

## Staff Response to Comments from the Development Community

### 1. Definition Comments:

- a. Benchmark - The definition should be revised to include some verbage about elevation and datum.

*Definition revised to read: "**Benchmark:** A benchmark is a monument that is part of a leveling network and is a point of precisely measured elevation. See "Monument".*

- b. Lot, double frontage – The definition is for a lot that fronts & backs two streets, but could it also be a lot that fronts & SIDES a street?

*Definition for Corner Lot added for clarification that reads: "**Lot, corner:** A lot abutting two or more streets at their intersection.*

- c. Open space – I don't understand why "building setback" is listed in the definition.

*It is important to mention building setbacks as the zoning ordinance does allow structures such as amenity centers and park structures in these types of lots and those are required to follow setbacks.*

- d. Resubdivision – A resubdivision does not alter the perimeter boundary, only the lines within a perimeter boundary.

*Definition revised to read: "**Resubdivision:** The replacement of all or a part of a recorded plat with a new plat which alters the lines within the perimeter boundary of the previous plat."*

- e. Subdivision, Major – A major subdivision does not require more than one phase of development. Maybe it should be redefined as being 5 or more lots, or requiring creation of new street or extension of municipal facilities.

*Definition revised to read: "**Subdivision, Major:** Any subdivision consisting of five (5) or more lots or a subdivision requiring extension of municipal facilities. Typically, Major Subdivisions incorporate more than one (1) phase of development.*

### 2. Process Comments:

- a. Reducing the number of lots should not be considered a change to the preliminary plat that would warrant approval back through P&Z and Council. For example, if we are platting a 300 lot subdivision and the developer decides to combine 2 lots for a custom home builder before the final plat is submitted, the way the proposed ordinance reads now, we would have to take the final plat back through P&Z and Council.

*Section 154.21.B.2 allows developers to “reduce the number of lots” as a minor amendment to a preliminary plat that does not require the preliminary plat to go back to P&Z and Council.*

- b. They are comfortable with the process outlined in the flow chart but would like to clarify the text on pages 11, 13, and 17.

*Text amended to better clarify the process*

- c. One concern in particular is that 154.22.A does not sufficiently explain that the timetable resets itself upon submission of each phase.

*Text amended to read: “GENERAL. The Final Plat and Final Engineering Drawings shall be substantially consistent per requirements in §154.21 B with the Preliminary Plat and Preliminary Engineering Drawings for the subject phase of construction. The first phase of a subdivision shall have its Final Plats and Final Engineering Drawings submitted within twenty-four (24) months of approval of Preliminary Plat and Preliminary Engineering Drawings after which time, a new Preliminary Plat and Preliminary Engineering Drawings may be required. Final Plats and Final Engineering Drawings shall be deemed approved if no action is taken by the Planning and Development Director within 30 days of submittal or 60 days if the Final Plat is referred by the Planning and Development Director to the Planning and Zoning Commission and the City Council due to substantial deviation from the Preliminary Plat as determined by § 154.21 B.”*

*Text also added to read: “Preliminary Plats and Preliminary Engineering Drawings will also expire if there is a more than a twenty-four (24) month period of time between approval and submittal of any phase of the Preliminary Plat.”*

- d. Concerns associated with Chapter 245.005 of the Local Government Code Associated with “Dormant Projects”.

*This concern is related to the previous one, that is, once a project is approved by a preliminary plat what is the timeline for filling the final plat. Also attached to this concern is what the timeline is for subsequent phases of the development after the first phase is recorded as well as if the developer can claim that if they are “working” on the development that the Preliminary Plat should stay alive. This subject is loosely addressed in Chapter 245 of the State of Texas Local Government Code and case law is not completely clear on how it applies to plats. This language is currently being utilized by several municipalities and is based on presentation given to the Texas City Attorney Association on June 16<sup>th</sup>, 2009. If there is a clarification by the Attorney General or a court case the text can be revised.*

### 3. Engineering Comments:

- a. The requirements on the final engineering drawings to show the all utilities 4" in diameter and larger in profile view creates an unnecessary burden. The plans should only show lines 6" in diameter and larger in profile view and only the location of the smaller utilities.

*Revised text to read: "Location and size of all existing and/or proposed city utilities, and all others where known. All city utility lines six inches (6") in diameter or larger within the right-of-way shall be shown on the profile view. All utility lines, regardless of size, should be shown in the plan view, where known;*

- b. Allow for developments to move forward without meeting fire flow requirements if the developer is unable to meet the requirements due to inability to serve the required pressure by the water provider.

*Staff feels that special cases, such as these, should be dealt with on a case by cases basis with a waiver.*

- c. In reference to the section discussing entrances to subdivisions, the requirement to have two entrances to any subdivision with more than 30 lots does grant flexibility in cases where parcel shape or frontage limits available entrances.

*This requirement is pursuant to the International Fire Code (both the previous version and the newly adopted version). This provision can be met with "stub" streets to future developments as well as a waiver can be applied for in circumstances when a second entrance is not feasible.*

- d. The city should not require developers to upgrade existing streets or dedicate more right of way than is required for the traffic for the subdivision.

