

PLANNING COMMISSION REPORT

Regular Agenda -- Public Hearing Item

PC Staff Report
12/15/08

ITEM NO. 5: AMENDMENTS TO SUBDIVISION REGULATIONS (MKM)

TA-10-17-08: Consider amendment to Section 20-804, 20-805, 20-807, and 20-815 to revise the requirements of the build out plans required for Certificates of Survey within the Urban Growth Area. Initiated by Board of County Commissioners on October 29, 2008.

RECOMMENDATION: Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendment, [TA-10-17-08] revising the requirements of the build out plans, to the Board of County Commissioners and the City Commission.

Reason for Request: To revise the requirements of the build out plans to reduce the degree of detail required in the build out plans while still providing the information necessary to insure that the property will be compatible with and suitable for future urban development.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land use Plan is the relevant factor that applies to this request. Amending regulatory tools, one of which is this amendment to the Subdivision Regulations, is an implementation step in Chapter 13 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment was received.

ATTACHMENT

Linda Finger, the Planning Resource Coordinator provided Staff with a memo outlining the amendment which was initiated by the Board of County Commissioners. The changes in this report, with the exception of the housekeeping items, are based on the recommendations in this memo. A copy of the memo is included as an attachment with this staff report.

OVERVIEW OF REVISIONS PROPOSED

Build out plans are currently required to allow for the future subdivision of the Immediate Development Area into lots at an urban density. A Code Interpretation was drafted to clarify the process and define the term 'urban density'. This text amendment is a further refinement of the build out plan interpretation to reduce the requirement to the block and street level rather than the lot level. Sections which are proposed for revision with this text amendment are: Sections 20-804(d)(5), 20-804(g)(5), 20-804(c)(1)(vii), 20-805(a), 20-805(d)(5), 20-805(f)(5), 20-805(c)(1)(iii), 20-807(e)(2)(xv). Housekeeping changes are proposed to the following sections to correct omissions and maintain consistency with language which has been revised in the Subdivision

Regulations through previous text amendments: 20-804(f), 20-805(f)-and renumbering of following sub-sections, 20-807(e)(2)(xvii), 20-807(h), 20-807(h)(1)(v), 20-807(h)(2), and 20-815(b).

SECTIONS 20-804(D) AND 20-805(D)

Sections 20-804(d) and 20-805(d) contain information which is to be included in the Restrictive Covenants. Build Out Plans are required to be included as an exhibit with the Restrictive Covenants and Section 20-804(d)(5) and 20-805(d)(5) require that the Restrictive Covenants limit the location of structures within the Immediate Development Area to Building Envelopes that have been created to allow for the future subdivision of the Immediate Development Area into lots of an urban density. This text amendment will revise that requirement to require the covenants to restrict the location of structures within building envelopes that have been created to allow for further subdivision of the Immediate Development Area into blocks of an urban density.

SECTIONS 20-804(G)(5) AND 20-805(F)(5)

Sections 20-804(g)(5) and 20-805(f)(5) contain the information which is required on a Build Out Plan. This language will be revised with this amendment to require urban block layout, rather than urban lot layout, in the Build Out Plan. [Section 20-805(f)(5) will be revised to Section 20-805(g)(5), see Housekeeping Item 1, below.]

SECTION 20-804(C)(1)(VII) AND 20-805(C)(1)(III)

Section 20-804(c)(1)(vii) and 20-805(c)(1)(iii) will be revised to remove any reference to future subdivision into urban density lots. The language has been revised to remove the reference to 'lots' while remaining consistent with the Building Envelope requirement in Section 20-807(e)(2)(xiv). The proposed language is a combination of the language in Section 20-804(c)(1)(vii) and 20-805(c)(1)(iii) which includes the purpose of a building envelope while making the revision from 'lot' to 'block'.

SECTION 20-805(A)

Section 20-805(a) will be revised to reference urban blocks rather than lots.

SECTION 20-807(E)(2)(XV)

Section 20-807(e)(2)(xv) is being revised to replace reference to urban density lots with streets and blocks.

SECTION 20-807(H)

Section 20-807(h) is being revised to replace reference to lots with blocks or streets.

SECTION 20-807(H)(1)(V)

Section 20-807(h)(1)(v) is being revised to clarify that additional Residential Development Parcels created with any amended Certificate of Survey, not only those involving a Parent Parcel, shall be permitted only if in compliance with the requirements in the Subdivision Regulations.

