



## DEVELOPMENT REVIEW COMMISSION

For Public Hearing on Wednesday, October 2, 2019  
at 2:00 p.m. in the Sunshine Center,  
330 5<sup>th</sup> St North, St. Petersburg, Florida.

## COMMUNITY PLANNING & PRESERVATION COMMISSION

For Public Hearing on Tuesday, October 8, 2019  
at 2:00 p.m. in the Sunshine Center,  
330 5<sup>th</sup> St North, St. Petersburg, Florida.

Prepared by the Planning & Development Services Department,  
Urban Planning and Historic Preservation Division

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### **City File: LDR 2019-07** **Public Notice Amendments**

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This is a City-initiated application requesting that the Development Review Commission (“DRC”) in its capacity as the Land Development Regulation Commission (“LDRC”) and the Community Planning & Preservation Commission (CPPC) in its capacity as the Local Planning Agency (“LPA”), make a finding of consistency with the Comprehensive Plan and recommend to City Council **APPROVAL** of the following text amendments to the City Code, Chapter 16, Land Development Regulations (“LDRs”).

The purpose of this text amendment application is to update the public notice process in the LDRs for both general development applications and applications for the preservation of historic properties. Due to overlapping and related subject matter, this single staff report addressed to both commissions provides an overview of the update in its entirety with topics delineated by appropriate authority review and recommendation.

## APPLICANT INFORMATION

**APPLICANT:** City of St. Petersburg  
275 5<sup>th</sup> Street North  
St. Petersburg, Florida 33701

**CONTACT:** Derek Kilborn, Manager  
Urban Planning and Historic Preservation Division  
Planning and Development Services Department  
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(727) 893-7872

## COMMISSION AUTHORITY

Pursuant to Section 16.80.020.1 of the City Code of Ordinances, the DRC, acting as the LDRC, is responsible for reviewing and making a recommendation to the City Council on all proposed amendments to the LDRs.

Pursuant to Section 16.80.010.1 of the City Code of Ordinances, the CPPC, acting as the LPA, is responsible for reviewing and making a recommendation to the City Council on all historic matters, including acting as the LDRC for the purposes of and as required by the Community Planning Act to review and evaluate proposed modifications to the Land Development Regulations related to historic and archeological preservation.

## BACKGROUND

On May 16, 2019, City council instituted a six-month moratorium on third-party applications for designation of historic landmarks, which expires on November 16, 2019 and on August 8, 2019, City Council and the Community Planning and Preservation Commission met jointly during a Committee of the Whole (COW) session focused on the third-party application process. Staff was directed to amend the historic preservation notice requirements to allow owners and applicants additional opportunities to communicate prior to the public hearing.

In addition to updating the local landmark designation process, staff has identified several text amendments to update the public notice process and procedures for all applications requiring streamline review or public hearing review. The amendments are intended to address staff concerns as well as comments and concerns periodically received from stakeholders including the Council of Neighborhood Associations (CONA) regarding the public notice process during public hearings, workshops and stakeholder meetings.

## PROPOSED LDR TEXT AMENDMENTS

The proposed amendments are set forth below in order of review by commission.

### **Development Review Commission (DRC) topic items:**

- 1) Update to the supplemental mail notice process:
  - a) distance increased from 200 to 300 feet; eliminating the exclusion of right(s)-of-way and water bodies or publicly owned land under 400-feet in the measurement.
  - b) information and materials to be included are only those that have been provided by the POD;

- c) eliminate hand delivery option;
  - d) increase the mail notice days from 10 to 15 days prior to hearing; and
  - e) failure to provide supplemental notice.
- 2) Update to the posted notice requirements:
    - a) increase in posted notice dates from 10 to 15 days prior to hearing; and
    - b) proof of posted noticed to be provided within seven days prior to hearing.
  - 3) Update notice process to neighborhood and business associations, the Council of Neighborhood Associations (CONA) and the Federation of Inner-City Community Organizations (FICO):
    - a) applicant to provide a notice of intent to file an application to neighborhood and/or business associations within 300-feet of the subject property, the Council of Neighborhood Associations (CONA) and the Federation of Inner-City Community Organizations (FICO) at least ten days prior to filling;
    - b) filed application package to be forwarded by staff to same parties; and
    - c) mailed notice to be provided by the applicant to same parties.
  - 4) Update to the dock permit side setback variance process.
    - a) change variance to waiver process, consistent with Pinellas County;
    - b) require Notice of Intent to File letter be sent to owners within 200-feet thirty days prior to filing of the permit, with a detailed set of plans;
    - c) require notarized signature from the owner of abutting property affected by request; and
    - d) allow administrative approval by the POD if no objections are received.
  - 5) Update of the planning and zoning decision process:
    - a) eliminate joint commission/staff site field trip;
    - b) amendments to the public participation report requirements; and
    - c) to the notification of modifications to site plans.

**Community Planning and Preservation Commission (CPPC) topic items:**

- 6) Update to the third-party notification requirements and process:
  - a) new “Notice of Intent to File” process;
  - b) establish 30-day notice requirement;
  - c) notice to all registered owners;
  - d) notice to City Council representative; and
  - e) coordination with emergency actions procedures for City Council.
- 7) Update to the local historic district procedures:
  - a) add public information meeting; and
  - b) update notification and balloting procedures.
- 8) Update to the application procedure for a COA:
  - a) new submittal requirements for revisions and supplemental information.
- 9) Update of definitions
  - a) new definition of *City issued ballot*;
  - b) new definition of *Date stamp*; and
  - c) amended definition of *Owner of record or property owner*.

## **Staff Analysis:**

### **Development Review Commission (DRC) topic items:**

- 1) Update to the supplemental mail notice process:
  - a) distance increased from 200 to 300 feet;
  - b) information and materials to be included are to be approved by the POD;
  - c) eliminate hand delivery option;
  - d) increase the mail notice days from 10 to 15 days prior to hearing; and
  - e) failure to provide supplemental notice.

Section 16.70.010.4. *Supplemental Notice*, currently requires a supplemental mailing notification to property owners within 200 feet measured by a straight line from the subject property not including right-of-way, water bodies and publicly owned land if such land is less than 400 feet wide. The amendment proposes to increase the notice area to 300 feet inclusive of the right-of-way, water bodies and publicly owned land. Additionally, the mail notice can only contain materials and information approved by the POD, the option to hand deliver the notice is struck and the notice timeframe is increased from 10 to 15 calendar days prior to the public hearing date not including the day of the hearing.

Expanding the notice area from 200 to 300 feet is more inclusive of potentially affected neighbors while removing the exclusion of right-of-way, water bodies and publicly owned land brings greater predictability and less room for error in identifying the notification area. Pinellas County and the City of Tampa require a 250-foot notice without exclusion and the City of St. Pete Beach and Pinellas Park require a 300-foot notice without exclusion.

