

<b>Date:</b>	June 11, 2024
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<b>Subject:</b>	Planning Process Overview

This memo is to provide some background information to help understand how the planning processes in the City operate. When there is confusion about the processes, frustration will likely be the biggest obstacle to overcome. By providing this overview, it is hoped that some confusion can be eliminated, and also provide a tool to help educate the public on how our processes work.

The Planning Commission is created by state statute, and cities that implement zoning must appoint members to that commission. Commissioners must be citizens of Smithville and are appointed to four-year terms. Commissioners attend regular meetings and collectively preside over public hearings on various matters. The matters that come before the Commission are:

- Rezoning or initial zonings of annexed property
- Conceptual Plans for an overlay district
- Conditional Use Permits
- *Site Plan Reviews*
- *Subdivision Platting*
  - *Preliminary Plats of multi-phase subdivisions of land*
  - *Final Plats of each phase of multi-phase subdivisions*
  - *Single Phase Final Plats*
- *Minor Plats – Lot line adjustments or dividing R-2 or R-3 lots with structures*

The first three items are considered zoning-related matters and they have certain rules and procedures that meet the various state statutes contained in Chapter 89, R.S.Mo. Zoning matters are considered 'legislative' matters by the Board of Aldermen and its' decisions are given much deference in a court of law. The Board will be presented with Findings of Fact and recommendations from the Commission on rezoning, conceptual plans, and conditional use permits. While the actual findings may vary slightly based upon the requirements listed in the specific ordinance, they generally address the same 8 matters described in §400.560.C.1-8 of the City Codes.

The final items *in italics* are planning related items and, while also subject to the same state statutes in Chapter 89 R.S.Mo., they are considered 'administrative' matters by the Board of Aldermen and the Board is not given as much deference in their determinations in a court of law. The functions of the Board in an administrative matter are to compare the evidence presented, which includes the Planning Commissions'

recommendations on the matter, with the listed requirements contained in our ordinances. Staff reviews and approves Minor Plats in accordance with the existing ordinances and these plats are not separately reviewed by either the commission or the Board, beyond the initial review when the lots were originally platted.

## **Zoning Changes**

Often a zoning application comes with a separate plat application that is filed simultaneously. Although filed at the same time, they are different matters and subject to different rules. To avoid confusing the issues of zoning and platting, the zoning process is described below. Platting issues will come later.

City ordinances and state law require that any zoning district change (rezoning, conceptual plans and Conditional use permits all change zoning of a district) that certain notices be sent. The first step is publishing a notice in the paper that the commission will conduct a hearing on the rezoning at a particular date and time. In addition, city ordinances require notice be provided to all property owners within 185 feet of the boundaries of the land to be rezoned. We send a copy of the notice provided to the newspaper directly to the adjacent property owners. This notice must be published in the paper and sent to property owners not less than 15 days prior to the hearing. Staff is currently developing a separate notice provision that will involve posting a sign on the property that can be seen from the adjacent right of way.

Once the matter is properly noticed, the matter can come before the commission for a public hearing. At that hearing, the commission takes public comment on the following eight matters:

- 1. Character of the neighborhood.*
- 2. Consistency with the City's Comprehensive Plan and ordinances.*
- 3. Adequacy of public utilities and other needed public services.*
- 4. Suitability of the uses to which the property has been restricted under its existing zoning.*
- 5. Length of time the property has remained vacant as zoned.*
- 6. Compatibility of the proposed district classification with nearby properties.*
- 7. The extent to which the zoning amendment may detrimentally affect nearby property.*
- 8. Whether the proposed amendment provides a disproportionately great loss to the individual landowners nearby relative to the public gain.*

In cases where there is only a request for changing the zoning, there may not be any direct information and evidence of the intent of the planned use or development. In those cases, the eight items above are weighed using the permitted uses in the district. For example, if someone seeks to rezone land from A-1, agricultural to say R-1D, one could logically assume that they intend to come forward with a subdivision in the

future, but that is not necessarily required. It is best, absent a specific planned project, to assume the most impactful type of use will be developed. This will allow the eight standards to be addressed in a manner that considers the highest use. The commission then makes its' recommendation to the Board and makes specific findings of fact on each of the eight items in the standards listed above.

### **Conceptual Plans**

If the application is one for a conceptual plan, it looks like a hybrid between a plat and a rezoning, but it is not. The same notice and hearing provisions for a rezoning application apply in this case as well. If the concept plan is ultimately approved, a subdivision plat must also be submitted, reviewed and approved in order to proceed to construction. A conceptual plan allows a development to modify some of the location of buildings, structures, roads, drives, variations in yards, open spaces, etc. after its' original approval. These modifications occur without separate hearings as long as the density, parking and other standards are met for the entire site, just not necessarily in the exact layout shown in the concept plan. The code specifically states that this provision is to encourage latitude and flexibility in the buildings, structures, etc. to allow development to its fullest extent, but within the original plan confines. This process is in addition to the rezoning process, if needed. If an application to rezone land from A-1 to B-3 is presented, along with a conceptual plan, both the rezoning and conceptual plan review is based upon the specific eight standards for review listed above, with findings and recommendations from the commission.