SECTION 20-807(H)(2)

Section 20-807(h)(2) is being revised to replace the word 'road' with 'street' and to replace the word 'of' with 'for' for clarity.

SECTION 20-815(B)

Section 20-815(b) is being revised to change the definition of a build out plan to remove the requirement that it be 'engineered' and to clarify that it shall be planned and designed to the urban street and block level. Language is added to stress future street connectivity be considered in the design and to clarify that the build out plan must comply with the subdivision regulations of the city associated with the urban growth area in which the property is located.

HOUSEKEEPING ITEMS

Omitted text.

SECTION 20-805(F)

Planning Staff identified an omission in the regulations through the review of the Subdivision Regulations for this text amendment. Currently, the regulations provide information regarding limitations and restrictions on property until it is annexed for Cluster Developments, in Section 20-804(f) but does not have the same language in Section 20-805 for Large Parcel Land Divisions. The Large Parcel Land Divisions are located within the UGA and are subject to the same limitations and restrictions until annexation. The language in Section 20-804(f) has been added to Section 20-805(f) and all subsequent sub-sections in Section 20-805 will require renumbering.

Inconsistencies.

Through the review for this text amendment inconsistencies were discovered with previously adopted text amendments. The items below are recommended for revision to provide consistency with these previously approved amendments.

SECTION 20-804(F)

Section 20-804(f) states that after annexation, divisions or development of any portion of the Future Development Area not subject to a Conservation Easement shall be made in accordance with the Subdivision Regulations of the applicable city. *Temporary Set Aside Agreements* were added as an option to conservation easements with TA-9-22A-07 through TA-09-22D-07. These were adopted with Joint Ordinance 8230 and Resolution 08-03 and included in the Dec. 4, 2007 edition of the Subdivision Regulations. For consistency, the language in Section 20-804(f) is being revised to include the reference to Temporary Set Aside Agreements.

SECTION 20-807(E)(2)(XVII)

Section 20-807(e)(2)(xvii) refers to Restrictive Covenants or Conservation Easements which are required by the proposed division. As mentioned above, the Subdivision Regulations have been revised to include *Temporary Set-Aside Agreements* as another option, rather than requiring Conservation Easements for all properties with environmentally sensitive areas. The proposed language would provide consistency with the wording in Section 20-807(e)(2)(xvii) with the *Temporary Set-Aside Agreement* language approved in previous text amendments.

SECTION 20-807(H)

Section 20-807(h) currently states that 'Access to the development shall be permitted only upon written recommendation that revising the point of access is desirable for public safety.' The statement is contained within the section regarding amendments to a Certificate of Survey. If an access point had been approved, the revision would be permitted only with the written recommendation. A development would not lose its

right to access to the public road system by virtue of being amended. This language will be revised to clarify that it is referring to 'revised' access.

SECTION 20-807(H)(1)(V)

Section 20-807(h)(1)(v) states that for each Parent Parcel, the creation of new Residential Development Parcels shall only be permitted if it is in accordance with Sections 20-804, 20-805 and 20-806. Sections 20-804 and 20-805 refer to the Cluster Development and Large Parcel Development Certificate of Survey Process, neither of which include a 'Parent Parcel'. This language will be revised to remove the mention of a 'Parent Parcel' so the compliance with the original provisions will apply to all amended Certificates of Survey.

SECTION 20-807(H)(2)

Section 20-807(h)(2) will be revised to reference street layout rather than road layout.

HOW TO READ THE AMENDED TEXT

The changes being proposed with this text amendment are shown below. Please note, only the portions of the sections which are being modified are shown below.

Portions of the Sections being proposed for revision are shown below with the proposed changes noted. New text associated with the changes regarding build out plans is identified by ***bold, italic typeface*** whereas deleted text is identified by ~~strikethrough~~. For clarity, housekeeping items are noted in bold blue print.

