

TO: Plan Commission

FROM: Zach Ewoldt, Planner

DATE: July 14, 2023

Subject: Amendments to Title 11 of the City Code: Subdivision Regulations:
Chapter 11-1-3, Adding additional regulations for the division of land
Chapter 11-3-3, Modifying the length of time to record an approved plat

Background: Staff has placed two proposed amendments to the Subdivision Regulations on the July 19th Plan Commission and Zoning Board of Appeals meeting. The proposed amendments have been a result of recent inquiries with staff and projects occurring within the community.

The proposed subdivision regulation amendments address:

- Require the division of a lot or land for a new development lot or zoning lot to go through the Plat of Subdivision process.
- Extend the length to record an approved Final Plat from 3 months to 6 months, with Staff approval, and up to 12 months with City Council Approval.

Proposed Amendments and Analysis

Chapter 11-1-3 Division of Land: The Subdivision Code currently does not require a lot or parcel of land that is being divided, split or transferred under the plat act for the purpose of creating a development lot to be reviewed by way of a Subdivision. Staff is proposing to require property owners to formally subdivide property, when a transfer is being proposed to create a new development lot. The change will allow for the City to review a proposed division and verify that the property (or properties) that a proposed development lot is being split from would continue to comply with the Zoning Code and that no other issues are created by the change. It is intended to prevent the division of a property without the City's approval. Through the approval process of a plat, staff would be able to identify any potential issues that may occur with the creation of a new lot or reduction of the original. While this is not required by the state of Illinois Plat Act, this would align with the workflow and best practices established by the city.

Chapter 11-3-3 Modifying the required timeframe to record: The Subdivision Code currently requires a final plat to be recorded within 3 months from the City Council approval date. The proposed amendment would allow for the Community and Economic Development Director to extend the time frame to record for an additional 3 months with a written request, and allow for an applicant to request an additional 6 months from the City Council. Several recent projects such as Menards, Dave's Hot Chicken, and Batavia Logistics Center (KBC) have had difficulties outside of their control to meet the current deadline of 3 months. The current process requires an applicant to formally request an extension from the City Council, and have that approved by resolution. Staff believes that while the majority of applicants can meet the 3 month timeline, more complex projects or unique circumstances do occur. Staff feels that an extension granted by the Community and Economic Development Director would be appropriate, and expedite the overall process for the property owner. The proposed amendment would also require that the recording

of a plat the responsibility of the City. This is the current process staff utilizes and is seeking to amend the Code to be reflective of that existing practice.

Staff Recommendation

Staff recommends approval of the amendments to the Subdivision Code as presented.

Attachment: Proposed Amendments to the Zoning Code

- c Mayor and City Council
- Media

CHAPTER 1
SUBDIVISION CONTROL, DEFINITIONS

SECTION:

11-1-1: Subdivision Control

11-1-2: Jurisdiction

11-1-3: Approval, Interpretations And Exceptions

11-1-4: Definitions

11-1-1: SUBDIVISION CONTROL:

For the purpose of the present and future development of the City, and for the promotion of the public health, and the safety, comfort, morals and welfare of persons living within the territory governed, the provisions and regulations hereinafter contained which shall govern the subdividing and platting of lands lying within the corporate limits of the City as now or hereafter existing, or within the area of jurisdiction of the Plan Commission as now or hereafter established under the provisions of the statutes of the State of Illinois, are hereby adopted as part of the Official Plan of the City. (Ord. 873, 2-3-1958)

11-1-2: JURISDICTION:

Wherever any subdivision of land shall hereafter be laid out within the incorporated limits of the City or within contiguous territory and not more than one and one-half (1 1/2) miles beyond the incorporated boundary of the City, the subdivider thereof or his agent shall submit both a preliminary and a final subdivision plan to the City. Said plans, proposed improvements and all procedures relating thereto, shall in all respects be in full compliance with the regulations hereinafter contained in this Title.

All lands offered to the City for use as streets, highways, alleys, parks and other public uses, shall be referred to the Plan Commission of the City for review and recommendation before being accepted by the City Council or any other governing authority. (Ord. 873, 2-3-1958)

11-1-3: APPROVAL, INTERPRETATIONS AND EXCEPTIONS:

A. No lot or tract of land shall be divided or redivided or in any manner utilized for the purpose of erecting more than one principal building or unit on such lot or tract of land without subdividing or resubdividing by this Title, or by submitting same as a planned development as provided by the Zoning Code of the City. Notwithstanding the State of Illinois Plat Act (765 ILCS 205/1), any division of land that creates one (1) or more new zoning lots shall be required to subdivide said land pursuant to this Title.