### **Conditional Use Permits**

Conditional Use Permits are a third zoning change item allowed. These matters have the same notice and hearing requirements as above, however the standards are slightly different. The reason for the difference is that the original eight items were weighed at the original zoning hearing, whenever that may have occurred. CUP's MUST be listed in the zoning district's rules and regulations as allowed with such permit. For example, the B-3 district has very broad use rules, generally, but an amusement park or telecommunications tower are uses that require a separate CUP. The minimum standards in a CUP are listed in §400.570.C.1-7. They relate primarily to steps needed to protect adjacent property from the potential undesirable impacts of this use. There are additional standards for seven specific uses (telecommunications towers, e.g.) that are focused on known impacts from those uses.

### **Zoning Summary**

Following the public hearing at the commission level, it will then consider and discuss the eight (or 7 for a CUP) findings to be made. This is facilitated by a draft set of findings made by staff and based upon the staff report provided to the commission. The commission can accept each of the draft findings, or they can seek to amend one

or more of the proposed findings. This process is initiated by any member making a motion to amend (paragraph 3, e.g.) the findings. If that matter is seconded by another member, then that specific item is discussed and ultimately voted upon. After all discussion and votes on the findings, the commission makes its recommendation to the Board of Aldermen.

The Board of Aldermen receive the findings and recommendation, along with an ordinance related to the change at its next meeting. This item is discussed just like any other ordinance, but usually will have commenters signed up to speak if the item is/was remotely controversial at the commission level. During that discussion the Board is free to accept or reject the commission findings and vote on the ordinance accordingly. If the ordinance passes, the item will be scheduled for a second reading at the next meeting where the same process can occur. If the ordinance passes both readings, the zoning is thereafter changed in accordance with the ordinance's language.

### **Site Plan Review**

Site Plan Review is required for any new construction within any business or industrial district, the R-3 district, and with any proposed CUP. The Site Plan review process is an administrative function of the commission and Board of Aldermen. The applicant must submit plans and documents sufficient to evaluate that the materials, colors, building façade treatment and site layout meet the standards associated with the specific zone district. Those standards are different if the proposed development is adjacent to residential, compared to another commercial or industrial property. The different standards are to protect the impact on the adjacent residential uses against negative or deleterious effects.

This process begins with the submission of an application. Staff will begin its initial review of the proposal and determine if any street or utility issues may arise. In those cases where utility or traffic issues are identified, studies may also be required. This is a relatively new function as the subdivision platting standards (discussed later) are incorporated by reference as it relates to utilities and other off-site improvements. Staff works with the applicant, its' engineers, the fire district and potentially MoDOT to address the impacts of the project. Once those entities have been satisfied that their needs are protected with the application, the matter is submitted to the commission for review.

Commission review is an administrative function, so if the application meets the standards contained in the ordinance, it is approved. The Commission has the authority to determine if those requirements were met, however. If the commission approves the submission, it is forwarded to the Board for its review and approval. Its' standards are the same as the commissions, but they also get to use the commission's

recommendation in weighing the submission. If approved, the applicant can then submit a building permit application.

## **Plat Matters**

Plats are the method that allows lands to be divided into separate parcels. In order to successfully divide land, the proposed zoning district must specifically allow the subdivision of land into the size and/or shapes intended. This is often why subdivision plats are accompanied by a request to rezone. For example, our zoning districts for single-family residential have 4 different classes with 4 different lot widths – 100ft in R-1A, 75ft in R-1B, 60ft in R-1C and 50ft in R-1D. Depending upon how the development seeks to layout the development, including the density of housing, it may require a zone district change in advance of the platting. In cases where there is a simultaneous submittal for zoning changes and a subdivision plat, the zoning change must occur prior to the plat being finally approved. Assuming zoning is in place, or is simultaneously being heard, plats are addressed using their own set of rules and standards.

For subdivision plats, other than Minor Plats, there is a pre-development conference with either the development director or a development review committee consisting of public works, development and the fire district. The primary purpose of this conference is to identify any immediate concerns with the proposed layout. This is also where technical studies are identified and required. All developments will require a stormwater management plan and study. The level of that study is based upon the recommendation of the City's engineers.

Many other developments will also require a traffic Impact Study if it meets the minimum standards as contained in the Transportation Master Plan. Currently the standard is 50 peak hour vehicle trips or 500 daily trips generated in one day. If the matter is close, the applicant must submit a report from a traffic engineer that identifies the peak and daily numbers are below those limits and then no TIS is required. Other studies may include a lift station or downstream gravity sewer evaluation. These sewer evaluations are performed to identify any potential issues that the new development may cause and what level of service will be required.