Elimination of the option to hand deliver the notice reduces the potential for confrontation of opposing parties, and in practice is not often implemented. Increasing the minimum required notice time by adding an additional five calendar days is intended to address comments and concerns periodically received during public hearings, workshops and stakeholder meetings of too short a notice for neighbors to prepare for and attend public hearings. Mail notices for City-initiated applications is unchanged requiring 30 calendar days prior to the scheduled hearing.

Section 16.70.010.4.C. *Failure to provide supplemental notice* is amended to clarify the public hearing process when supplemental notice is found to be incomplete during the hearing. The board, commission or City Council hearing the application may continue the public hearing to another day if it determines that circumstances warrant a continuance. For appeals, if the appellant has failed to provide the required notice, the board, commission or City Council hearing the appeal shall automatically dismiss the appeal at the time the failure is discovered. If the failure is discovered prior to the hearing, this section of the code remains unchanged and allowing the POD, to cancel the public hearing, reschedule the public hearing and require new notice to be given.

- 2) Update to the posted notice requirements:
  - a) increase in posted notice dates from 10 to 15 days prior to hearing; and
  - b) proof of posted notice to be provided within seven days prior to hearing.

Section 16.70.010.4.B.3 *Posted Notice* currently requires posted noticed on the subject property at least 10 days prior to the public hearing. This section is updated to require posting of rezoning or land use changes where currently none is required. A posted notice exception is provided for application projects involving multiple parcels that exceed 10 acres, consistent with state statutes. This section is also updated to require proof of posted notice on the subject property to the POD at least seven days prior to the public hearing where proof was not previously required.

Increasing the timeline requirement of the posted noticed by five calendar days is in keeping with the written notice timeline update and allows affected neighbors more time to prepare for and attend the public hearing. State statutes does not require posted notice of zoning or land use changes but notice is being included here to provide further transparency to affected neighbors. Requiring proof of posted notice further demonstrates at the public hearing that the applicant followed procedural requirements.

- 3) Update notice process to neighborhood and business associations and the Council of Neighborhood Associations (CONA) and the Federation of Inner-City Community Organizations (FICO):
  - a) applicant to provide a notice of intent to file an application to neighborhood and/or business associations within 300-feet of the subject property, the Council of Neighborhood Associations (CONA) and the Federation of Inner-City Community Organizations (FICO) at least ten days prior to filling;
  - b) filed application package to be forwarded by staff to same parties; and
  - c) mailed notice to be provided by the applicant to same parties.

The various sections regarding notice to associations are updated so that the notice is provided in the following chronological order:

- applicant provides a Notice of Intent to file an application to neighborhood and/or business associations within 300-feet of the subject property, the Council of Neighborhood Associations (CONA), and the Federation of Inner-City Community Organizations (FICO) at least ten days prior to filling via email or standard mail;
- the complete filed application package is forwarded by staff to same parties via email; and
- mailed notice to be provided by the applicant to same parties, at least 15-days prior to the hearing.

More specifically, Section 16.70.040.1.F.4.b *Signature or affidavit of compliance* is retitled to *Notice of intent to file* and strikes the current process of requiring the applicant to obtain a signature from the president of the neighborhood association. The updated process requires a minimum of ten days prior to filling an application for a decision requiring streamline or public hearing approval, the applicant shall send a copy of the application by email or certificate of mail to all neighborhood associations and/or business associations within 300 feet of the subject property, along with CONA and FICO. Evidence of such notice must then be filed with the POD.

Section 16.70.040.1.F.3.c. *Target area* for the public participation process and report is updated to reflect the neighborhood and/or business association target area to include those located within 300-feet of the subject property, where previously it did not specify if the notification only applied to the neighborhood association that the project was located within. It also now specifies CONA and FICO as well.

Section 16.70.010.4.B.5 *Complete copy of application* is retitled to *Neighborhood and business association notice* and changes the responsible party to notify to neighborhood and business associations, CONA and FICO from the applicant to the POD, where one complete copy of each application is to be provided by the POD, after the applicant files.

- 4) Update to the dock permit side setback waiver process.
  - a) change variance to waiver process, consistent with Pinellas County;
  - b) require Notice of Intent to File letter be sent to owners within 200-feet thirty days prior to filing of the permit, with a detailed set of plans;
  - c) require notarized signature from the owner of abutting property affected by request; and
  - d) allow administrative approval by the POD if no objections are received.

Section 16.70.030.1.2.E *Variiances-Waivers* for dock permits is retitled to *Side Setback-Waivers*. This section is updated to clarify that the side setback reduction is a waiver, rather than a variance, similar to Pinellas County and to remove the requirement to provide notarized letters from all neighbors within 200-feet of the side where the side setback is requested. It is replaced with the process of requiring the applicant to send a notice of request for a side setback waiver with a copy of the dock permit application with a plan clearly depicting the dock and lift improvements, with detailed measurements to the projected property line to those owners by certificate of mailing at least 30 days prior to filling such application and provide a notarized letter of support from the abutting property owner. If the letter is provided and no objections are received by the POD, the POD may administratively approve the request. Requests for variances will continue to be reviewed by the DRC.

- 5) Update of the planning and zoning decision process:
  - a) eliminate joint commission/staff site field trip;
  - b) amendments to the public participation report requirements; and
  - c) to the notification of modifications to site plans.

Under Section 16.70.040.1 *Planning and zoning decisions generally*, subsection B. *Procedure* is updated to remove the option of the POD and commission to jointly take a field trip to the site under consideration. This is an outdated step of the process that has potential to conflict with the Sunshine Law.

Subsection F. *Public participation process and report* encouraging applicants to meet with residents of the surrounding neighborhoods prior to filing an application for public hearing review is updated to clarify that this process is required for any applications requiring streamline or public hearing review and that if no actions have been taken to invite public participation and/or no concerns or issues with the application have been expressed, then such inaction or non-response shall be indicted on the report. As stated above in item 3.a) the target area for the public participation process and report is also updated to reflect inclusion of both neighborhood and business associations within 300-feet of the subject area, CONA and FICO. Notice must be sent via email or hard copy by the applicant at least ten days prior to filing of an application, with proof of notice provided to the POD at time of application.

Subsection H. *Modifications* states that to any request for modification to a special exception or a site plan review previously approved by the POD or the commission shall be subject to review and approval in the same manner as a new application, except that the POD may approve minor modifications, provided that the basic purpose and intent of the Commission's action is met or effectuated. The procedure subsection of the modifications process states that in lieu of obtaining the required authorization from all the property owners subject to the previous approval, the applicant shall provide proof of notice describing the modification supplied to the other property owners 30 days prior to a final decision. This timeline is updated to now require this notification no more than 90 days and no less than 15 days prior to filling the application, rather than prior to the hearing, to provide additional time for response.

## **Community Planning and Preservation Commission (CPPC) topic items:**

- 1) Update to the third-party notification requirements and process:
  - a) create “Notice of Intent to File” process;
  - b) 30-day notice requirement;
  - c) notice to all registered owners;
  - d) notice to City Council representative; and
  - e) coordination with emergency actions procedures for City Council.

