

From: George Binger III
Sent: Thursday, October 3, 2019 12:22 PM
To: David Bushek; Michael Park; Sharon Clay; Kent Monter; Jennifer Thompson; Gene Williams
Subject: RE: Main Orchard - 6 lot PDP and Plat

All:

Based on the information in the emails below, conversations with the Traffic Engineer, and the facts listed below:

- The land is currently zoned RP-2
- Proposed use of single family is allowed by UDO in RP-2
- Proposed development is relatively small by adding 4 lots (net)

The City Traffic Engineer and I concur that with no change in current land use and small increase in dwelling units, traffic generation is minimal. The purpose of policy is to “guide development activity impacting roadways” the allowance for engineering judgment. Based on the minimal impact to roadways, the unimproved road policy should not be applied in this case.

From: David Bushek <David.Bushek@cityofls.net>
Sent: Wednesday, October 2, 2019 10:25 AM
To: Michael Park <Michael.Park@cityofls.net>; George Binger III <George.Binger@cityofls.net>; Sharon Clay <Sharon.Clay@cityofls.net>; Kent Monter <Kent.Monter@cityofls.net>; Jennifer Thompson <Jennifer.Thompson@cityofls.net>; Gene Williams <Gene.Williams@cityofls.net>
Subject: RE: Main Orchard - 6 lot PDP and Plat

See additional comments on the sidebar PDP/plat issue below.

From: Michael Park <Michael.Park@cityofls.net>
Sent: Wednesday, October 2, 2019 9:16 AM
To: George Binger III <George.Binger@cityofls.net>; David Bushek <David.Bushek@cityofls.net>; Sharon Clay <Sharon.Clay@cityofls.net>; Kent Monter <Kent.Monter@cityofls.net>; Jennifer Thompson <Jennifer.Thompson@cityofls.net>; Gene Williams <Gene.Williams@cityofls.net>
Subject: RE: Main Orchard - 6 lot PDP and Plat

I believe I misused the term waiver in this situation that is causing confusion...Staff recommends the policy not apply for the reasons previously mentioned and consistent with applicability of similar situations. A waiver recommendation would be appropriate if the policy applies to the application. In the case of a waiver that staff recommends to the City Council, a justification from the applicant would be needed. In the case where the policy does not apply, the inapplicability should be clear from policy guidance (e.g. it's a minor plat and no PDP) or we otherwise have an understood and documented

reason(s) of inapplicability to reference as we have prepared in this case. The policy does not refer to waivers, but rather guides its applicability to development and deviations judged by the City Engineer.

From: George Binger III <George.Binger@cityofls.net>

Sent: Wednesday, October 2, 2019 8:18 AM

To: David Bushek <David.Bushek@cityofls.net>; Michael Park <Michael.Park@cityofls.net>; Sharon Clay <Sharon.Clay@cityofls.net>; Kent Monter <Kent.Monter@cityofls.net>; Jennifer Thompson <Jennifer.Thompson@cityofls.net>; Gene Williams <Gene.Williams@cityofls.net>

Subject: RE: Main Orchard - 6 lot PDP and Plat

I'm trying to understand what has been said, so in reading back what I think I read, my understanding is as follows:

Law has determined the development does not qualify for minor plats, therefore it must go through the formal PDP process and submit a plat. Therefore, the subdivision is subject to the interim road policy. Our conclusion is actually a bit different. Here are the steps in this line of thinking:

- This is a planned district (RP-2), so a PDP is required to develop the property. UDO § 2.300.A.
- The PDP can also serve as the preliminary plat. UDO § 7.120.
- Two side-by-side plats is a legally available option, but to accomplish this there would need to be two separate PDPs which then double as two plats. There is nothing in the UDO which indicates that one PDP can become two plats, and the language of Section 7.120 probably prohibits this because it says that a single PDP can substitute for a single preliminary plat (not two or more preliminary plats).
- Treating this as two separate PDPs with two applications by the same developer for what is functionally a single development would be odd and might not get approved. This would require two separate public hearings at PC and CC and two separate ordinances for what actually functions as one development by one developer. The PC and Council would be very confused as to why they are holding two separate public hearings for what is functionally one development. The answer would be that we are trying to back into two separate plats, which would cause a lot of procedural confusion and might be denied.

- In addition, Section 7.120 states that a PDP can serve as a preliminary plat, so we also have the separate question of whether a PDP can serve as a minor plat rather than a preliminary plat. We don't need to resolve this issue because we are not going this route.

Traffic has stated that based on the project conditions and zoning, staff would support a waiver.

Is that correct?

If so, then I would expect to see the Design Engineer (not staff) to submit a waiver request with the engineering and planning justifications for such a waiver for staff to review.

Thank you.