It is also at this meeting that the initial parkland dedication requirements will be discussed. These may include dedicating land, constructing trails, or making payments in lieu of dedication. All these items are used by the developer to begin the final design process and assess the estimated costs of development. Following the meeting, the developer can begin its' more detailed and expensive work that will meet the issues identified above. The developer then submits its application with the studies required above and the review process begins.

Once the study reviews are completed, they will identify any off-site improvements that may be necessary, such as turn lanes, traffic lights, sewer system upgrades. These off-

site improvements are the responsibility of the developer and will be included in a development agreement that includes triggers as to when each off-site improvement must occur. This work, including any proposed development agreement, will be completed prior to the first public hearing.

In the event the application will be for a Minor Plat, the process is truncated to just the zoning standards and no technical studies will be required. All applications, including for a Minor Plat, start the official review processes as described below.

### **Minor Plats**

These involve lot line adjustments, or property ownership divisions of lands in the R-2 and R-3 districts. None of these items require notice or hearing. The applicant submits the plat, staff reviews it for compliance with the zoning standards for the district it's in, and can approve it, or require changes that meet the zoning standards. A lot line adjustment occurs where two adjacent lot owners desire to change their respective property lines, or to split a third lot between them by adjusting their boundary lines to eliminate the lot and expand both remaining lots. The primary issue relates to setbacks of existing structures and either the lot line must be moved, or the structure must be moved before it can be approved.

The procedure in a duplex scenario is authorized, but not required. With a duplex, the property can be divided with sufficient land to meet the zoning requirements for such divided lots. In a scenario with multiple single-family attached units (but not apartment units), the division into separate units is required. This division can occur on one of three ways: a division of the units, with accompanying land for front and backyards, a division of the units based on the footprint of the building if a maintenance provided complex, or by building if there are multiple buildings on one lot. Again, no hearing is required, but staff completes the zoning compliance review prior to approval.

### **Preliminary Plats**

Preliminary plats are required where a development will be constructed in phases and in accordance with the standards set out in 425.275.A.3. of the code of ordinances. A preliminary plat contains a substantial amount of detail, often including the park dedication acreage or evaluation as well as the general design of the subdivision. While the city's review is ongoing, the matter is subject to public notice for a public hearing to be held. Public Notice for a Plat is the same as that of the zoning matter, 15 days in both mail and newspaper.

At the meeting with the public hearing, the staff presents its' report on the items identified in the guidelines for review in §425.275.A.3. This report identifies all the issues brought forward because of the technical studies, including both on-site and off-site improvements. These improvements may be to the water system, sewer system or

street systems. The report also describes how the application will comply with the park dedication requirements and describes how each item will be addressed in a development agreement.

At the actual hearing, the commission will take evidence from the public, in addition to the staff's report, technical studies and any comments from the applicant. The commission will then, using the administrative powers mentioned above, evaluate the application with the listed guidelines for review. The technical studies can be used to specifically address issues related to traffic concerns or flooding/stormwater concerns in those guidelines. After all interested parties are allowed to speak, the hearing is closed and the commission then takes up the matter for its' discussion. The commission can ask questions of the applicant, staff or any of the public who presented evidence at the hearing. Following this discussion, the commission will make its' recommendations and forward the matter to the Board of Aldermen.

The Board of Aldermen will take up the plat in the form of a Resolution, including a provision to authorize execution of the development agreement. The Boards' function here is also administrative and it compares the evidence presented with the standards in §425.275. A.3. If it approves the resolution, then the applicant can immediately begin preparation of construction plans or submit those plans and begin that review. An approved preliminary plat only authorizes the applicant to prepare final plats for review.

## **Final Plats**

There are two types of Final Plats, one that is for a single phase in a multiphase development, or a Single-Phase Final Plat. A single-phase final plat will include all of the necessary information for a preliminary plat review and approval, as well as the information necessary for a final plat to be approved. These are used when the development is such that it will be able to be prepared for final plat without the need for phasing over time the development. The standards for a single-phase final plat are contained in §425.285 of the code, and are a combination of both preliminary plat standards as well as a regular Final plats' standards.

A regular Final plat associated with a subdivision under a preliminary plats' approval it a straightforward matter. Upon submission of the proposed Final Plat and construction plans, staff will review the submittal for compliance with the Preliminary Plat and the development agreement. If the application matches the preliminary plat without any substantial deviations, it is submitted to the Board of Aldermen by Resolution. Substantial deviations include changes to the streets, lot layouts, easements or rights of way, any buffering from adjacent properties and any utility changes. If there are changes, a new preliminary plat must be submitted and approved first. When the Final Plat matches the preliminary plat, the Board can then approve it, which allows the

applicant to complete the necessary construction or bonding to allow the plat to be recorded and lots to be sold.

The only exception to the preliminary plat or final plat process is the conceptual plan zoning. In those cases, the submittal of a proposed Final Plat is reviewed for compliance with the conceptual plan requirements as well.