

**CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Florencio Peña III, Director, Development Services Department

SUBJECT: An Ordinance amending Chapter 34 and 35 of the Unified Development Code

DATE: February 9, 2006

SUMMARY AND RECOMMENDATIONS

An Ordinance amending Chapter 34 and Chapter 35, Unified Development Code, of the City Code of San Antonio, Texas regarding recognition of rights under Chapter 245 of the Texas Local Government Code and common law for projects; implementing fair notice of a project and permit sought; adopting conforming amendments and apportioning current fees.

Staff recommends approval.

BACKGROUND INFORMATION

From January to March 2005, the Vested Rights Task Force worked diligently to identify improvements to the vested rights process and review current associated State laws. The Vested Rights Task Force deserves recognition for its efforts and much of its work has been incorporated into these amendments.

On April 27, 2005, the Texas Legislature passed Senate Bill (SB) 848, which specifically defines and determines what "filed" means. However, as it relates to City applications for land development permits, it does not include a definition for "Fair Notice".

On November 3, 2005, the Quality of Life Council Committee heard the recommendations from the Vested Rights Task Force, regarding modifications to the Vested Rights Process. On November 17, 2005, staff presented a recommendation to the Quality of Life Council Committee to initiate an amendment to the Unified Development Code (UDC) to implement SB 848 and provide fair notice of a project. At this meeting, Development Services staff was directed to bring forth recommendations for a final vested rights ordinance in February 2006 to include SB 848.

On December 14, 2005, the Planning Commission received a recommendation regarding implementation of SB 848. On December 28, 2005, staff distributed an ordinance to implement SB 848 (Package A) and other vested rights provisions (Package B), to streamline the vested

rights process to the Planning Commission. Staff requested that the matter be continued until January 25, 2006, to allow for a public comment period.

On January 25, 2006, the Planning Commission was presented with Package A and Package B of the proposed vested rights ordinance amendments. The Commission is scheduled to consider the vested rights amendments on February 8, 2006.

On January 26, 2006, the Quality of Life Council Committee was presented with Package A and Package B of the proposed vested rights ordinance amendments. The committee recommended that staff bring the matter back to Quality of Life on February 9 and to place the matter before City Council on February 9, 2006.

POLICY ANALYSIS

Today, the City of San Antonio has no definition of a project. State law, through adoption of SB 848, allows cities to establish a definition of a project in order to protect developers from future changes to development rules and regulations.

Package A implements SB 848 by providing developers with a process which requires the project to be defined at the time a complete application is filed for project permits if vesting is desired. Throughout both Chapters 34 and 35 of the City Code, staff recommends changing the term "property" to "project" in an effort to mirror State Law. Staff proposes that current processes be used for multi-phased developments. However, for single-phased developments (single plat, utility service agreements, and category determination letters) a site plan will be required. Staff defines a site plan as lot layout, general building footprint with approximate square footage of the building(s) and land use.

Package B is an ordinance that clarifies three basic public policy questions.

1. What happens to established rights under Local Government Code Chapter 245 when a multi or single-phase project is modified?
2. When is a project complete?
3. What is required to demonstrate progress towards completion of a project?

The proposed ordinances also provide for staff appeal of Planning Commission decision and remove the provision that allows the Board of Adjustment to modify a consent agreement. These ordinances provide clarity and consistency to the process in which vested rights determinations will be recognized in the future. Adoption of these ordinances does not prohibit a developer from requesting a vested rights determination for a project initiated prior to the effective date of this ordinance.

FISCAL IMPACT

There is no fiscal impact.

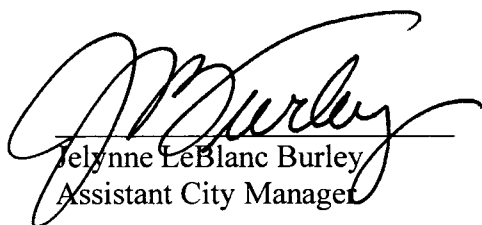
COORDINATION

This item was coordinated with the Planning Commission, Quality of Life Council Committee, City Attorney's office, SAWS, and CPS.



Florencio Peña III

Director, Development Services Department



Jelynnne LeBlanc Burley

Assistant City Manager



Sheryl Sculley
City Manager

**An Ordinance amending Chapter 34 and
Chapter 35, Unified Development Code, of
the City Code of San Antonio, Texas**

City Council

Item #

February 9, 2006

Background

- January to March 2005 - Vested Rights Task Force identified improvements to the vested rights process and review current associated State laws.
- April 27, 2005 - Texas Legislature passed Senate Bill (S.B.) 848 which specifically defines and determines what "filed" means. However, as it relates to city applications for land development permits, it does not include a definition for "Fair Notice".

Background

- November 3, 2005 - Quality of Life Council Committee heard the recommendations from the Vested Rights Task Force
- November 17, 2005 - Quality of Life Council Committee to initiate an amendment to the Unified Development Code (UDC) to implement SB 848 and provide fair notice of a project. At this meeting, Development Services Staff was directed to bring forth recommendations for a final vested rights ordinance in February.

Background

- December 14, 2005 - Planning Commission received recommendation regarding implementation of SB 848.
- December 28, 2005 - staff distributed an ordinance to implement SB 848 (Package A) and other vested rights provisions (Package B) to streamline the vested rights process to the Planning Commission. Staff requested that the matter be continued until January 25, 2006 to allow for a public comment period.

Requested Action

- Package A – Implements SB 848 by providing developers with a process, which require the project to be defined at the time a complete application, is filed for project permits if vesting is desired.
 - Throughout both Chapters 34 and 35 of the City Code, staff recommends changing the term “property” to “project” in an effort to mirror State Law.
 - Staff proposes that current processes be used for multi-phased developments.
 - Single-phased developments (single plat, utility service agreements, and category determination letters) a site plan will be required. Staff defines a site plan as lot layout, general building footprint with approximate square footage of the building(s) and land use.

Requested Action

- Package B is an ordinance that clarifies three basic public policy questions.
 - 1. What happens to established rights under Local Government Code Chapter 245 when a multi or single-phase project is modified?
 - 2. When is a project complete?
 - 3. What is required to demonstrate progress towards completion of a project?

Requested Action

- The proposed ordinances provide for staff appeal of Planning Commission decision and remove the provision that allows the Board of Adjustment to modify a consent agreement.
- These ordinances provide clarity and consistency to the process in which vested rights determinations will be recognized in the future.
- Adoption of these ordinances does not prohibit a developer from requesting a vested rights determination for a project initiated prior to the effective date of this ordinance.

- There is no fiscal impact associated with these ordinances.
- Staff recommends approval.