Section 16.30.070.2.5.C *Designation of local land marks, Additional requirements* is updated for a non-owner initiated, individual designation application to add a new “Notice of Intent to File” process. The purpose of this new section is to require dialogue between a potential third-party applicant and the registered owner(s) of the subject property prior to the submission of a formal designation application. Under the current regulations, an individual may file a third-party designation application without preliminary notice to the affected property owner(s).

The proposed text amendment will first require a third-party applicant to provide preliminary notice of their intentions to file a designation application. The “Notice of Intent to File” shall be sent to the affected property owner(s) at least 30-days prior to formally submitting an application.

In addition to owner notification, the third-party applicant shall also contact the district representative on City Council to inquire whether said City Council Member will City-initiate the application, an alternative process to the third-party application procedures.

The third-party applicant shall complete the following:

1. Invite all property owner(s) (or any legal person of interest) as shown in the Public Records of Pinellas County, by certified and regular mail to a meeting to determine if the owners are willing to become co-applicants.
  2. Meet with the City Council Member of the district in which the property is located to determine if the City Council Member will make a motion to request that the City initiate a designation application.
  3. Provide a complete copy of a designation application for the individual property to each property owner (a courtesy copy may be provided to any legal person of interest) as shown in the Public Records of Pinellas County by certified and regular mail.
  4. Proof of compliance with this subsection shall be provided to the POD, and the POD shall not process the application for public hearing until all required materials are received.
- 2) Update to the local historic district procedures:
    - a) add requirement for a public information meeting; and
    - b) update notification and balloting procedures.

Section 16.30.070.2.5 *Designation of local landmarks* is updated to add to the requirement for a public information meeting prior to the distribution of ballots when considering a potential local historic district. Although not code required, historic preservation staff has begun conducting a public information meeting prior to the distribution of ballots; the public information meeting is advertised with a direct mail invitation sent directly from the Urban Planning and Historic Preservation Division and to all registered owners of property within the proposed designation boundary. After establishing the ballot process in 2015, the first local historic district application under the then-new balloting requirements did not include a public information meeting. It was alleged afterwards that certain registered owners of property, the known opponents, were not aware of the neighborhood’s intentions

prior to the distribution of ballots. This amendment will codify the existing policy to conduct a public information meeting prior to the distribution of ballots thereby providing preliminary notice to all affected property owners.

The balloting process for the designation of local historic districts is updated to outline how to intake ballots that have been returned with a signature but for which no choice is indicated. During a recent ballot procedure, several property owners remitted their signed ballots, but the signor did not indicate their vote in support or opposition to the ballot question. The proposed language will explicitly state that a blank ballot received with a signature does not reflect an official position of the signor; the City reserves the right to notice the owner of this potential oversight, and the owner shall have the duration of the balloting period to rectify the blank ballot. Ballots that remain blank at the end of the 60-day balloting period shall be counted as a non-response.

3) Update to the application procedure for a COA:

- a) new submittal requirements for revisions and supplemental information.

Section 16.30.070.2.6.B *Applications for procedures for a COA* is updated to address current processing challenges with last-minute building plan and site data revisions. In some cases, these revisions have been submitted after distribution of the City staff report and only days before the scheduled public hearing. While City staff has tried to reasonably accommodate last minute changes, this creates an unfair burden on historic preservation staff who perform the analysis and recommendation, administrative staff who receive and distribute public hearing materials, and neighboring property owners who are trying to prepare their responses. Specifically, this amendment will establish that building plan and site data revisions must be submitted to City staff a minimum of 15 days prior to the scheduled public hearing. Any revisions after such date shall require a postponement to the next scheduled hearing. Minor revisions may be allowed subject to approval by the POD.

4) Update of definitions

- a) new definition of *City issued ballot*  
b) new definition of *Date stamp*  
c) amended definition of *Owner of record or property owner*

Section 16.90.020.3 *Definitions* is amended by adding the terms *City issued ballot* and *date stamp* and amending *owner of record or property owner*. The changes are intended to address updates to the local landmark designation process:

“*City issued ballot* means a ballot on a form that has been approved for use by the POD. Acceptable City issued ballots shall include photocopies of original approved ballot forms if the vote itself and the required signature are original ink and properly received by the POD in accordance with this Code.” During recent ballot procedures for a local historic district, the question has been raised whether a photocopy of the original approved ballot could be accepted if the vote itself and required signature are original ink and properly received. This proposed clarification will memorialize the current interpretation.

“*Date stamp* means a record of receipt of a document or item by the City and shall include, but not be limited to, a physically or digitally produced stamp or seal upon the document or item itself or inclusion in a filing or record for which metadata is recorded.” During recent ballot procedures for a local historic district, the meaning of a date stamp has been questioned. The

proposed clarification will explicitly state that in addition to a physical stamp, metadata relating to a digital record may also be used in certifying this threshold requirement.

Owner of record or property owner shall have the same meaning as the definition of “owner” in Section 1-2. For the purposes of notices or balloting required by this chapter, owner of record or property owner means the person having legal responsibility for the payment of taxes on said property as shown by the Official Records of Pinellas County. If the ownership is held by a trust, then notice is required to be provided to the trustee(s).

## **CONSISTENCY WITH THE COMPREHENSIVE PLAN**

The following objectives and policies from the City's Comprehensive Plan are applicable to the attached proposal:

- LU8.1 - Pursuant to the requirements of Section 163.3202 F.S. the land development regulations (Chapter 16, City Code of Ordinances) will be amended, as necessary, to ensure consistency with the goals, objectives and policies of the Comprehensive Plan.
- LU20.3 - The City will adopt Land Development Regulations which provide for notice of requests for rezoning, land use plan amendments and special exceptions for any property located within approximately 1/4 mile of a neighboring government to the neighboring government and, for any property located within approximately 1/4 mile of a public educational facility, to the School Board for comments pertaining to the request in relation to their respective plans.
- LU20.4 - The City will adopt Land Development Regulations which provide for notice of requests for variances and site plans requiring commission approval, as designated in the LDRs, for any property located within approximately 1/4 mile of a neighboring government to the neighboring government for comments pertaining to the proposed action in relation to their respective plans.
- H1.3 - Review ordinances, codes, regulations and the permitting process for the purpose of eliminating excessive and overlapping requirements and resolving conflicting requirements and amending or adding other requirements in order to increase private sector participation in meeting housing needs, while continuing to insure the health, welfare and safety of the residents.
- LU21.1 - The City shall continue to utilize its innovative development regulations and staff shall continue to examine new innovative techniques by working with the private sector, neighborhood groups, special interest groups and by monitoring regulatory innovations to identify potential solutions to development issues that provide incentives for the achievement of the goals, objectives and policies of the Comprehensive Plan.

## **PUBLIC HEARING PROCESS**

The proposed ordinance associated with the amendment to the Land Development Regulations requires one (1) public hearing before the Development Review Commission (DRC), one (1) public hearing before the Community Planning and Preservation Commission (CPPC) and one (1) public hearing before City Council.

## **SUMMARY**

Based upon the analysis contained in this report, City staff finds the proposed amendments to the Land Development Regulations to be consistent with the Comprehensive Plan. The proposed amendments clarify various aspects of the Land Development Regulations bringing further transparency and predictability to the development review process.

