

Staff Report

**CHAPTER 23 (SUBDIVISION) & CHAPTER 29 (ZONING) TEXT AMENDMENTS**

April 13, 2021

**BACKGROUND:**

The Planning Division has recently reviewed some of the City's project review and notification procedures related to certain Planning applications. **Staff believes that a number of changes to application requirements and clarification of other procedures would be beneficial for administration of Chapter 23 (Subdivisions) and Chapter 29 (Zoning).** A related chapter is Chapter 20 that describes the duties and responsibilities of the Planning and Zoning Commission. Changes will benefit applicants for development as well as City staff that process the development applications.

The Planning and Housing Department is identified in the Municipal Code as the responsible entity for the administration of the Subdivision Code and for the administration of the Zoning Ordinance. However, the Zoning Ordinance also includes a designated role of a Zoning Enforcement Officer, the Chief Building Official, for the interpretation and enforcement of zoning standards related to building permits and code enforcement. Planning staff is responsible for other activities related to Site Development Plans, Zoning Board of Adjustment applications, and Rezonings.

A number of zoning issues overlap between the Planning and Inspections Divisions related to zoning standards. **Staff proposes to consolidate administration and interpretation responsibilities with the Planning and Housing Director, while allowing for Inspections Division staff to have the delegated authority to efficiently carry out building permit approvals and related code enforcement activities.** This would simplify questions of interpretations for external customers and the appeals process of administrative decisions that are reviewed by the Zoning Board of Adjustment.

Currently the City's Codes are very prescriptive regarding application materials and contents with no discretion given to staff related to the scope of a project. Full engineered drawings are required of an entire site, including identification of utilities, for all site plans. **Staff desires to update the application requirements to incorporate options for future online submittals in lieu of paper copies and to create some discretion on the level of information required on an engineered site plan when it is a smaller improvement without a building or a small area of a larger site.** The intake of all planning related applications will also be changed to the Planning and Housing

Department from the combination of the City Clerk and Planning and Housing Department.

The City's Plat of Survey process for "Conveyance Parcels" was established in 2009. This process is designed to ensure that an accurate description exists of a property with physically delineated, monumented boundaries prior to issuance of building permits. This applies to older properties in the City where people may have transferred property by deed without a survey (conveyance) or to proposed boundary line adjustments. This process is often time consuming for staff to determine categories of properties and requirements related to conveyance parcels.

Staff proposes a number of changes to streamline the review process of conveyance parcels and Plats of Survey to assist in the goal of having clearly defined property boundaries, but to also minimize the effort involved in the reviews. **In this area staff desires to not only clarify process requirements, but also for City Council to allow for Planning and Housing Director approval of Plats of Survey related to boundary line adjustments and conveyance parcels rather than having City Council approval with a resolution.** Any division of land that creates an additional parcel would still require City Council approval.

Notification requirements are often dictated by State law, but not for all types of applications. Notification options that are most commonly applied to a project are published notice in a newspaper, direct mail to property owners within 200 feet of a site, and posting of a sign on a site. State subdivision law does not prescribe any notice requirements for subdivision review. By practice the City requires the Planning and Zoning Commission to hold a public hearing for the review of Preliminary Plat and provide mailed and posted notice, while there is no public hearing or notice for the City Council review. **Staff would prefer to add to the Municipal Code the notification process for Preliminary Plats as has been the City's longtime practice of having a public hearing with the Planning and Zoning Commission.**

The Zoning Board of Adjustment procedures are part of Chapter 29 and also part of state law. The Board conducts hearings on a variety of applications and there are Municipal Code requirements to publish notice for most items, but also to mail notice and post a sign. There are discrepancies in these processes that require clean up within Chapter 29. **Therefore, staff believes that focusing on mailed and posted notice for these site-specific projects are the best notification options and we should remove publishing notice in the newspaper.**

Removing the newspaper publishing requirement would save cost to the City and potentially shorten review times for applicants. The voting procedure of the Board is currently established as a requirement for three affirmative votes for any decision of the Board. This has been an issue on occasion when less than five members are present and votes of 2-2 or 2-1 have resulted in no decision and a tabling of items to future meetings. This can create an inordinate delay in making decisions in some cases. **Staff proposes a standard voting rule of a majority of the quorum to approve a project; any other decision would be a denial.**

The following is a list of proposed specific updates for Chapter 23 and Chapter 29 (staff comments are provided in italics below several of the changes). **If City Council consents to move forward with these changes, corresponding ordinances will be prepared and reviewed by the Planning and Zoning Commission and then returned to the City Council for approval.**

### **Chapter 23 (Subdivisions):**

1. Update conveyance parcel categories and review process for clarity (23.307).

*The purpose of a conveyance parcel review is to determine if the parcel can be recognized as an independent developable parcel based upon the time of their creation or based upon their conformance to applicable development standards. The current ordinance includes the following categories for conveyance parcels:*

- a. Pre-platted and pre-established conveyance parcels*
- b. Conforming conveyance parcels*
- c. Non-conforming conveyance parcels and Unauthorized Parcel. Staff proposes to clarify steps related to unauthorized conveyance parcels and how to proceed with making the lots legal for use.*

2. Allow staff to approve conveyance parcel reviews and boundary line adjustments without a City Council resolution to staff to approve. Allow for a referral to Council by the applicant if desired.

