

**FILE NUMBER:** DCA190-005

**DATE INITIATED:** October 1, 2019

**TOPIC:** Development Code Amendment to Resolve Conflicts Between Zoning and Thoroughfare Plan

**CITY COUNCIL DISTRICTS:** All

**CENSUS TRACTS:** All

**PROPOSAL:** Consideration of amending Section 51A-4.702 and 51A-10.125; adding a new Division 51A-9.600, "Street Section Designs for Thoroughfares"; providing factors for the director to consider when making a determination on what street sections, landscaping, and pedestrian and vehicle designs control when there is a conflict between zoning requirements in the right-of-way and street designs for constructing a thoroughfare in conformance with the City of Dallas Thoroughfare Plan.

**SUMMARY:** The proposed code amendments will update relevant sections of the City of Dallas Development Code to establish a procedure to resolve conflicts between designs for thoroughfares and zoning requirements for improvements in public right-of-way.

**CPC RECOMMENDATION:** Approval.

**STAFF RECOMMENDATION:** Approval.

**BACKGROUND:**

- The City Plan Commission Thoroughfare Committee was briefed on this proposal on October 3, 2019, November 21, 2019 and recommended approval of the proposed code amendment on December 12, 2019.
- On October 17, 2019 the City Plan Commission authorized the Thoroughfare Committee to consider amendments and make recommendation on proposed amendments to Article IV and Article X related to the proposed amendment to Article IX.
- On May 18, 2020, the City Council Transportation and Infrastructure Committee received a memo on the proposed amendments and recommended forwarding the proposed amendments to City Council for consideration.
- As thoroughfare plan amendments have been adopted to implement complete street proposals there have been conflicts between design details to implement the complete street and certain zoning requirements, particularly in Planned Development Districts that include requirements for the public right-of-way such as trees in the parkway and placement of sidewalks.

**GENERAL INFORMATION/STAFF ANALYSIS:**

With the implementation of more complete street proposals for thoroughfares and other special street sections, there have been instances where conflicts have been created between the design to implement the adopted thoroughfare and existing zoning. One prime example of zoning which dictates certain design elements within the right-of-way that might conflict with a complete street proposal is Planned Development District No.193. The Oak Lawn PD requires that there be a 5 ft landscape area between back of curb and the sidewalk and requires street trees in this area. A complete street proposal in a dense urban environment may favor wider sidewalks and indented on-street parking over strict application of the parkway requirement such as occurs on Knox Street.

The proposed amendment recognizes these conflicts may exist. The proposal provides a mechanism for the director of sustainable development and construction, in consultation with the city engineer, the city traffic engineer and the thoroughfare plan administrator, to make determination of what street design is implemented when there is a conflict. All development on private property must comply with all zoning requirements.

**PROPOSAL SUMMARY:**

Add a new section to Article IX, "Thoroughfares," that establishes a process to resolve conflicts between thoroughfare designs and zoning requirements. The new section will:

- State the provision only applies to improvements within public right-of-way (all zoning requirements must be met on private property).

- State that if there is a conflict between designs for thoroughfares and zoning requirements, the director, in consultation with the city engineer, city traffic engineer and thoroughfare plan administrator, the director will determine what street sections control within the public right-of-way,

Amend the development plan and landscape plan amendment section of Article IV “Zoning Regulations” to reference that plans may be amended administratively consistent with any determination made under the new section in Article IX.

Amend the section in Article X, “Landscape and Tree Conservation,” that address the use of right-of-way to satisfy street buffer zone requirements to recognize that determinations made under the new section in Article IX may impact the ability to utilize the parkway to meet landscape requirements.

**CPC ACTION**

**January 23, 2020**

**Motion:** It was moved to recommend **approval** of amending Section 51A-4.702 and 51A-10.125; adding a new Division 51A-9.600, "Street Section Designs for Thoroughfares"; providing factors for the director to consider when making a determination on what street sections, landscaping, and pedestrian and vehicle designs control when there is a conflict between zoning requirements in the right-of-way and street designs for constructing a thoroughfare in conformance with the City of Dallas Thoroughfare Plan.

Maker: Jung  
Second: Carpenter  
Result: Carried: 13 to 0

For: 13 - MacGregor, Hampton, Johnson, Shidid,  
Carpenter, Brinson, Jung, Housewright, Schultz,  
Schwope, Murphy, Garcia, Rubin

Against: 0  
Absent: 1 - Blair  
Vacancy: 1 - District 3

**Speakers:** None

PROPOSED ORDINANCE

An ordinance amending Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Section 51A-4.702 and 51A-10.125; adding a new Division 51A-9.600, “Street Section Designs for Thoroughfares”; providing factors for the director to consider when making a determination on what street sections, landscaping, and pedestrian and vehicle designs control when there is a conflict between zoning requirements in the right-of-way and street designs for constructing a thoroughfare; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date. WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (a), “General Provisions,” of Section 51A-4.702, “Planned Development (PD) District Regulations,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Paragraph (9), “Compliance with Thoroughfare Plan,” to read as follows:

“(9) Compliance with thoroughfare plan. An ordinance establishing or amending a PD may not authorize improvements in rights-of-way or dimensional requirements that conflict with the thoroughfare plan.”