## **RECOMMENDATION**

Staff recommends that the Development Review Commission (“DRC”) in its capacity as the Land Development Regulation Commission (“LDRC”) and the Community Planning & Preservation Commission (CPPC) in its capacity as the Local Planning Agency (“LPA”), make a finding of consistency with the Comprehensive Plan and recommend to City Council **APPROVAL** of the amendments to the Land Development Regulations.

**HOUSING AFFORDABILITY IMPACT STATEMENT**

**City of St. Petersburg  
Housing Affordability Impact Statement**

Each year, the City of St. Petersburg receives approximately \$2 million in State Housing Initiative Partnership (SHIP) funds for its affordable housing programs. To receive these funds, the City is required to maintain an ongoing process for review of local policies, ordinances, resolutions, and plan provisions that *increase the cost of housing construction, or of housing redevelopment*, and to establish a tracking system to estimate the cumulative cost per housing unit from these actions for the period July 1– June 30 annually. This form should be attached to all policies, ordinances, resolutions, and plan provisions which increase housing costs, and a copy of the completed form should be provided to the City’s Housing and Community Development Department.

**I. Initiating Department:** Planning & Development Services Development

**II. Policy, Procedure, Regulation, or Comprehensive Plan Amendment Under Consideration for adoption by Ordinance or Resolution:**

See attached proposed amendments to Chapter 16, City Code of Ordinances (City File LDR 2019-07).

**III. Impact Analysis:**

A. Will the proposed policy, procedure, regulation, or plan amendment, (being adopted by ordinance or resolution) increase the cost of housing development? (i.e. more landscaping, larger lot sizes, increase fees, require more infrastructure costs up front, etc.)

No  (No further explanation required.)  
Yes  Explanation:

If Yes, the **per unit cost increase** associated with this proposed policy change is estimated to be:  
\$\_\_\_\_\_.

B. Will the proposed policy, procedure, regulation, plan amendment, etc. increase the time needed for housing development approvals?

No  (No further explanation required)  
Yes  Explanation:

**IV: Certification**

It is important that new local laws which could counteract or negate local, state and federal reforms and incentives created for the housing construction industry receive due consideration. If the adoption of the proposed regulation is imperative to protect the public health, safety and welfare, and therefore its public purpose outweighs the need to continue the community's ability to provide affordable housing, please explain below:

CHECK ONE:

- The proposed regulation, policy, procedure, or comprehensive plan amendment will **not** result in an increase to the cost of housing development or redevelopment in the City of St. Petersburg and no further action is required. (Please attach this Impact Statement to City Council Material, and provide a copy to Housing and Community Development department.)



\_\_\_\_\_  
Manager, Urban Planning and Historic Preservation Division (signature)

\_\_\_\_\_  
Date

OR

- The proposed regulation, policy, procedure, or comprehensive plan amendment being proposed by resolution or ordinance *will increase housing costs* in the City of St. Petersburg. (Please attach this Impact Statement to City Council Material, and provide a copy to Housing and Community Development department.)

\_\_\_\_\_  
Manager, Urban Planning and Historic Preservation Division (signature)

\_\_\_\_\_  
Date

Copies to: City Clerk  
Joshua A. Johnson, Director, Housing and Community Development

**ATTACHMENT**

**TEXT AMENDMENTS**

**CPPC REVIEW**

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 16 OF THE ST. PETERSBURG CITY CODE RELATING TO NOTICE AND PUBLIC PARTICIPATION; CREATING ADDITIONAL NOTICE REQUIREMENTS FOR HISTORIC DISTRICT APPLICATIONS AND NON-OWNER INDIVIDUAL DESIGNATIONS; EXTENDING THE AREA FOR NOTICE OF VARIOUS APPLICATIONS FROM 200 TO 300 FEET; AMENDING THE NOTICE REQUIREMENTS FOR SIDE-SETBACK WAIVERS RELATED TO DOCKS; AMENDING THE PROCEDURES FOR MODIFICATION OF APPLICATIONS; ADDING DEFINITIONS TO SECTION 16.90.030; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG, FLORIDA DOES ORDAIN:

**SECTION 1.** Section 16.90.020.3 is hereby amended by adding the following definitions in the correct alphabetical order and amending the definition of “Owner of record or property owner” to read as follows:

*City issued ballot* means a ballot on a form that has been approved for use by the POD. Acceptable City issued ballots shall include photocopies of original approved ballot forms if the vote itself and the required signature are original ink and properly received by the POD in accordance with this Code.

*Date stamp* means a record of receipt of a document or item by the City and shall include, but not be limited to, a physically or digitally produced stamp or seal upon the document or item itself or inclusion in a filing or record for which metadata is recorded.

Owner of record or property owner shall have the same meaning as the definition of “owner” in Section 1-2. For the purposes of notices or balloting required by this chapter, owner of record or property owner means the person having legal responsibility for the payment of taxes on said property as shown by the Official Records of Pinellas County. If the ownership is held by a trust, then notice is required to be provided to the trustee(s).

**SECTION 2.** Section 16.30.070.2.4.B of the St. Petersburg City Code is hereby amended to read as follows:

16.30.070.2.4. Powers and duties of the Commission.

B. The Commission shall review all nominations of a local property to the National Register of Historic Places (NRHP) following the regulations of the Florida Division of Historical

Resources. The Commission shall also ask the Mayor and the chairman of the Board of County Commissioners for their written opinion as to whether or not each property should be nominated to the NRHP. The Commission shall conduct a public hearing to consider the nomination and publish and mail notice as provided in the supplemental notice section of the application and procedures section. When necessary, the Commission shall seek expert advice before evaluating the nomination. The Commission shall forward to the state historic preservation officer its action on the nomination and the recommendations of the local officials.

~~When a property owner objects to having their property nominated to the National Register, a notarized written statement from the property owner must be requested by the POD before the nomination is considered. The Commission may then continue its review, forwarding its recommendation to the state historic preservation officer noting the property owner's objection or it may cease any further review process and notify the state historic preservation officer of the property owner's objection to the proposed listing.~~

**SECTION 3.** Section 16.30.070.2.5.B of the St. Petersburg City Code is hereby amended to read as follows:

#### 16.30.070.2.5 Designation of Local Landmarks

- B. *Application requirements.* Consideration of the designation of a local landmark shall be initiated by the filing of an application for designation by the property owner, any resident of the City, or any organization in the City, including the City. Where multiple property owners are co-located within a multi-family development or building (e.g., condominiums, townhouses, etc.), the owners' representative association (e.g., a condominium or homeowners association) may be recognized as the property owner for the purpose of submitting an application for individual designation of the multi-family development or building. The City shall charge a fee for each application. Such fee shall be waived for City-initiated applications or where properties are individually listed in the NRHP or are the subject of an active application for individual listing in the NRHP. This fee exemption does not include contributing resources to a district listing in the NRHP. The POD shall determine when an application is complete and may request additional information when such application is determined to be incomplete.
1. Generally. The applicant shall complete an application form provided by the POD which shall include:
    - a. A written description of the architectural, historical, or archaeological significance of the proposed local landmark specifically addressing and documenting those related points contained in the criteria of this section;
    - b. The date of construction of each of the structures on the property;
    - c. Photographs of the property; and
    - d. The legal description and a map of the property to be designated as a local landmark or upon which the local landmark is located.