George Binger, P.E. | Deputy Dir. of P.Wks./City Eng
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From: David Bushek <David.Bushek@cityofls.net>
Sent: Friday, September 27, 2019 9:23 AM
To: Michael Park <Michael.Park@cityofls.net>; Sharon Clay <Sharon.Clay@cityofls.net>; Kent Monter <Kent.Monter@cityofls.net>; Jennifer Thompson <Jennifer.Thompson@cityofls.net>; Gene Williams <Gene.Williams@cityofls.net>
Cc: George Binger III <George.Binger@cityofls.net>
Subject: RE: Main Orchard - 6 lot PDP and Plat

I think we have settled on a course of action with respect to the Policy. On the issue of possibly processing two minor plats, which we are not doing, we identified one odd procedural quirk yesterday.

This is actually a PDP that also serves as a plat. If the applicant treats as two separate minor plats, this would actually be two separate PDPs which serve as the two separate minor plats. It would be very strange to process two PDPs side by side, through two separate applications, requiring two separate public hearings at the same meeting on essentially the same development. There doesn't seem to be any precedent or authority in the UDO to allow one PDP to somehow become two separate plats.

From: Michael Park <Michael.Park@cityofls.net>
Sent: Thursday, September 26, 2019 5:16 PM

To: David Bushek <David.Bushek@cityofls.net>; Sharon Clay <Sharon.Clay@cityofls.net>; Kent Monter <Kent.Monter@cityofls.net>; Jennifer Thompson <Jennifer.Thompson@cityofls.net>; Gene Williams <Gene.Williams@cityofls.net>

Cc: George Binger III <George.Binger@cityofls.net>

Subject: RE: Main Orchard - 6 lot PDP and Plat

So a determination has been made this application requires a Preliminary Plat and cannot be done by Minor Plat? Not that it makes a difference in my following comments that pertain to the Unimproved Road Policy in this particular situation:

Considering the proposed development is single family residential within an existing supportive zoning (R1) and the proposed number of lots/units is increasing from 2 existing lots to 6 total lots (which could normally be done by a minor plat of each existing lot), the Unimproved Road Policy would not be applied by staff. This is consistent with similar situations. For examples, the minor plats supporting lot splits for single family residential within existing supported zoning along Orchard and Main were granted waiver to the policy. Likewise, lot splits along Sampson Road by minor plat were granted waiver. As another example, the recent duplex's proposed on Summit Ave. on existing lots within supported zoning were granted waiver to the policy. Basically, if the existing zoning supports the proposed development and could be done by minor plat (a threshold established as having negligible impact), the policy has been waived. The policy would not be waived for successive minor plats (e.g. minor platting a minor plat to increase density). The policy would not be waived for the described conditions of one-way road segments.

Hope this helps.

Michael

Michael Park, P.E., PTOE | City Traffic Engineer
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From: David Bushek <David.Bushek@cityofls.net>

Sent: Thursday, September 26, 2019 4:35 PM

To: Sharon Clay <Sharon.Clay@cityofls.net>; Kent Monter <Kent.Monter@cityofls.net>; Jennifer Thompson <Jennifer.Thompson@cityofls.net>; Gene Williams <Gene.Williams@cityofls.net>

Cc: George Binger III <George.Binger@cityofls.net>; Michael Park <Michael.Park@cityofls.net>

Subject: Main Orchard - 6 lot PDP and Plat

Today we met and discussed this issue the issue below and a possible resolution. Here is a write-up of the issue and conclusion.

Question:

Does the Unimproved Road Policy need to be applied to this 6 lot subdivision because the adjacent roads are Unimproved Roads under the Policy?

Answer:

Yes, unless the City Engineer determines otherwise under the authority delegated to him in the Policy.

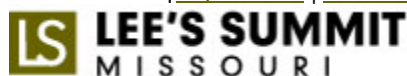
Discussion:

The requirement to improve the roads to an Interim Standard would be triggered by the second bullet of the Policy, which provides: "No residential subdivision (preliminary plat or major plat), industrial or commercial developments will be permitted on improved roads." This is a proposed preliminary plat (a PDP also serving as a preliminary plat) of 6 residential lots, and would not be permitted on an Unimproved Road under the Policy.

However, the introduction to the Policy also provides: "[D]eviations are permitted by the City Engineer at his or her discretion and each development should be judged on its own merits." This language delegates authority to the City Engineer to exercise professional judgment and evaluate whether the impact of the proposed development on the unimproved adjacent roads requires improvement to the Interim Road standard. The City Engineer can evaluate daily trip projections, traffic circulation and other relevant factors to determine whether it is appropriate, based on the particular facts and circumstances of this proposed project, to waive the Policy requirements in this case and allow the development to occur on an unimproved road.

Yours Truly,

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