected by the appeal may be located, the Community
16 Development and the Director of Public Safety;

17 G. Any person or persons jointly or severally aggrieved by any decision of the Board of
18 Adjustment or any officer, department, board, or bureau of the municipality may present to the
19 Circuit Court of the City a petition, duly verified, setting forth that such decision is illegal, in
20 whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to
21 the court within thirty (30) days after the filing of the decision in the office of the Board as
22 provided by RSMo 89.110. Upon the presentation of such petition the court may allow a writ of
23 certiorari directed to the Board to review such decision of the Board, and shall prescribe therein

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1 the time within which a return thereto may be made and served upon the realtor's attorney which
2 shall be not less than ten (10) days and may be extended by the court. The allowance of the writ
3 shall not stay proceedings upon the decision appealed from but the court may, on application, on
4 notice to the Board and on due cause shown, grant a restraining order. The Board shall not be
5 required to return the original papers acted upon by it, but it shall be sufficient to return certified
6 or sworn copies thereof or of such portions thereof as may be called for by such writ;

7 H. The return shall concisely set forth such other facts as may be pertinent and material to
8 show the grounds of the decision appeal from, and shall be verified. If, upon the hearing, it
9 shall appear to the court that testimony is necessary for the proper disposition of the matter, it
10 may take additional evidence or appoint a referee to take such evidence as it may direct and
11 report the same to the court with his findings of fact and conclusions of law, which shall
12 constitute a part of the proceedings upon which the determination of the court shall be made.
13 The court may reverse or affirm, wholly or partly, or may modify the decision brought up for
14 review.

15 **SECTION TWO.** All remaining provisions of Ordinance 64195 shall remain in full
16 force and effect.

17 **SECTION THREE.** This ordinance shall have an effective date of January 1, 2022.

BOARD BILL NUMBER ____ INTRODUCED BY ALDERMAN

1 An ordinance amending Ordinance #64687, codified in Chapter 3.48 of the Revised Code
2 of the City of St. Louis relating to the Planning Commission; amending Section 3.48.070,
3 Subsection D, specifying the vote required by the Board of Aldermen to override a negative
4 recommendation of the Planning Commission for a zoning change; this ordinance has an
5 effective date.

6 WHEREAS, it is usual in many Missouri cities that the statutorily required and posted
7 public hearing for zoning changes occurs at the Planning Commission hearing; and

8 WHEREAS, the Planning Commission public hearing would be more convenient for
9 attendance by constituents who would not have to take off work to attend; and

10 WHEREAS, changing the statutorily required and posted public hearing to the Planning
11 Commission would eliminate confusion for the public as to which meeting to attend for public
12 input on the zoning change as opposed to the proposition of a board bill; and

13 WHEREAS, this ordinance seeks to uphold the input of constituents who have taken the
14 time to testify at the public hearing on zoning matters and the recommendation of the
15 professional staff at the Planning and Urban Design Agency on zoning matters before the
16 Planning Commission by requiring a 2/3 majority vote of the Board of Alderman to override a
17 Planning Commission recommendation.

18 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

19 **SECTION ONE.** Section 8 subsection 4 of Ordinance #64687, codified in Section
20 3.48.070 of the Revised Code of the City of St. Louis is hereby amended to read as follows:

21 **3.48.070 (D)** The Planning Commission shall recommend changes in the zoning
22 ordinances and zoning district maps to the Board of Aldermen. No ordinance changing the
23 zoning ordinances and zoning district maps shall be adopted over the negative recommendation

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1 of the Planning Commission, unless approved by a **two-thirds** majority vote of all the members
2 of the Board of Aldermen.

3 **SECTION THREE.** All other provisions of Ordinance #64687 shall remain in full force
4 and effect.

5 **SECTION FOUR.** This ordinance shall have an effective date of January 1, 2022.