- e. Where multiple property owners are co-located within a multi-family development or building, documentation shall be included showing compliance with association regulations, including material change authorizations, where applicable.
2. Additional requirements for historic districts. On applications for the designation of historic districts, ~~the following shall be required~~~~the applicant shall also submit:~~
- a. Public Information Meeting. At least 15, but no more than 90 days before issuance of ballots, a public information meeting to which all owners of parcels to be included in the proposed district are invited must be held. City staff shall schedule and preside at said meeting to answer questions about the designation process. A certificate of mailing shall be obtained by the POD showing that notice of such public information hearing was mailed to each parcel owner in the proposed district at least fourteen days before the scheduled public information meeting.
  - ba. Evidence of the support of the historic district from the owners of 50 percent plus one tax parcel (50% + 1) (e.g. if there are 201 tax parcels, 50% = 100 ½ tax parcels, plus one would equal 101 ½ which would mean 102 tax parcels must vote in favor), of the tax parcels within the proposed district except for City initiated applications. Such evidence shall be obtained in the following manner:
    - (1) The City shall mail to all property owners of each tax parcel within the proposed historic district, as listed in the Public Records of Pinellas County, and at the applicant's sole expense, a City issued ballot requesting the owner to return by mail a signed ballot showing support or opposition/nonsupport for the application;
    - (2) The POD shall obtain a certificate of mailing on the date of the mailing, and only City issued ballots that have a postmark within 60 days of the date of mailing, or have been physically received by the POD within 60 days of the date of mailing and have been date stamped by the City, shall be counted. The balloting period shall remain open for the full 60 days after the date of mailing, regardless of the number of ballots received in support of the application;
    - (3) The response for each tax parcel shall be counted as one vote, if more than one owner of a tax parcel responds and one or more owners show opposition/nonsupport then the property shall not be found to support the application; each tax parcel (which may be more than one lot) shall be a "property";
    - (4) City owned tax parcels shall not have a vote and shall not be counted toward the total number of tax parcels;
    - (5) Once a signed ballot is received by the City, the signor's position may not be changed for the purposes of meeting the requirements of the application minimum (such persons may express any change of opinion or vote in any other legal manner). A ballot received with a signature and for which no choice is indicated is not a position for purposes of this subsection and shall remain open until the close of the ballot period. The City reserves the right to contact the signor and inform them of the blank status of the received ballot.

An owner may correct a blank ballot to indicate a position at any time before the conclusion of the 60 day balloting window. Ballots that remain blank at the end of the balloting period shall be counted as a non-response.

- (6) Applications must be filed within six months of a determination by the City that the requirements of this subparagraph have been complied with in their entirety;
- (7) The POD shall not accept an application which does not meet this requirement.
- cb. A written narrative describing the justification for the formation of the historic district based on the criteria for designation;
- de. A written description of the boundaries of the district which shall include a map; and
- ed. A list of contributing and noncontributing resources within the proposed district.

**SECTION 4.** Section 16.30.070.2.5.C of the St. Petersburg City Code is hereby amended to read as follows:

#### 16.30.070.2.5 Designation of Local Landmarks

##### *C. Additional requirements.*

1. An application for individual designation shall require a simple majority vote of the Commission and City Council. When a property owner is opposed to the individual designation, a supermajority vote of the Commission and City Council is required. An application for district designation shall require a simple majority vote of the Commission and City Council, regardless of whether there is opposition from one or more property owners located within the proposed district boundary.
2. An individual designation application made by a non-owner shall not be made or accepted for a property with an unexpired site plan approval.
3. If an application for individual designation is denied by the City Council, a new application to designate the same property (unless it is part of a local historic district designation application) shall not be initiated for five years from the date of the failed public hearing. The City Council or property owner may initiate an application for individual designation at any time, regardless of previous denials.
4. If an application for district designation is denied by City Council, a new application to designate the same or substantially similar district shall not be initiated for five years from the date the application was certified complete for the previously failed effort. The City Council may initiate an application for district designation at any time, regardless of previous denials.
5. If an application for district designation is denied by the City Council, a new application for individual designation of buildings located within the boundary of the

failed district may be initiated by the owner, a non-owner or the City Council at any time, unless otherwise prohibited by this subsection.

6. Non-owner initiated individual designation applications shall require the following:

(a) At least 30 days prior to submission of an application the applicant shall complete the following Notice of Intent to File actions:

1. Invite all property owner(s) as shown in the Public Records of Pinellas County, by certified and regular mail to a meeting to determine if the owners are willing to become co-applicants.
2. Meet with the City Council member of the district in which the property is located to determine if the councilmember will make a motion to request that the City initiate a designation application.
3. Provide a complete copy of a designation application for the individual property to each property owner as shown in the Public Records of Pinellas County by certified and regular mail.
4. Proof of compliance with this subsection shall be provided to the POD, and the POD shall not process the application for public hearing until all required materials are received.

~~6. One complete copy of a non-owner initiated designation application for an individual property shall be provided by the applicant to each property owner (and may be made to any legal person of interest) as shown in the Public Records of Pinellas County, by certified mail. The application shall not be complete until proof of mailing has been provided to the POD and the POD shall not process the application until complete.~~

(b) The applicant of a non-owner initiated designation application for an individual property shall mail notice of each public hearing at least 30 days prior to each public hearing, to each property owner as shown in the Public Records of Pinellas County by regular mail. The applicant shall provide proof of mailing to the POD at least 14 days prior to the public hearing. The owner of the individual property may waive this requirement by submitting said waiver to the POD in writing.

**SECTION 5.** Section 16.30.070.2.6.B of the St. Petersburg City Code related to Approval of Changes to Local Landmarks is hereby amended to read as follows:

B. *Application procedures for a COA.* No permits shall be issued for an alteration, new construction, demolition or relocation affecting a local landmark without first directing the applicant to the POD to determine if a COA is required. The applicant shall complete an application form provided by the POD which shall include the following information:

1. Drawings, sketches and plans of the proposed work;

2. Photographs of the existing building or structure and adjacent properties;
3. A complete written description of the proposed work which clearly describes the building materials to be used;
4. In the case of archaeological sites, a site plan that illustrates the archaeological site boundary and clearly describes any potential impacts or disturbances to the site.
5. The POD shall determine when an application is complete and may request additional information when such application is determined to be incomplete.
6. For relocations, a written statement from the applicant shall be included in the application addressing:
  - a. How the proposed relocation will impact the seven factors of integrity which contribute to the local landmark; and
  - b. Why the relocation is necessary.
7. Each application for a COA shall be accompanied by the required fees.
8. After initial submittal of the application, the applicant may submit revisions and supplemental information to address comments. Any such revisions must be submitted to City staff a minimum of 15 days prior to the scheduled hearing. Any revisions made after such date shall require a postponement to the next scheduled hearing. Minor revisions may be allowed subject to approval by the POD.