20-804 Cluster Developments in the Urban Growth Areas

(c)(1)

- (vii) Building Envelopes. The Immediate Development Area shall not contain any lands identified as worthy for Resource Preservation in Section 20-810(j). The buildable area for each Residential Development Parcel within the Immediate Development Area shall be defined by Building Envelopes. ***Residential Development Parcels shall be planned and arranged to allow for the future subdivision of these parcels into urban streets and blocks that conform to the development regulations of the city associated with the Urban Growth Area.*** The buildable area for each Residential Development Parcel shall be defined by Building Envelopes which ***accommodate the future block layout and exclude lands which have been identified for protection as environmentally sensitive areas.***

d) Restrictive Covenant

The Immediate Development Area and Future Development Area each shall be restricted by a separate instrument, satisfactory to the County Counselor, which shall:

- (1) Incorporate by reference and have attached as an exhibit the Build Out Plan;
- (2) Require future division of the Residential Development Parcels to conform to the Build Out Plan, subject to the requirements of this Article;
- (3) For the Immediate Development Area, limit each Residential Development Parcel to one principal dwelling and accessory buildings until annexation into a city and municipal water and sanitary sewer service are extended to the property;
- (4) For the Future Development Area, any further division for development purpose is prohibited until annexation or until an amended Certificate of Survey is approved and filed with the Register of Deeds;
- (5) Restrict the location of structures within the Immediate Development Area to Building Envelopes that have been created to allow for the future subdivision of the Immediate Development Area into ***blocks*** ~~lots~~ of an urban density that avoids interference with planned future Street/Roads, easements and setbacks;
- (6) Be binding upon the owner and all of its successors and assigns, and shall constitute a covenant running with the land, expiring at the time the subject property is annexed by a city; and
- (7) Be in a recordable form and be recorded with the Register of Deeds.

(f) Cluster Developments after Annexation

- (1) Land divided in accordance with this Section shall not be eligible for subsequent division until the land has been annexed by a city.
- (2) Additional divisions or development of the Immediate Development Area shall be made in accordance with Section 20-810.
- (3) After annexation, divisions or development of any portion of the Future Development Area not subject to a Conservation Easement *or Temporary Set Aside Agreement* shall be made in accordance with the Subdivision Regulations of the applicable city.

(g)(5)

- (i) A Build Out Plan illustrating the following with respect to both the Immediate Development Area and Future Development Area:
- (ii) A realistic future urban ~~lot-and~~ block layout designed consistent with the Comprehensive Land Use Plan of the applicable city and the Subdivision Design Standards set forth in Section 20-810 for the City of Lawrence or in the Subdivision Regulations set forth in the annexing city's regulations;
- (iii) The layout of future Streets/Roads; provided that, local Streets/Roads shall be planned to provide Street/Road connections to adjoining parcels, neighborhoods, or future development open spaces, at a spacing of 600' to 800' as a means of discouraging the reliance on County and State roads or highways for local trips;
- (iv) **Block level** Easement locations for utilities and storm water drainage;
- (v) Locations of Building Envelopes for each Residential Development Parcel **that are respective of the future urban street and block layout;** ~~to accommodate future subdivision into urban density lots;~~ and,
- (vi) Supplemental written information that demonstrates how public utilities may be extended to the subdivision to accommodate future urban density development.

20-805 Large Parcel Property Divisions in Urban Growth Areas

(a) Purpose

The purpose of this Section is to allow an administrative approval procedure for divisions of land to accommodate rural residential development on large land parcels that are located within the Urban Growth Areas of cities in Douglas County. The procedure contemplates that forethought and design considerations will be employed to identify the ultimate urban density residential development of the large land parcel prior to any division occurring, and that based on these considerations, 3 acre or larger Residential Development Parcels may be created when they allow for future divisions through a 'Build Out Plan' of the Residential Development Parcels, at some future time, to create urban **blocks and connective street networks in accordance with the design standards in the Subdivision Regulations for the city associated with the Urban Growth Area.** ~~density lots.~~ These regulations will result in Residential Development Parcels that retain their rural

character for the immediate future, but will also allow for more efficient transition to urban density development as subsequent circumstances dictate.

(c)(1)

- (iii) Building Envelopes. Residential Development Parcels shall be planned and arranged to allow for future subdivision of these parcels into **blocks** ~~lots at an urban density~~ that conforms to the development regulations of the city ***that is associated with the Urban Growth Area. The buildable area for each Residential Development Parcel shall be defined by Building Envelopes which accommodate the future block layout and exclude lands which have been identified for protection as environmentally sensitive areas.*** ~~that's Urban Growth Area the development is located within. Building Envelopes shall be shown on each Residential Development Parcel.~~

(d) Restrictive Covenant

The Immediate Development Area and Future Development Area each shall be restricted by a separate instrument, satisfactory to the County Counselor, which shall:

- (1) Incorporate by reference and have attached as an exhibit the Build Out Plan;
- (2) Require future division of the Residential Development Parcels to conform to the Build Out Plan, subject to the requirements of this Article;
- (3) For the Immediate Development Area, limit each Residential Development Parcel to one principal dwelling and accessory buildings until annexation into a city and municipal water and sanitary sewer service are extended to the property;
- (4) For the Future Development Area, any further division for development purpose is prohibited until annexation or until an amended Certificate of Survey is approved and filed with the Register of Deeds;
- (5) Restrict the location of structures within the Immediate Development Area to Building Envelopes that have been created to allow for the future subdivision of the Immediate Development Area into **blocks** ~~lots~~ of an urban density that avoids interference with planned future Street/Roads, easements and setbacks;
- (6) Be binding upon the owner and all of its successors and assigns, and shall constitute a covenant running with the land, expiring at the time the subject property is annexed by a city; and
- (7) Be in a recordable form and be recorded with the Register of Deeds.

(f) Large Parcel Property Divisions after Annexation

- (1) ***Land divided in accordance with this Section shall not be eligible for subsequent division until the land has been annexed by a city.***
- (2) ***Additional divisions or development of the Immediate Development Area shall be made in accordance with Section 20-810.***
- (3) ***After annexation, divisions or development of any portion of the Future Development Area not subject to a Conservation Easement or Temporary Set Aside Agreement shall be made in accordance with the Subdivision Regulations of the applicable city.***

(g)(5)

- (i) A Build Out Plan illustrating the following with respect to both the Immediate Development Area and Future Development Area:
- (ii) A realistic future urban ~~lot and~~ block layout designed consistent with the Comprehensive Land Use Plan of the applicable city and the Subdivision Design Standards set forth in Section 20-810 for the City of Lawrence or in the Subdivision Regulations set forth in the annexing city's regulations;
- (iii) The layout of future Streets/Roads; provided that, local Streets/Roads shall be planned to provide Street/Road connections to adjoining parcels, neighborhoods, or future development open spaces, at a spacing of 600' to 800' as a means of discouraging the reliance on County and State roads or highways for local trips;
- (iv) ***Block level*** Easement locations for utilities and storm water drainage;
- (v) Locations of Building Envelopes for each Residential Development Parcel ***that are respective of the future urban street and block layout;*** ~~to accommodate future subdivision into urban density lots;~~ and,
- (vi) Supplemental written information that demonstrates how public utilities may be extended to the subdivision to accommodate future urban density development.

20-807 Certificate of Survey, Administrative Review Procedures

(e) Requirements and Material to be Included

A Certificate of Survey shall comply with the following requirements:

- (1) The Certificate of Survey shall be legibly drawn on Mylar with permanent ink or printed or reproduced by a process guaranteeing a permanent record shall be a minimum size of 11 inches by 17 inches;
- (2) The Certificate of Survey shall show or contain on its face the following information; provided, however, that the licensed Land Surveyor may, at his or her discretion, provide additional information regarding the survey:
 - (i) A title or title block including the quarter-section, section, township, range and principal meridian in which the surveyed land is located. A Certificate of Survey shall not bear the title "plat," "subdivision" or any title other than "Certificate of Survey;"
 - (ii) A note stating "This Certificate of Survey was not prepared for the purpose of the platting of land. No further divisions of the parcels created by this survey shall occur until the property is subdivided in accordance with all applicable Subdivision Regulations of Douglas County or the city into which it is annexed.";
 - (iii) The name(s) of the person(s) who own the land and who commissioned the survey and the names of any adjoining platted subdivisions;
 - (iv) The date the survey was completed;
 - (v) A north arrow;