*Boundary line adjustments are currently considered by the City Council as Plats of Survey, these are very often routine with minimal to no discretion. Approval by staff without action by the City Council would expedite the approval process for the applicant. There are times that the applicant is waiting for staff approval of a Minor Site Development Plan until the City*

*Council has acted on the Plat of Survey, prior to recording with Story or Boone County.*

3. Add an exception that an "ALTA Survey" does not require City review.

*This type of survey is used to verify existing conditions often as part of a real estate transaction. It is similar to a retracement survey that does not benefit from City review. Recent changes at the state level require recording of these surveys. An ALTA survey does not substitute for Conveyance Parcel review, if necessary.*

4. Add application requirement to have an applicant prepare a deed coinciding with land to be dedicated to the City for right-of-way.
5. Add notification requirement for Preliminary Plats.

*Currently the City holds a Public Hearing with the Planning and Zoning Commission, but this is not in the Code. State Law does not require notification.*

6. Subdivisions for Integrated Site Plans are a shared development process for a site plan and subdivision with shared attributes.

*Correct and clarify certain amendment procedures. Clarify that a new plat is not needed if not re-subdividing and only making site plan changes. May adjust other elements to related to the Site Plan components of the process. Additionally, add option for shared building coverage standards along with shared landscaping percentages for the overall site.*

7. Update Subdivision application requirements to address online submittals.

## **Chapter 29 (Zoning):**

1. Clarify all applications are submitted to the Planning & Housing Department, not the City Clerk's Office.

*Annexations, Special Use Permits, Conditional Use Permits in the Flood Plain, Special Home Occupations and Variances are currently filed with the City Clerk's Office. The City's permit software is utilized within Planning and*

*Housing, but not within the City Clerk's office. This will streamline intake and review.*

2. Update application requirements within Chapter 29 to address online submittals.
3. Add a section in Article 15 (Procedures) clarifying that by applying for a permit there is consent for City staff to visit and walk the site as part of the review of the project and the owner consents to the posting of a public hearing notice on the property.

*Practice has been to require consent with an application, but it is not directly stated in the Code. The practice has been that a sign is posted on the private property for certain types of development applications that are considered by the City Council, Zoning Board of Adjustment, Planning & Zoning Commission, and the Historic Preservation Commission.*

4. Allow for the Planning & Housing Director to waive certain requirements for contents of a Site Development Plan.

*Depending upon the scope of a development proposal, the location, and the type of application it may not be necessary to include contours, the location of public utilities and easements and other existing conditions.*

5. Change definition of "Zoning Enforcement Officer" for interpretations of zoning.

*Currently the Building Official is the Zoning Enforcement Officer. This amendment to the Code would provide the Planning & Housing Director with authority to administer and interpret the Zoning Ordinance.*

6. Designate the Planning Division as staff and secretary to the Zoning Board of Adjustment (ZBA).

*The Planning & Housing Department would be responsible for administrative functions for the Zoning Board of Adjustment agendas and meetings instead of the City Clerk's Office. The City Clerk's Office will continue to maintain records of Decisions and Orders by the ZBA.*

7. Change voting by the Zoning Board of Adjustment to majority of a quorum rather than the Board.

*This change would allow for a decision by the Board with only three members in attendance. Currently, if only three members are present, all three members must vote to approve or deny the motion, or the item is tabled for further consideration at a future meeting of the Board.*

8. Published notice for Zoning Board of Adjustment meetings is not required. Change to mailed notice, posting of a sign, and posting of the agenda, only.
9. Clarify Special Use Permit submittal requirements for a formal site plan only when there are improvements required or proposed, i.e. if the use is within an existing building a new Site Development Plan may not be required.

### **STAFF COMMENTS**

Staff believes the amendments listed above are beneficial to clarify a number of planning processes. The most significant changes proposed by staff relate to updating application procedures along with adjustment to the interpretation of the Zoning Ordinance by the Planning and Housing Director rather than the designated Zoning Enforcement Officer. Changes to the voting requirements of the ZBA will be consistent with typical rules for approving a project. Due to the limited nature of the changes concerning primarily administrative functions no specific community outreach is planned with these updates.

The changes in application process, staffing, and roles are not anticipated to have any significant affect regarding Division budgets for these activities. All of the changes are related to General Fund supported functions and there will be no net change to the General Fund regardless of who is handling the tasks.

**With City Council's consent to move forward with the changes, staff will coordinate preparation of ordinances with the City Attorney with the goal of having the changes approved prior to July 1<sup>st</sup>.**