AB. No land shall, after the adoption of these regulations, be subdivided or filed for record, nor any street laid out, nor any improvement made to the land, until the plan or plans of the subdivision or street improvements shall have been certified to and approved by action of the City Council, in accordance with the procedure provided in this Title; and no plat of a subdivision shall be approved without compliance with the standards of design and required improvements provided in this Title. This approval must be in writing and placed on the original tracing of the final plans, according to the procedure outlined in Chapter 3 of this Title.

BC. No lot, tract or parcel of land within any such subdivision shall be offered for sale nor shall any sale, contract for sale or option be made or given until such subdivision plans have been properly reviewed by the Plan Commission and officially approved by the City Council.

CD. No improvements, such as sidewalks, water supply, storm water drainage, sewerage facilities, gas service, electric service or lighting, or grading, paving or surfacing of streets, shall hereafter be made within any such subdivision by any owner, or his agent, or by any public service corporation at the request of such owner or his agent, until the plans for the subdivision and also the plans for improvements thereto have been formally recommended by the Plan Commission and approved by the City Council.

DE. Subdivision of land lying outside the City and within one and one-half (1 1/2) miles of the City limits, presented for approval in accordance with the Illinois Cities and Villages Act 1, shall conform to the requirements of this Title.

EE. All interpretations of these rules and regulations are reserved to the administrative bodies referred to herein.

FG. The City Council may vary and make exceptions, as set forth herein, in instances where there is sufficient evidence, in its opinion, of hardship caused by topographic conditions, or where any other reasonable deterrents prevail. (Ord. 873, 2-3-1958)

Notes

1 1. 65 ILCS 5/11-15-1.

11-1-4: DEFINITIONS:

ALLEY: A strip of land, not less than twenty feet (20') in width and not more than forty feet (40'), along the side of or in the rear of properties, intended to provide access to these properties.

(6) The letter shall state that the amounts set aside for each improvement will remain available for each improvement should the developer, for any reason, default on his obligation. (Ord. 73-28)

(7) The letter shall contain provisions requiring the institution to give written notice to the City of the impending termination of said letter, by certified or registered mail, return receipt requested, said notice to be given sixty (60) days prior to said termination shall result in the letter remaining in full force and effect until sixty (60) days following said notice if and when given, and that, written notice by the City, by certified or registered mail, return receipt requested, that the developer has failed to complete the improvements within thirty (30) days prior to the termination date of the letter, shall also be considered a default on the part of the developer. (Ord. 90-31, 6-4-1990)

6. Original documents of covenants and restrictions establishing special areas, all relating to the maintenance of detention and/or retention areas as required in Section 11-3-7-9 of this Chapter. (Ord. 92-13, 3-16-1992)

C. Review by Plan Commission: When the Plan Commission has reviewed the final plat and made its written recommendations to the City Council, the following shall be written or stamped upon such plat and the two (2) prints of copies thereof:

Reviewed by the Plan Commission of the City of Batavia, this _____ day of _____, A.D.

Chairman

After such review, the Plan Commission shall transmit to the City Council its recommendations regarding said final plat along with the plat itself, and one copy or print thereof. In said letter of recommendation, the Plan Commission shall note all variances (if any) and its reasons for approving or disapproving the plat and said variations (if any). It shall also forward to the City Council the originals and one copy of all supporting documents presented to the Plan Commission.

One copy of the final plat, or print thereof, as reviewed by the Plan Commission, and one copy of all supporting documents submitted therewith shall remain on file with the Plan Commission. (Ord. 76-2)

D. Approval By City Council: When and if the City Council is satisfied with the final plat and with all improvements, conditions and documents pertaining to the subdivision, the Council shall, by resolution, approve the said plat and authorize and direct the Mayor and Clerk to sign the plat for and in the name of the City and attach thereto the Corporate Seal.

Upon approval of said final plat by the City Council, the ~~developer~~ City shall record the plat with the County Recorder within three (3) months after such approval. If not recorded within this time, the applicant shall provide a written request that the Community and Economic Development Director grant an extension up to three (3) additional months. Any additional extension beyond the initial six (6) months will require approval by City Council

by resolution. The Council may issue up to two (2) extensions at six (6) months each for a total of 18 months. If the approval is not recorded within 18 months, it shall be null and void. ~~the approval shall be null and void.~~

Upon the said plat having been recorded, the ~~developer-City~~ shall supply the ~~City-developer~~ with a copy of said recorded plat. (Ord. 70-36)