SECTION 2. That Paragraph (1), “Purpose and Scope,” of Subsection (i), “Amendments to the Landscape Plan,” of Section 51A-4.702, “Planned Development (PD) District Regulations,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(1) Purpose and scope. The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. Minor amendments are limited to minor changes in the landscape plan that otherwise comply with the PD ordinance and do not:

(A) reduce the perimeter landscape buffer strip shown on the original landscape plan;

(B) detrimentally affect the original landscape plan’s aesthetic function relative to adjacent right-of-way or surrounding property, unless the director has made a determination under Section 51A-9.602 for landscaping within the right-of-way; or

(C) detrimentally affect the original landscape plan’s screening or buffering function.”

SECTION 3. That Subparagraph (A), “Director Procedure,” of Paragraph (2), “Determination of Procedure,” of Subsection (i), “Amendments to the Landscape Plan,” of Section 51A-4.702, “Planned Development (PD) District Regulations,” of Division 51A-4.700, “Zoning Procedures,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(A) Director procedure. The director may forward any application to the city plan commission for review. The director may, however, approve minor amendments to a landscape plan without the notification described in Section 51A-1.105(k) if:

(i) the proposed minor amendments are necessary to keep landscaping from interfering with service provided by a public utility or state regulated entity for the transmission of power, fuel, water, or communication services; [ø]

(ii) the director has made a determination under Section 51A9.602 affecting landscaping within the right-of-way; or

(iii) the proposed landscape plan:

(aa) does not change the landscape plan within 25 feet of a property line with residential adjacency;

(bb) does not reduce the number of trees or amount of plant materials in a landscape buffer area (locations and types of trees or plant materials may be altered if the screening and aesthetic function of the buffer area is not affected);

(cc) does not reduce the number of trees or amount of plant materials within 25 feet of a street right-of-way; and

(dd) does not reduce the number of trees, plant materials, or landscape points on the site.

The director shall notify the city plan commission of all applications for minor amendments eligible for approval under the director procedure.”

SECTION 4. That Article IX, “Thoroughfares,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Division 51A-9.600, “Street Section Designs for Thoroughfares,” to read as follows:

**“Division 51A-9.600. Street Section Designs for Thoroughfares.**

**SEC. 51A-9.601. APPLICATION OF DIVISION.**

(a) This division applies to all thoroughfares in the city.

(b) In this division, STREET SECTION means designed street cross-sections intended to guide the construction of a thoroughfare in accordance with the thoroughfare plan.

(c) Street sections include all features specified for the right-of-way in a proposed street design including, but not limited to:

(1) right-of-way width;

(2) number and width of vehicle travel lanes;

- (3) pavement width;
- (4) median width;
- (5) landscape standards and elements for parkway and medians;
- (6) location of on-street parking;
- (7) width and location of sidewalks; and
- (8) width and location of bike lanes.

**SEC. 51A-9.602. PROCEDURES FOR ESTABLISHING APPLICABILITY OF STREET SECTIONS.**

In cases where there is a conflict between zoning requirements in the right-of-way and street designs for constructing a thoroughfare, the director, in consultation with the city engineer, city traffic engineer and thoroughfare plan administrator, shall determine what street sections, landscaping, and pedestrian and vehicle design considerations control within the public right-of-way. In making the determination, the director shall consider the following:

- (a) that zoning requirements may not override thoroughfare plan requirements;
- (b) the street section and standards for right-of-way improvements;
- (c) the consistency of the established block face; and
- (d) the projected schedule for public street improvements.”

SECTION 5. That Subparagraph (B), “Right-Of-Way,” of Paragraph (1), “Street Buffer Zone,” of Subsection (b), “Other Uses,” of Section 51A-10.125, “Mandatory Landscaping Requirements,” of Division 51A-10.120, “Landscaping,” of Article X, “Landscaping and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(B) Right-of-way. The right-of-way adjacent to the property line may be used to satisfy the required street buffer zone subject to:

- buffer
- (i) a minimum depth of five foot maintained along the property as a street
  - (ii) local utility location;
  - (iii) appropriate planting conditions; [~~and~~]
  - (iv) any determination made under Section 51A-9.602 that affects the ability to provide landscaping within the right-of-way; and
  - (v) city licensing and permit requirements.”

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 9. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 10. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

DCA190-005

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By \_\_\_\_\_  
Assistant City Attorney