**SECTION 6.** Section 16.70.010.4 of the St. Petersburg City Code is hereby amended to read as follows:

16.70.010.4. - Supplemental notice.

- A. *Notice requirements.* ~~The City Council, Development Review Commission, and Community Planning and Preservation Commission shall provide the~~ The supplemental notice set forth in this section for public hearings shall be provided for all hearings before the City Council, Development Review Commission, and Community Planning and Preservation Commission. For those applications which the POD has the authority to review and approve and which are made appealable to a board or commission of the City or City Council, the POD shall comply with the written and posted supplemental notice requirements set forth in this section. Such supplemental notice shall only apply to decisions of the POD which are made concerning a written request or application for which the applicant has paid a fee and for which the POD gives a written approval or denial. For applications for which an appeal may only be made by the property owner, such notice shall only be required to be made to the property owner.

~~Such supplemental notice shall only apply to decisions of the POD which are made concerning a written request or application for which the applicant has paid a fee and for which the POD gives a written approval or denial.~~

- B. *Notification.* ~~No notice other than the notice required by Florida Statutes shall be required; however, the~~ The City Council recognizes the importance of community involvement in

many proceedings for which notice is not required by Florida Statutes (see development agreement section for other notice requirements). In an attempt to facilitate such involvement, and to provide ~~courtesy~~ notification of such proceedings to property owners and residents in affected neighborhoods and to other interested parties, it is the intent of the City Council to provide the following supplemental notice. ~~This notice is directory and not mandatory. The failure to provide any supplemental notice shall not invalidate any action by the Mayor, or the POD, any boards or commissions of the City or City Council nor shall it create any right in any person to receive such supplemental notice.~~

1. *Written notice.* Notice shall be mailed by the applicant to all neighborhood associations and business association representatives within 300-feet of the subject application, the Council of Neighborhood Associations (CONA), and the Federation of Inner-City Community Organizations (FICO) and the owners of property as listed by the county property appraiser's office, any portion of which is within ~~200~~ 300 feet of any portion of the subject property measured by a straight line, property line to property line. For applications to vacate rights-of-way, easements, and walkways, mailed notice shall also include all property owners within the blocks abutting the requested vacation and property owners within 200 feet of such blocks.

~~a. A body of water, right of way, or publicly owned land located within the 200 feet notification distance, shall be excluded from the calculation of the 200 feet measurement unless the body of water, right of way, or publicly owned land cumulatively exceeds 400 feet, measured along a straight line from the property line of the subject property to any other property which is not a body of water, right of way, or publicly owned land, in which case the body of water, right of way, and publicly owned land shall be included in the measurement of the 200 feet distance.~~

~~ab.~~ Any request to receive notice by any person not an owner of property as described above must be in writing, must specifically identify the notices the person wishes to receive, must be delivered to the POD, and must contain a mailing address.

Such requests, when not related to a specific application, shall only be valid for the specifically identified notices for not more than one year after receipt by the POD and may be renewed on an annual basis.

~~be.~~ The applicant shall obtain from the POD a copy of the notice and the procedures for notification of property owners who must receive notice. The applicant shall not include any information in the notice other than that which is required by the POD. For the purposes of this chapter, the term, the "applicant," shall also include the appellant in an appeal.

~~cd.~~ Not less than ~~ten~~ fifteen days prior to the date of the scheduled public hearing, the applicant shall deliver or mail a copy of said notice to all persons listed on the notification list and the owners of property within the distance described in this section. Notice shall be ~~either delivered or~~ mailed by U.S. mail with a U.S. postal service certificate of mailing returned to the City. ~~If said notice is hand delivered to persons on the notification list, the receipt therefor shall be acknowledged by the signature of the person on the notification list and the applicant shall file a sworn statement thereof in a form acceptable to the POD. If said notice is hand delivered~~

~~to a property, the applicant shall file a sworn statement thereof in a form acceptable to the POD.~~

- ~~de.~~ The applicant shall file proof that the notices were mailed or delivered with the POD not less than seven days prior to the date of the scheduled public hearing or the POD decision.
  - ~~ef.~~ For property in condominium or cooperative ownership which falls within ~~200~~ 300 feet, only the association shall be notified if the current or proposed use of the property which is the subject of the application is a single-family, duplex, or triplex residential use. If the current or proposed use of the property is any other use, then the owner of each unit in the structure shall be provided notice, in addition to the association.
2. *Published notice.* Notice of the public hearing shall be published by the applicant in a newspaper of general circulation in the City at least ten days prior to the public hearing. Published notice shall only be required for public hearings concerning special exceptions and site plans. There are additional State law requirements for ordinances. The applicant shall file an affidavit of publication provided by the newspaper with the POD not less than seven days prior to the date of the scheduled public hearing or the POD decision.
  3. *Posted notice.* Notice of the public hearing shall be posted on the subject property by the applicant at least ~~ten~~ fifteen days prior to the public hearing. Posted notice is ~~not~~ required for rezoning or land use plan changes for applications related to individual parcels, but is not required for applications involving multiple parcels where the combined acreage of all parcels exceeds 10 acres. The applicant shall provide proof of posted notice on the subject property to the POD at least seven days prior to the public hearing. For non-owner initiated individual historic designation applications, required public notice may be placed in the adjacent non-vehicular right-of-way if access to the property is denied by the property owner.
  4. *Identify the property.* The written, published and posted notices shall identify the property upon which the request for action is made, the date and location of the public hearing, the phone number and address where information regarding the proposal can be obtained, and the type of action requested (e.g., variance, lot line adjustment, site plan). ~~The notice need not specify any details of the proposed request.~~
  5. ~~Complete copy of application~~ *Neighborhood and Business Association notice.* One complete copy of each application to the Development Review Commission (DRC) and Community Planning and Preservation Commission (CPPC) shall be provided by the applicant ~~POD~~ to the Council of Neighborhood Associations (CONA), the Federation of Inner-City Community Organizations (FICO), and neighborhood and business association representatives within 300-feet of the subject property listed by the POD. The term, "complete" includes one copy of the information required and any additional information (including studies) required by the POD to review the request. ~~The application shall be either delivered or mailed by U.S. mail with a U.S. Postal Service Certificate of Mailing returned to the POD. Proof that a copy of the application was mailed or delivered shall be delivered to the POD within seven days of application~~

~~submittal. The POD shall not process the application until receipt of such proof of mail or delivery.~~

6. *Governmental notice.*

- a. For rezoning, land use plan amendments and special exceptions, mailed notice shall be provided to the neighboring government for comment, where the subject property is located within one-fourth mile (1,320 linear feet) of a neighboring government. Mailed notice shall also be provided to the Pinellas County School Board for comment, where the subject property is located within one-fourth mile (1,320 linear feet) of a public educational facility.
- b. For variances and site plan reviews requiring CPPC or DRC approval, mailed notice shall be provided to the neighboring government for comment, where the subject property is located within one-fourth mile (1,320 linear feet) of a neighboring government.
- c. For the establishment or expansion of a community redevelopment area, community development block grant target area or historic preservation district, mailed notice shall be provided to the neighboring government for comment, where the subject area or district is located within one mile (5,280 linear feet) of a neighboring government. Mailed notice shall also be provided to the Pinellas County School Board for comment, where the subject property is located within one mile (5,280 linear feet) of a school.

