

STAFF REPORT ON PETITION FOR LAND SUBDIVISION REGULATIONS TEXT AMENDMENT

SRA 2016-1: AMENDMENT TO ARTICLE 4-4(D)(1); INCREASING THE LIFE OF A PRELIMINARY SUBDIVISION PLAN FROM THREE YEARS TO FIVE YEARS

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text ~~dashed through~~ indicates a deletion, and text underlined indicates an addition to the existing Land Subdivision Regulations.)

4-4 PRELIMINARY PLAN PROCEDURE - All preliminary subdivision plans shall be processed as follows:

(1) **APPROVAL** - Means the developer is authorized to proceed with the preparation of the required improvement plan. Preliminary plan approval by the Planning Commission automatically grants a developer ~~three (3)~~ five (5) years from the date of Commission action within which he shall submit final plans for all property shown on the preliminary plan for Planning Commission consideration. Before expiration, the Commission may extend the approval period in increments not to exceed one year at a time, provided the Commission finds that progress has been made in the physical construction of improvements. In conjunction with such approval extensions, the Commission shall have the right to require changes in the preliminary plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community or when applicable ordinances and regulations have been changed. Upon the expiration of any approval period specified under this section, the plan shall be deemed as disapproved by the Commission.

STAFF REVIEW:

At the Division of Planning's request, the Planning Commission has initiated this amendment to the procedure established decades ago for Preliminary Subdivision Plans (PSPs). These plans, authorized by Article 4-4 of these regulations and defined in Article 4-2(a), are prescribed so that "the developer and project engineer may prepare and file the improvement plan with the Division of Engineering. No lot may be sold or transferred, or building permit obtained based upon an approved preliminary subdivision plan." These plans are a precursor to actual infrastructure construction on a given site, in advance of residential or commercial structures.

Over the past 2-3 years, the Commission has seen numerous requests to extend the Commission's past approvals for these types of plans, so that new improvement plans can be filed with the Division of Engineering staff. Some of these Preliminary Subdivision Plans have also been Final Development Plans, most often, when in the defined (1996) Expansion Area. Such plans have created some confusion with project engineers, since the Final Development Plan portions of those same plans have a "life" of five years, based on the limitations of Article 21-4(f)(2) of the Zoning Ordinance. The benefits of extending this time will be considerable. The possibly confusing conflict between 4-4(d) of the Land Subdivision Regulations and the Zoning Ordinance provision can be resolved, giving both types of plans the same allowable timeline (or "life," if you will).

Another uncertainty can also be eliminated with an update to this Subdivision Regulations paragraph. The staff has consulted with the Law Department recently to ascertain when the three-year clock actually begins. Under differing interpretations, one could surmise that it starts when the Commission votes to approve the PSP. However, for decades, the clock has actually started when the PSP is certified (i.e. signed) by the Commission's Secretary (usually the Director of the Division of Planning). As a practical matter, a developer's engineer has one year from the date of the Commission's approval to certify a Preliminary Subdivision Plan. Thus, in more recent (post-Recession) times, the 3-year authorization for some PSPs have been extended by up to 12 months when development activity has been slow for given projects.

Article 21-4(f)(2) of the Zoning Ordinance provides that, for development plans, the five-year "life" begins at the time the Commission votes to approve the plan. The staff would suggest that this is the perfect opportunity to have the uncertainty for PSPs eliminated with the proposed amendment. The new five-year timeline for a PSP will be clarified to be tied directly to the date of approval by the Commission. In this way, the differing sections of the Zoning Ordinance and the Land Subdivision Regulations can be revised to better eliminate any of the uncertainty that led to the need for this amendment.

The Staff Recommends: **Approval**, for the following reasons:

1. The removal of the conflict in the Zoning Ordinance and the Land Subdivision Regulations regarding the allowable "life" of a combined Final Development Plan/Preliminary Subdivision Plan would be eliminated with this proposed amendment.
2. The long-standing practice of allowing Improvement Plans to be filed within three years of the certification of a Preliminary Subdivision Plan would be replaced with the certainty of a statement in the Regulations allowing up to "five (5) years from the date of Commission action" on the plan. In most instances, this will allow project engineers 12-23 months longer than the past practice to perform this task.

WLS/TM/JME/BJR

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