- (vi) A written and graphic scale. (The scale must be one inch equals 30 feet or less);
- (vii) A narrative legal description of the property surveyed, including a benchmark or other vertical reference point tied to the United States Geological Survey;
- (viii) A location map showing the property surveyed in relation to property ownership lines within the same section and the nearest existing public right(s)-of-way;
- (ix) The dimensions and locations of all of the parcels indicated on the survey, including dashed lines to depict the future urban ***street and block*** ~~lot~~ layout in the Build Out Plan. This requirement is not applicable to Section 20-806;
- (x) A numbering system or other clear and simple method of identifying each parcel within the Certificate of Survey;
- (xi) The location and width of public right(s)-of-way, existing and proposed;
- (xii) The location of any easements, existing and proposed;
- (xiii) The dimensions of all existing Structures in relation to existing and proposed parcel lines, and based on the future ***urban street and block*** ~~lot~~-layout shown in the Build Out Plan;
- (xiv) Building Envelopes, when required, shall be shown for every Residential Development Parcel and shall not include lands identified as environmentally or geographically sensitive areas or the sites of historic landmarks or historic features;
- (xv) Except for divisions made in conformance with Section 20-806, Building Envelopes shall be designed to allow for the placement of rural residences on parcels that will facilitate future further subdivision of the Residential Development Parcel into ***urban streets and blocks***; ~~city-sized urban lots~~;
- (xvi) A note stating the specific Section [20-804, 20-805, or 20-806] pursuant to which the division is being made;
- (xvii) Restrictive covenants, ***Temporary Set Aside Agreements***, or Conservation Easements required by the proposed division shall be noted book and page number in which the covenants, ***Temporary Set Aside Agreements***, or Conservation Easement are recorded;
- (xviii) The signature of the Owner, properly acknowledged;
- (xix) The dated signature and seal of the Kansas licensed land surveyor responsible for the survey along with a note stating: "This survey complies with the Kansas Minimum Standards for Boundary Surveys";
- (xx) A line on the survey for the review date and signature of the County Surveyor beneath a note stating: "Reviewed in compliance with K.S.A. 58-2005";
- (xxi) A line for the approval date and signature of the Planning Director under a note stating: "Approved as a Certificate of Survey under the Subdivision Regulations of the City of Lawrence & the Unincorporated

Area of Douglas County"; *or the Subdivision Regulations of the appropriate City*; and

- (xxii) A line for identification of book and page of the Register of Deeds filing information.

(h) Amending an Approved Certificate of Survey

An approved Certificate of Survey may be amended for a Parent Parcel created in accordance with Section 20-806 or, prior to annexation by a city, in accordance with Sections 20-804 or 20-805 for Lawrence's Urban Growth Area. The amendment may occur when there is an application to revise an area designated as a Residential Development Parcel, Immediate Development Area, Future Development Area, or the layout of Residential Development Parcels and future *streets or blocks* lots on the Build Out Plan. The Future Development Area cannot be revised for those portions that include sensitive lands identified in Section 20-810(j), permanent Conservation Easement(s), or Temporary Set Aside Agreement(s). *A revision to approved* Access to the development (location of cross access easement or individual driveway access) from public road right-of-way shall be permitted only upon written recommendation from the County Engineer that revising the point of access to the public road is desirable for public safety.

- (1) An amendment to an approved Certificate of Survey shall:
- (i) Include the entire land area of the original Certificate of Survey and be signed by all of the current owners of land within the entire land area of the original Certificate of Survey;
 - (ii) Be submitted in the same form as an original Certificate of Survey and meet the requirements in section 20-807(e) through (g);
 - (iii) Be eligible for the same appeals procedure [re: section 20-807(i)] as the original Certificate of Survey;
 - (iv) Comply with the Subdivision Regulations in effect at the time the amended Certificate of Survey application is submitted for review;
 - (v) For each *amended Certificate of Survey* Parent Parcel, the creation of new Residential Development Parcels in addition to those created *originally* from the original Parent Parcel shall only be permitted if an additional Residential Development Parcel is permitted according to Sections 20-804, 20-805 and 20-806 and/or by the County's Access Management Standards.
- (2) An amendment of a Certificate of Survey shall not alter future ~~road~~ *street* layouts that would conflict with a Build Out Plan approved ~~for~~ *of* an adjacent property.

20-815 Interpretations, Rules of Construction and Definitions

(b) Definitions

BUILD OUT PLAN

A future subdivision layout that has been planned and engineered *designed to the urban street and block level* based on *existing topography* and the design standards in the subdivision regulations of the city *associated with the Urban Growth Area* that is closes to the unplatted rural residential development. The build out plan shall identify *an internal street network that has*

connectivity to existing and planned collector and/or arterial streets, including blocks for future urban development, and the general location of utility and drainage easements. ~~Eventual lots based on the typical residential lot size within the nearby city, the bundling of these 'city-sized' residential lots for immediate development as rural Residential Development Parcels with the building envelope shown for this immediate development, which is outside the future Street rights-of-way and public easement locations based on the future subdivision layout.~~