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MEMORANDUM

TO: Code Review Committee

FROM: Drew Paxton, Planning Director

DATE: March 19, 2021

SUBJECT: Subdivision Ordinance Division D Policy Items

For the upcoming Code Review Committee meeting, on March 31 at 4:00 PM, I wanted to provide the committee members with a brief review on the pending policy recommendations relating to the subdivision ordinance.

As you may recall from the last Code Review Committee meeting, we reviewed the draft of Division D. Overall, Division D is ready for incorporation into the final draft of the subdivision ordinance, except there are a few key policy discussion items that remain. These items will be reviewed again and discussed during the upcoming meeting.

- Private Streets
- Traffic Impact Analysis requirements
- Sidewalk construction timing

Please review the attached presentation slides and excerpts from Division D related to these topics. These excerpts from Division D are as originally drafted since the final direction from the committee has not been determined. Do not hesitate to let staff know if you have any questions.

24.17 Private Streets

- a. Design and Construction. Private streets shall be designed and constructed by the developer to the City's standards for public streets, in accordance with the City's current Technical Standards & Specifications (TCSS). The term "private streets" shall also include alleys, if such are provided within the development.
- b. City Council Approval Required. Private street subdivisions require approval as an exemption by City Council prior to submission of a preliminary plat. Previously dedicated streets and rights-of-way shall not be designated or used as private streets and such use is prohibited, except where specific approval is given by action of the City Council. The City Council may add any conditions as deemed appropriate as part of the approval of a private street development.
- c. Homeowners' Association (HOA) Required. Private street developments require formation of a permanent HOA that meets all requirements of section 30 of these regulations.
- d. Subdivision Eligibility Criteria. Private streets shall be permitted only within a subdivision satisfying each of the following criteria:
 - (1) The subdivision shall have no fewer than twenty (20) residential lots;
 - (2) The streets to be restricted to private use are not intended for regional or local through traffic circulation (see subsection 24.17.e below);
 - (3) The subdivision is located in an area that is surrounded on at least three sides (i.e., 75% of the perimeter) by natural or manmade barriers (e.g., creeks and flood plains, golf course, linear park, large utility easement or right-of-way, etc.) or by other private street subdivisions; and
 - (4) The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even though the street connection would require construction of a bridge or culvert – the two subdivisions shall be connected as public street subdivisions.
- e. Streets Excluded. Streets that are shown on the City's Thoroughfare Plan as arterials or collectors shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. The City Council may deny the creation of a private street subdivision if, in their sole judgment, the private streets would negatively affect traffic circulation on public streets, or if they would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if they would cause possible delays in the response time of emergency vehicles.

- f. Points of Access. A private street subdivision shall have at least two points of access from a public street(s) as required per City's Fire Code. If the subdivision is to be secured/gated and will have fewer than one hundred (100) residential lots, then only one main entry point may be allowed, with the second (additional) point(s) of access being designated as emergency-only, if such arrangement is approved by the City Engineer and Fire Chief.
- g. Parks and Greenbelts Excluded. A private street subdivision shall not cross or interfere with an existing or future public pedestrian pathway, hike and bike trail, greenbelt or park as shown on the City's Kerrville 2050 Parks & Recreation System Plan.
- h. Private Street Lot. Private streets must be constructed within a separate lot owned by the HOA. This lot must conform to the City's standards for public street rights-of-way. An easement covering the street lot shall be granted to the City providing unrestricted access to and use of the property for any purpose deemed necessary by the City. This right shall also extend to utility providers operating within the City. The easement shall also permit the City to remove any vehicle or obstacle within the street lot that may impair emergency access.
- i. Restricted Access. The entrances to all private street subdivisions must be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained by the City. Guard houses, access control gates, and cross arms, if used, shall be constructed per subsection 24.17.j. below. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide an alternative means of ensuring access to the subdivision by City personnel and other utility or public service providers (e.g., postal carriers, utility companies, etc.) with appropriate identification. If the HOA fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the HOA.
- j. Access Restricted Entrance Design Standards. A private street which has an access control gate or cross arm shall have a minimum uninterrupted pavement width of twenty-two feet (22') at the location of the access control device. If an overhead-lifting barrier is used, it shall be a minimum of fourteen feet (14') in height above the road surface, and this clearance height shall be extended for a minimum distance of fifty feet (50') in front of and behind the location of the access control device. All gates and cross arms shall be of a break-away design. A turnaround space shall be located in front of any restricted access entrance to allow vehicles denied access to safely exit onto public streets without having to back up into the street. The design and geometry of such turnaround shall be such that it will accommodate smooth, single-motion U-turn movements by the following types of vehicles:
 - (1) Larger passenger vehicles (e.g., vans, pick-up trucks, etc.);

- (2) Passenger vehicles with short trailers up to twenty-four feet (24') in length (e.g., small flatbed, camping or box-type trailers); and
- (3) The types of service and utility trucks that commonly visit or make deliveries to neighborhoods that are similar to the proposed private street development (e.g., utility company vehicles, postal/UPS delivery trucks, two- to three-axle flatbed or box-type trucks used by contractors and moving companies, etc.).