C. ~~Failure to provide supplemental notice does not invalidate any action. Failure to provide any supplemental notice shall not invalidate any action by the Mayor or the POD, any boards or commissions of the City or City Council. If any supplemental notice as described herein is not provided for any hearing, the Mayor, POD, board or commission or City Council may take the following action:~~

- ~~1. Failure of an appellant to provide any supplemental notice or failure to file proof of written or published notice as required shall result in the automatic dismissal of the appeal at the time the failure is discovered.~~
12. If the POD is notified of or discovers a failure to provide supplemental notice at least 36 hours before noon on the day before the scheduled start of the public hearing, the POD may cancel the public hearing, reschedule the public hearing and require new notice to be given. The POD should only take this action if:
  - a. It appears from the information provided that the holding of the hearing would work a substantial hardship on the person who did not receive notice;
  - b. Such substantial hardship is different from the hardship the person would have suffered had he received the notice;
  - c. Such hardship cannot be corrected or mitigated prior to the scheduled public hearing; and
  - d. Rescheduling would not work a substantial hardship on other persons who received notice or the applicant.

~~Should the POD determine not to cancel the public hearing, the board, commission or City Council hearing the application may continue the public hearing to another day if it determines that circumstances warrant a continuance.~~

~~23.~~ If the POD is not notified of or does not discover a failure to provide supplemental notice until after the time set forth above then the POD shall not cancel the public hearing. The board, commission or City Council hearing the application may, at the public hearing, weigh the effect the failure to provide supplemental notice may have and may choose to continue the public hearing if circumstances so warrant.

3. If any supplemental notice as described herein is not provided for any hearing before a board or commission or City Council:

a. The board, commission or City Council hearing the application may continue the public hearing to another day if it determines that circumstances warrant a continuance.

b. For appeals only, if the appellant has failed to provide the required notice, the board, commission or City Council hearing the appeal shall automatically dismiss the appeal at the time the failure is discovered.

4. If the POD is not notified of or does not discover a failure to provide supplemental notice until after the public hearing has been held and a decision rendered, then none of these actions shall be taken. Failure to provide any supplemental notice shall not invalidate any action by the POD, any boards or commissions of the City, or City Council.

**SECTION 7.** Section 16.70.030.1.2.E of the St. Petersburg City Code related to Dock Permits is hereby amended to read as follows:

E. ~~*Variances Side Setback-Waivers.*~~ The POD shall have the power to grant ~~variances waivers~~ to the side setback requirements, ~~by following the criteria established for the granting of variances generally.~~ Notice is not required if notarized letters of approval from the owners of all lots within 200 feet of the side where a side setback variance is requested are provided. The applicant shall send a Notice of Intent to File a Dock Permit Application with a plan clearly depicting the dock and lift improvements with detailed measurements to the project property line to all owners of lots within 200 feet by regular mail (with certificate of mailing provided to the POD) 30 days prior to filing of such application. The applicant shall also provide a notarized letter of support from the owner of the abutting lot on the side where a side setback waiver is being requested. If no objections are received by the POD, the POD may administratively approve the request. Those letters are evidence that the variance criteria have been met. Requests for other variances shall be reviewed by the commission designated in the Decisions and Appeals Table.

**SECTION 8.** Section 16.70.040.1 of the St. Petersburg City Code is hereby amended to read as follows:

16.70.040.1. - Planning and zoning decisions, generally.

A. *Application and fee.*

1. Applications for planning and zoning decisions shall be submitted in a form promulgated by the POD. The information provided on the form shall be supplemented by the information outlined below for the type of planning and zoning decision sought.
2. The application shall be accompanied by a fee in the amount required by the City Council.

B. *Procedure.* In addition to the procedures for a planning and zoning decision outlined hereafter, any commission may hold a preliminary meeting with the POD to review the agenda items prior to the scheduled public hearing. ~~The preliminary meeting may include a field trip to the site under consideration. Notice shall be given of the preliminary meeting and field trip in the same manner as notice for the regular general meeting of the Commission except no mailed, published or posted notice is required to be provided.~~

C. *Initiation.* Applications for a planning and zoning decision may be initiated by the property owner. A duly authorized agent may file an application on behalf of a property owner with the appropriate authorization of the property owner. The ability to initiate an application for planning and zoning decisions shall be supplemented by the information outlined below for the type of planning and zoning decision sought.

D. *Public hearing.* If a public hearing is required, it shall be held within 90 days from the date of receipt of a completed application. If an applicant defers a required public hearing for two consecutive scheduled public hearing dates, the application shall be deemed to be automatically denied for failure to timely process the request, and the application and file shall be closed by the POD. An applicant may reapply after paying the normally required fee.

E. *Standards for review.* In reviewing the application for a planning and zoning decision in addition to the standards of review applicable to the decision, the POD, commission or the City Council shall consider whether the proposed amendment is consistent with and furthers the purpose of the Land Development Regulations and other City ordinances and actions designed to implement the plan.

F. *Public participation process and report.*

1. *Purpose.* The public participation process may not produce complete consensus on all applications, but encourages applicants to be good neighbors and allows for informed decision making. The level of public interest and area of involvement will vary depending on the nature of the application and the location of the site. The purpose of the public participation process is to:
  - a. Encourage applicants to pursue early and effective communications with the affected public in conjunction with applications, giving the applicant an opportunity to understand and attempt to mitigate any documentable adverse

impact of the proposed project on the adjoining community and to educate and inform the public;

- b. Provide residents and owners of property in potentially impacted areas with an opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and
  - c. Facilitate ongoing communication between the applicant, interested residents, property owners, and City staff throughout the application review process.
2. *Applicability.* It is the policy of the City to encourage applicants to meet with residents of the surrounding neighborhoods prior to filing an application for a permit decision requiring a streamline review ~~and~~ or public hearing. ~~The applicant, at his option, may elect to include neighborhood mediation as a preparatory step in the development process.~~ Participation in the public participation process prior to required public hearings will be considered by the decision-making official when considering the need, or request, for a continuance of an application. It is not the intent of this section to require neighborhood meetings, (except when the application is for a local historic district) but to encourage meetings prior to the submission of applications for approval and documentation of efforts which have been made to address any potential concerns prior to the formal application process.
3. *Target area.* The target area for the public participation process shall include the following:
- a. Property owners within the public hearing notice area required by this section;
  - b. The neighborhood in which the subject property is located, ~~as identified in an accepted neighborhood plan;~~
  - c. ~~The p~~Potentially affected neighborhood associations and/or business associations, within 300-feet of the subject property, the Council of Neighborhood Associations (CONA), and the Federation of Inner-City Community Organizations (FICO). If the property is in a DC district, the St. Petersburg Chamber of Commerce and the downtown partnership shall be included.
4. *Documentation.*
- a. *Report on implementation of the public participation process.* The applicant shall provide a written report on the results of their public participation effort prior to filing the application, and such report may be updated and resubmitted up to 10-days prior to the scheduled public hearing. If no actions have been taken to invite public participation and/or no concerns or issues with the application have been expressed, then such inaction or non-response shall be indicated on the report. The report will be attached to the POD's public hearing report. At a minimum, the public participation report shall include the following information:
    1. Details of techniques the applicant used to involve the public, including:
      - (a) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;

