

STAFF EVALUATION

To: Planning Commission

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Case: City Code Amendment – Chapter 35 (Subdivisions)

Date: 6/2/2011

General Information

Description Ordinance Amendment to amend and re-enact Chapter 35 (Subdivisions) of the Hampton City Code and to establish or increase fees for review and administration of the Subdivision Ordinance as authorized by Va. Code §15.2-2241.A.9.

Status In conjunction with the continued amendments to the Zoning Ordinance, staff undertook a review of the Subdivision Ordinance. This review process began in July 2010 by the City Attorney's Office to identify potential inconsistencies with the State Code regulations pertaining to the subdivision of land. A group of City staff members, from several departments, was formed to identify areas which needed clarification and improvement. Several preliminary drafts were compiled and reviewed by City staff in preparation for review by the Zoning Ordinance Advisory Committee (ZOAC). An initial draft of the proposed amendment and a general presentation covering issues with the current ordinance identified by staff was initially provided to ZOAC in December 2010. A revised draft was provided to ZOAC for further review in March 2011 and staff presented the revised draft to a stakeholders group in April. In May 2011 a final draft of the proposed amendments was provided to ZOAC for review and a Public Hearing (with no action) was held by the Planning Commission.

Plans and Policies The Subdivision Ordinance amendment directly implements a broad range of Community Plan policies from Land Use and Community Design, Housing and Neighborhoods, and Transportation sections while indirectly supporting policies in Environmental Stewardship, Community Facilities, and Economic Development. The following policy recommendations are specifically applicable and notable from the Hampton Community Plan (2006, as amended):

Land Use and Community Design:

- **LU-CD 1:** Play an active role on the land development process.
 - **LU-CD 11:** Promote high quality design and site planning that is compatible with surrounding development.
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- **LU-CD 12:** Encourage building design and site planning that enhances community interaction and personal safety.
- **LU-CD 15:** Maintain an aesthetically pleasing street network that helps frame and define the community while meeting the needs of pedestrians, bicyclists, and motorists.
- **LU-CD 24:** Promote neighborhood safety.
- **LU-CD 28:** Treat residential streets as both public right-of-way and neighborhood amenities. Provide sidewalks, street trees, and other amenities that favor pedestrians.

Housing and Neighborhoods:

- **HN 6:** Promote infill housing and ensure that the design and quality of infill housing enhances the value of surrounding structures and the neighborhood.

Transportation:

- **TR 9:** Promote infill, redevelopment, revitalization, and higher housing densities to support transit, bicycling, and walking.
- **TR 18:** Design and maintain the City street network to provide a variety of alternative routes so that the traffic loads on any one street are minimized.

Existing Regulations

The existing Subdivision Ordinance regulations date to 1956 and while there have been several previous minor amendments, this is the first comprehensive rewrite of the Subdivision Ordinance since its initial adoption. Review and analysis of the Subdivision Ordinance found that it is hindered by many of the same constraints and challenges the City is currently addressing in the Zoning Ordinance. The Subdivision Ordinance was written with the intent of primarily regulating suburban single-family development. This original focus has created challenges when regulating urban projects such as in-fill development, redevelopment, and multi-family development.

Proposed Regulations

Primary modifications proposed to the Subdivision Ordinance:

1. Any division of property into two or more lots (including resubdivisions) constitutes a subdivision. Minor subdivisions, Property Line Adjustments, and Boundary Line Adjustments will still receive expedited reviews.
 2. Review and approval of Preliminary Plats will be an administrative
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process to be handled by a Subdivision Agent (the Director of Community Development, or his designee). Subdivision review and approval is ministerial as required by the Virginia Code and case law, which means if a developer meets all the requirements of the ordinance, the Preliminary Plat must be approved. The current process of Planning Commission review adds considerable time to the review and its focus on approval or disapproval based on compliance with the Comprehensive Plan is not in keeping with Virginia case law.

3. Creation of an Exception process which will allow waiver or modification of provisions (provisions not governed by zoning ordinances or public works design and construction standards) requested by a developer. Establishment of an Exception process will promote flexibility for the developer and the City to accommodate unique or adverse circumstances. This process would be handled similar to a Rezoning petition and would require review and approval by the Planning Commission and City Council.
4. Submission and content requirements for Subdivisions have been shifted to occur earlier in the review process (this is in response to changes in the vesting rights statute in the Virginia Code). Currently, under the Subdivision Ordinance and existing Virginia Code a conceptual approved plat may have the opportunity to obtain vested rights status.
5. The approval of the Final Subdivision Plat will be done by the Subdivision Agent with the concurrence of the Director of Public Works, or his designee.
6. Design and construction standards for infrastructure improvements have been deleted and will be incorporated in the Public Works Design and Construction Standards. (This change allows the Director of Public Works to modify or waive engineering and construction standards on a case by case basis so long as the public interest is protected).
7. Public Works will be responsible for the Final Subdivision Plat as it goes to record, the Subdivision Agreement, if required, the surety, the insurance coverage for maintenance bonds, and enforcement of violations. Currently Public Works enforces and administers the infrastructure permits and calls on the performance bond. These revisions simply provide a clarification in process.

Minor modifications proposed to the Subdivision Ordinance:

1. Review periods for Preliminary and Final Plats are now in compliance with the Virginia Code provisions.
2. Fee schedules have been reorganized and either established or increased as expressly authorized by Va. Code § 15.2-2241.A.9.
3. Sections have been reorganized to be more user friendly, intuitive, and to provide a logical flow as related to the chronological sequence of the review and permitting process.
4. Procedures for the release of sureties now complies with the provisions of the Virginia Code.
5. The language has been modernized and simplified to be consistent with current terminology.
6. Existing processes have been codified and refined to promote consistency and streamline procedures.
7. Additional guidance regarding landscaping practices has been provided by reference to the “Landscape Guidelines” document

maintained by the Department of Community Development.

8. The separate definitions section was deleted from the Subdivision Ordinance and reincorporated by reference to the Zoning Ordinance to promote consistency.
9. Text has been updated to reflect establishment of the Community Development Department.

Alternatives Analysis

Regulations from localities in the Hampton Roads region were researched as well as comparable localities throughout the state. Subdivision regulations throughout Virginia varied widely in format and breadth in how each locality addressed required and optional provisions as provided for in the State Code. This amendment attempts to use the existing ordinance as the foundation, while introducing revisions that reflect modern development practices and conform to State Code requirements.

Next Steps

Subsequent to this Planning Commission public hearing *with action*, the amendment will proceed to a public hearing *with action* at City Council.