

Memo

To: Planning and Zoning Commission Members
From: Kevin E. Ashley, AICP Planning and Development Manager
Date: February 16, 2016
Re: Text Amendment to Address Validity of Preliminary Subdivision Plats

As the Commission is aware, developers often approach the Commission with requests for the extension of preliminary subdivision plats. The ordinance currently specifies that preliminary plats are valid for a period of two years and that a final plat must be filed or the preliminary plat becomes void. The developer has the option of requesting a two year extension of the preliminary plat, and after that time, if a final plat is not recorded, the preliminary plat expires. Each final plat starts the two year time period over again so these plats have to be recorded every two years or the preliminary plat becomes void.

The development process includes the development and approval of construction plan documents after the preliminary plat is approved. These documents are prepared to insure that infrastructure (such as streets and stormwater) is adequately planned. During this time, the developer must also obtain stormwater permits, erosion and sedimentation control permits and any number of various other State and potentially Federal permits. Additionally, before a final plat can be recorded, a certain amount of physical construction must take place on the ground.

Staff had heard from numerous subdivision developers that the two year time period often makes it difficult for the development of construction plans, approval of required State and Federal permits and physical construction to get a project to the point where a final plat may be recorded. Even with the allowable extension from the Commission, it is increasingly difficult for the developers to always meet this time period. From a staff perspective, these regulations were written prior to the adoption and effective date of Phase II stormwater requirements, which have further added to the review times and approval processes of major projects. Developers have also expressed concern the final plat timing requirement adds uncertainty to the subdivision process because in some cases, a substantial amount of money has been expended toward construction plan approval, and there is the potential for a project to expire.

Staff has reviewed other subdivision ordinances throughout the State and very few have the requirement that a final plat has to be recorded every two years or the subdivision becomes invalid. The most common approach is to allow the preliminary subdivision to be considered

to be fully valid once construction plans are approved, or grading has commenced or if the developer has obtained an erosion/sedimentation control plan (by the State). All of these actions demonstrate substantial expenditure toward furtherance of the development, and the approach is similar to that of a building permit where the permit stays valid as long as work is being conducted on the site. In short, once construction plans are approved the subdivision is fully in effect and there is no requirement that final plats have to be recorded every two years.

An amendment has been drafted for your consideration which reflects this approach (and is used by Charlotte and Huntersville, among others). The amendment states that preliminary plats are good for three (3) years and that an administrative extension of one (1) year may be granted if the developer demonstrates that they are in the process of working toward furtherance of the plat by getting construction plans prepared and/or reviewed.

The development community is in support of this amendment and it brings this provision of the CDO more closely in line with the approach used by other municipalities throughout the State. The amendment will save staff time in trying to track which subdivisions are valid based upon the last recorded plat and will eliminate preliminary subdivision plat extensions that would normally be presented to the Commission. There are a number of preliminary plats that are due to expire in December and January and the staff has worked with the developers to “stay” the expirations pending potential adoption of this amendment by City Council.

5.2.5. APPROVAL PROCESS.

- A. Subdividers shall submit the following to the [Planning](#) Department:
1. A completed preliminary plat application,
 2. The number of copies of the preliminary subdivision plat specified in the Manual. Preliminary subdivision plats shall meet the size, scale, and content requirements of this subsection,
 3. Other required forms and plans listed in subsection (3) above must be submitted as a part of this approval process, and
 4. A review fee as specified in the most recent annual Budget Ordinance fee schedule.
- B. The Development Review Committee shall examine the preliminary plat and make a recommendation to the Administrator within the time stated in the schedule adopted by the Development Review Committee (DRC) or in the *Manual*.
- C. Incomplete plats and/or plat applications shall be returned to the applicant and will not be reviewed by City staff until revised and resubmitted.
- D. The applicant shall revise the proposed plat if necessary in accordance with City staff review comments and re-submit revised copies along with any another fees or materials that may be required.
- E. Preliminary subdivision plats that are in accordance with all applicable standards of this Ordinance and the Manual shall be placed on the agenda of the Planning & Zoning Commission, in accordance with the procedures and by-laws of the Commission.
- F. Once the Planning & Zoning Commission has taken action on a preliminary plat, it shall be made a matter of record as follows:
1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with [Planning](#).
 2. Approved plats shall be indexed and filed by [Planning](#).
- G. One mylar copy of the preliminary plats approved by the Planning & Zoning Commission shall be submitted to the [Planning](#) Department. Copies of mylar plats shall not exceed 30 by 40 inches in size.
- H. The preliminary plat shall be valid for [three](#) years from the date of Planning & Zoning Commission approval. A preliminary plat shall become void if [work on furtherance of plat has not commenced within the three year period and a new application will be required to develop the site. Furtherance of the plat shall](#)

be defined as grading or approval of construction plans or erosion and sedimentation control plans. If furtherance of the plat has occurred, the plat will remain valid and in force and may be completed in accordance with the approved plan.

- I. The Administrator may approve an extension of one (1) year for the preliminary plat upon presentation of evidence that the developer is actively working toward furtherance of the plat (such as being involved in the development of or review of construction plan documents). The developer shall request the extension in writing and shall include evidence as required by the Administrator. The Administrator may consult with the Director of Engineering or other members of the DRC as necessary, and shall respond in writing, citing reasons for approval or denial of the extension.

Comment [e1]: Add specific reference once Chapter 60 is finalized.

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