- (b) Content, dates mailed, and number of mailings, including letters, meeting notices, newsletters and other publications;
  - (c) Where residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located;
  - (d) A list of persons contacted and invited to any neighborhood meeting; and
  - (e) The number of people who participated in the process;
2. A summary of concerns, issues and problems expressed during the process;
  3. How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
  4. Concerns, issues and problems the applicant is unable to address. This statement shall indicate why the concerns cannot or should not be addressed.

5. Notice of Intent to File. A minimum of ten (10) days prior to filing an application for a decision requiring Streamline or Public Hearing approval, the applicant shall send a copy of the application by email or certified mail the Council of Neighborhood Associations (CONA) and to all Neighborhood Associations and/or Business Associations within 300 feet of the subject property. The applicant shall file evidence of such notice with the application to the POD. This subsection shall not apply to applications for historic districts or individual designations which shall be governed by the Historic Preservation Overlay.

~~b. Signature or affidavit of compliance. The public participation report shall include one of the following:~~

- ~~1. The signature of the president or vice president of any neighborhood associations contacted certifying that a neighborhood meeting was conducted at which this request was presented. The signature need not certify agreement with the applicant as to any issue raised at the neighborhood meeting; or~~
- ~~2. If the president or vice president of the neighborhood association are unavailable or refuse to sign such certification, a statement as to the efforts to contact them and (in the event of unavailability or unwillingness to sign) why they were unable or unwilling to sign the certification, if known; or~~
- ~~3. A statement that the subject property is not located within a neighborhood for which there is an accepted neighborhood plan.~~

G. *Conceptual plan approval.*

1. *Purpose.* The purpose of the conceptual plan approval process is to:
  - a. Recognize that preparation of specific construction details and diagrams, in advance of any formal approval, is costly and therefore creates risk for the property owner;
  - b. Recognize that applications for development or redevelopment may precede the final determination of any property owner or tenant who may have a specific floor plan and other requests that need to be accommodated;

- c. Facilitate flexibility in the development process by acknowledging the influence of risk on property owners, developers and lending institutions.
    - 2. *Applicability.* The applicant may include conceptual plan approval as a preparatory step in the development process, which allows an applicant to receive conceptual plan approval for a project and return with a fully developed package for final plan review and approval. The conceptual plan review process may be utilized for the following types of applications: Bonus approval, public hearing (downtown center), site plan review and special exception applications.
    - 3. *Procedures.*
      - a. *Staff review and recommendation.* After the POD has reviewed the application, the POD shall send a report to the commission designated in the Decisions and Appeals Table, with a copy to the applicant, recommending whether the application should be approved, approved with conditions or denied and the grounds for such recommendation. While this is a preliminary approval based on a conceptual plan, the applicant shall submit all information necessary to demonstrate compliance with the Land Development Regulations and any bonus provisions.
      - b. *Commission review and decision.* Upon receipt of the recommendation from the POD, the Commission shall conduct a public hearing on the application and shall approve, approve with conditions or deny the requested conceptual plan, applying the standards for whichever application is being considered.
      - c. *Final plan approval.* At any time prior to expiration of the approval, the applicant may fully develop the plans and return for final approval. The application shall be revised to comply with any code amendments that have been adopted since the conceptual approval. If the final plans are consistent with the conceptual plan approval, the application shall be placed on the consent agenda of the commission designated in the Decisions and Appeals Table for final approval. The applicant may return to the commission designated in the Decisions and Appeals Table at any time prior to expiration to amend an approved conceptual plan.
- H. *Modifications* . Any request for modification to a special exception or a site plan review previously approved by the POD or the commission designated in the Decisions and Appeals Table, shall be subject to review and approval in the same manner as a new application, except that the POD may approve minor modifications, provided that the basic purpose and intent of the Commission's action and the ordinances of the City are met and effectuated.
  - A. *Minor modifications.* "Minor modification" shall mean the following:
    - 1. Any modifications that reduce density, building square footage or degree of variance, or modifications not involving an increase of more than ten percent of the gross floor area and in no event more than 6,000 square feet in the case of buildings or five percent of the lot area in the case of parking or landscaping modifications. Public notice of these minor modifications is not required.
    - 2. Any modifications involving an increase of more than ten percent, but not more than 20 percent, of the gross floor area and in no event more than 15,000 square feet in the case of buildings or 20 percent of the lot area in the case of parking or

landscaping modifications. Mailed notice should be provided as set forth in the notices section.

3. Minor modifications shall not cause a variance from any provisions of the City Code, shall not involve a change in principal use or an increase in residential density, shall not waive any condition or conditions expressly specified by the Commission, and shall not change the basic intent of the approved site plan.

B. *Procedures.*

1. An applicant that seeks a modification to a special exception or site plan previously approved by the POD or the commission designated in the Decisions and Appeals Table shall be required to obtain the required authorizations from all owners of property subject to the previous approval for which modification is sought, except as set forth in subsection 2 below.
2. An applicant that seeks a modification to a previously approved special exception or site plan may be exempt from obtaining the required authorizations from the other property owners subject to the previous approval for which modification is sought, if all of the following conditions are met:
  - a. The previously approved special exception or site plan, which may or may not be expired, applies to a subject property that is currently owned by multiple owners who are separate entities; and
  - b. The applicant is seeking to modify the special exception or site plan approval for only those portions of the subject property that the applicant owns.

In lieu of obtaining the required authorizations from the other property owners, upon meeting the conditions set forth in this subsection, the applicant shall demonstrate proof of that notice describing the modification was supplied to the other property owners 30 no more than 90 days and no less than 15 days prior to filing of the application. a final decision made by the POD, or, if required, 30 days prior to a public hearing by the commission designated in the Decisions and Appeals Table. Modifications to site plans with multiple owners shall be reviewed to address overall impacts on the entire site plan in accordance with the applicable development standards in the Land Development Regulations.

**SECTION 9.** Coding: As used in this ordinance, language appearing in struck-through type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise. Sections of this ordinance that amend the City Code to add new sections or subsections are generally not underlined.

**SECTION 10.** The provisions of this ordinance shall be deemed to be severable. If any provision of this ordinance is determined unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

**SECTION 11.** In the event this Ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective after the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto this Ordinance, in which case this Ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this Ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

Approved as to Form:

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Assistant City Attorney

(00473721)