*This is a standard requirement that allows for cities to property plan for future infrastructure needs. It should be kept in mind that the city does participate in covering the cost of installing a wider road in cases where it is required, an expense that many cities do not cover and the city is not obligated to.*

- e. Require all utilities other than sewer and water be moved to the rear of the lots to better facilitate installation and maintenance of all of the utilities.

*After speaking to utility providers and the engineering staff, utility providers prefer to have the utilities in the front of the lots for access purposes. Currently it is as the utility provider's discretion where they put the utilities.*

- f. Requiring vertical tolerances for wastewater, drainage, and streets of 0.1' is unobtainable on a larger scale development.

*These tolerances are important as if a gravity line is not within these tolerances it can interrupt the flow of the line.*

4. Other Comments:

- a. Adjust the prohibition for residential lots accessing onto a collector to a recommendation to allow flexibility.

*Text amended to continue to prohibit single-family and two-family access onto arterials and major collectors and prohibits their access of minor collectors unless “unless there is no other reasonable and safe access to the lot”*

- b. Remove formal approval of the Plat Concept Plan to protect the Planning and Zoning Commission and City Council from being encumbered by that approval.

*Removed the text that a plat concept plan is required but the text remains that one should be submitted although it is not required.*

- c. 154.21.A should define the time table at 30 days for the P&Z to approve and 30 days for the City Council to approval after action by the P&Z rather than stating that it must be complete within 60 days.

*Text revised to read, “Preliminary Plats and Preliminary Engineering Drawings shall be deemed approved if no action is taken by the Planning and Zoning Commission within 30 days of submittal and if no action is taken by the City Council within 30 days of Planning and Zoning Commission Approval.”*

- d. Remove a surveyor from being able to seal engineering and as-built drawings.

*Text removed*

- e. 154.21.C.2.e revise the drainage requirements with the preliminary engineering drawing to include drainage calculations on major structures rather but not to require profile views of those structures.

*Revised text to read, “Storm water drainage layout plan (drainage calculations are only necessary on major drainage structures at this step);”*

- f. 154.21. B.2.f should be removed as the developer is not able to create a utility layout until the utility providers provide them with that information after plat approval.

*Requirement removed but the requirement to have water, sewer and drainage information remains.*

- g. Define that all the references to engineering drawings in 154.21.C are preliminary engineering drawings.

*Text amended in all locations*

- h. Allow for submittal of preliminary plats 30 days prior the Planning and Zoning Commission Meeting.

*This requirement was not changed to allow the P&Z to have two extra days of latitude to process plats.*

- i. Remove the requirement to place setbacks on plats.

*The Subcommittee and the P&Z both directed staff to keep this provision.*

- j. Correct the text on page 21 associated with Final engineering drawings to cite the most current standards of the City of Harker Heights rather than the "Standard Specifications for Public Works Construction, North Central Texas".

*Text amended to read: "All construction shall conform to Appendix A, Tables I through IV and the following adopted regulations where applicable:*

- a. Section 50.02, Chapter 50 of this Code of Ordinances, adoption of "Standard Specifications for Public Works Construction".*

- k. Remove the requirement to identify the square footage of every proposed lot.

*Requirement removed.*

- l. Remove the requirements to identify the existing zoning designation on the final engineering drawings.

*Requirement removed.*

- m. Feels that limiting developers to only use a performance bond is an unfair cost and submits that a Letter of Credit is an alternative that is less expensive to the developer and provides similar protection to the city as a performance bond.

*Text amended to also allow Letter of Credit. The requirements for a letter of credit are as follows: "Unconditional Letter of Credit from a local bank, local federally insured Savings and Loan Association or other financial institution in a form acceptable to the City and signed by a principal officer of the institution, agreeing to pay to the City of Harker Heights, on demand, a stipulated sum of money to apply to the estimated costs of completion of all required improvements, cost of completion of the required improvements being verified by the City Engineer. The letter of credit shall be dated to expire not less than one (1) year from the recordation of the final plat. If the required*

*infrastructure is not complete within six (6) months of acceptance of the letter of credit, the City shall use the funds to construct the improvements.*

- n. The proposed limits for maintenance bonds are too high.

*After meeting with the City engineering staff, staff feels that the required sums are sufficient to protect the City's interests moving forward while not being too onerous.*

- o. Revise the signature block affixed to as-built drawings to text recommended by the Texas Board of Professional Engineers.

*Text amended to read: "The "as-built" drawings shall be prepared by a Texas Licensed Professional Engineer and shall bear a certification from the engineer as follows:*

- a. *"To the City of Harker Heights: I certify that the subdivision improvements shown on this sheet reflect any revisions of design as approved by the City and which I authorized, and/or any and all field changes of which I am aware."; and*
- b. *The certification shall be executed by, and shall bear the seal and original signature of the professional engineer licensed in the State of Texas at the date of such certification that directly supervised the construction of the project pursuant to the Texas Engineering Practice Act.*