

MEMORANDUM

TO: Claire Powell, City Manager

FROM: Richard E. Luedke, AICP, Planning Director

DATE: January 6, 2025

SUBJECT: **Public Hearing: Public Hearing: Consideration of an Ordinance Amending Article III, Chapter 6 “Zoning Petitions And Procedures” of Volume II of the Lewisville City Code, Known as the Unified Development Code, by Amending Section III.6.6 to Remove Limitations on Resubmission of Zoning Petitions Following City Council Denial.**

BACKGROUND

The City of Lewisville has always had a provision that limited the ability of applicants to resubmit zoning requests within one year of being denied by the City Council. Historically, there have been very few denials; however, this provision does not allow an applicant the ability to resubmit a new application in a situation where they believe they may have a legitimate chance of approval with minor revisions to the application or the inclusion of new information impacting the case. The Planning and Zoning Commission recommended unanimous approval (5-0) on December 17, 2024.

ANALYSIS

The proposed Unified Development Code (UDC) amendment removes the limitation on resubmission of zoning applications. While staff does not believe this will be a common occurrence, it is a requirement of our code that goes above the state requirements and may create an unnecessary delay for some projects. If an applicant resubmits the same or similar zoning request, the Planning and Zoning Commission and City Council still have the full range of options and may deny or approve the request. In the case of a special use permit or planned development, the request could also be approved with conditions.

Proposed UDC Amendments:

Section III.6.6. City Council Action

- A. **Public Hearing Required** - After report and recommendation by the Planning and Zoning Commission on the zoning petition, the City Secretary shall schedule a public hearing to be held before the City Council, giving notice as required above.
- B. **Request to Withdraw or Table** - At any time, the applicant may request withdrawal of the zoning petition or tabling of the zoning petition to a specified future City Council meeting. City Council may approve the request to withdraw or table or conduct the public hearing as noticed.

C. **City Council Action** - After a public hearing, the City Council may approve, deny (in whole or in part), table, or refer the zoning designation change petition back to the Planning and Zoning Commission for further study.

~~D. **Limitation on Resubmission of Zoning Petition** - If the City Council denies the zoning petition, the applicant may not resubmit the zoning petition for all or any part of the subject tract for a period of one (1) year from the date of the City Council's action.~~

~~E~~D. **Supermajority Vote Requirements** - An affirmative vote of at least three-fourths of all members of the City Council is required to approve a zoning designation change petition in the following circumstances:

1. **Recommendation of Denial** - If the Planning and Zoning Commission has recommended denial, in whole or in part, of a zoning petition.
2. **Protests** - If a protest has been submitted as outlined in Section 211.006 of the Texas Local Government Code, as amended.
 - a. **Form of Protest** - Such protest must be in writing and must be signed by the owner(s) of the property in question.
 - b. **Presumption of Validity** - In all cases where a protest has been properly signed pursuant to this subsection, the City shall presume that the person(s) whose signature(s) appear on the protest are valid.
 - c. **Withdrawal of Protest** - A withdrawal of a protest must be in writing. In the event that multiple protests and withdrawals are filed on behalf of the same owner(s), the instrument with the latest date and time of execution controls.

CITY STAFF'S RECOMMENDATION:

That the City Council approve the ordinance as set forth in the caption above.