The City Council and/or the City Engineer may require submission of additional drawings, plans and/or exhibits demonstrating that the proposed turnaround will work and that vehicle turnaround movements will not compromise public safety on the entry roadway or on the adjacent public street(s). The design of all proposed access restricted entrances shall be submitted for review and approval by the City Engineer along with the construction plans for the subdivision.

- k. Waiver of Services. The subdivision final plat, HOA documents and contracts for sale of each lot shall note that certain City services will not be provided for private street subdivisions. Among the services which will not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided.
- l. Hold Harmless. On the subdivision final plat shall be language whereby the HOA, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental/utility entity.
- m. Conversion of Private Streets to Public. The City Council may, but is not obligated to, accept private streets for public access and maintenance. Private alleys shall remain private. Requests to convert private streets to public streets shall be subject to the following provisions:
 - (1) The homeowners' association (HOA) shall submit a petition signed by at least seventy-five percent (75%) of its members/lot owners (or a greater number of signatures, if required by the HOA documents or Declaration).
 - (2) All of the infrastructure shall meet or exceed current TCSS (proven by road core sampling and plans as required) and approved by the City Engineer.

- (3) All security stations and other structures not consistent with a public street development shall be removed by the HOA, at its cost, prior to acceptance of the streets and appurtenances by the City.
- (4) All monies in the reserve fund for private street maintenance shall be delivered to the City. Money in the reserve fund in excess of what is needed to bring the streets and appurtenances up to City standards will be refunded to the HOA.
- (5) The HOA shall prepare and submit a replat to the Planning Department for review and approval by the Planning & Zoning Commission, and for acceptance of the streets (excluding alleys) by the City Engineer. Upon approval, the replat shall be recorded at the County thereby dedicating the streets and appurtenances to the City.
- (6) The HOA shall modify and re-file, at its cost, the HOA documents to remove requirements specific to private street developments. The City Attorney shall review the modified HOA documents prior to their filing. The HOA shall be responsible for the cost of review by the City Attorney.

24.19 Traffic Impact Analysis

TIA Required when:

- a. On street parking is requested in a commercial area.
- b. Traffic light is desired
- c. Access onto an arterial or collector
- d. Increase in projected traffic counts (to be compared with TxDOT standards)
- e. If driveways are within ##### feet of an intersection. (To be compared to TxDOT standards)

28.05 Sidewalks

- a. Multi-Family and Nonresidential Developments and Public and private colleges and universities, hospitals and other campus-like facilities
 - (1) Unless they already exist, sidewalks shall be constructed within all street rights-of-way adjacent to all tracts or lots utilized or intended to be utilized for any development purposes, whether platted or unplatted, to the full length of the frontage of the lot or tract involved, said construction to be:
 - (a) Concurrent with construction of the first structure on any lot or tract of land, whether or not the tract of land is platted or being subdivided;

- (b) Concurrent with the construction of the addition to an existing building or buildings, regardless of the amount of additional square footage; or
 - (c) Concurrent with the construction of an additional building(s) on a lot or tract regardless of the amount of additional square footage.
- (2) Public and private colleges and universities, hospitals and other campus-like facilities are exempted from the requirements of this section subject to the following standards:
 - (a) Such uses existed prior to January 1, 1981; and
 - (b) Such uses have an existing or planned fully developed internal pedestrian circulation system that provides access points from the use's property to an existing or planned public sidewalk system. In the event of a planned or incomplete internal system, said planned or incomplete system shall be completed as part of the related building construction and/or expansion which increases the total square footage of an existing facility, regardless of the amount of additional square footage or, the construction of a new building.
- b. Single- and Two-Family Residential Developments. Sidewalks shall be constructed prior to the acceptance of public utilities.
- c. Compliance With Subdivision Ordinance. All sidewalks must comply with subparagraphs (5), (6), (7), (8), and (9) of Article 10-IV-4(A)1.i. of the City Code with respect to width and location.
- d. Sidewalks Required Regardless of Exemption From Subdivision Regulations. Notwithstanding Article 10-IV-4(A)1.i., sidewalks shall be constructed in the rights-of-way of all streets, public or private, pursuant to these regulations.
- e. Utility Connections; Certificates of Occupancy. The chief building official shall not issue any final utility clearance or certificate of occupancy until all sidewalks required to be constructed have been finally completed or repaired and approved by the City Engineer/Engineering.
- f. Appeal to City Council. the City Council shall consider the following criteria for granting a waiver:
 - (1) Topographic restrictions such as slope, drainage structures, etc;

- (2) Whether all property(s) adjacent to the subject property, whether or not the said property(s) is separated from the subject property by a public or private road, alley, or easement, is exempted from sidewalk construction by operation of this article;
 - (3) Whether all property(s) adjacent to the subject property is developed property, whether or not separated from said subject property by a public or private road, alley, or easement, and does not have existing sidewalks as of the effective date of this article; or
 - (4) If it is shown to the satisfaction of the City Council that any of the requirements of this section, if complied with, would work an undue hardship on the property owner, the requirements required herein would not be in the best interest and general welfare of the public and, that the intent of this article was being met by the granting of such waiver.
- h. Compliance With Other Laws. All sidewalks required in this section shall comply with all federal, state, and local laws, including those requiring certain accessibility standards. Where there are instances of conflicting requirements, the most restrictive standards apply.