

PROCEDURES FOR FILING PRIMARY SUBDIVISION/REPLAT/APC CONDITIONS AMENDMENT PLATS

DUTY TO DISCLOSE - The Area Plan Commission may rely on the truth of all representations made concerning the subdivision plat and supporting documents. If any condition exists or arises, or if any event occurs after filing the subdivision which makes any representation false, inaccurate, misleading or incomplete, and such fact is known by the applicant or a representative of the petitioner (collectively known as "the applicant"), it is the responsibility of the applicant to disclose such fact promptly to the Area Plan Commission. Failure to make such disclosure may result in subdivision denial or delay in APC action on the subdivision.

PRIMARY PLAT APPROVAL

Step 1. Pre-Application Consultation – Contact the Area Plan Commission Executive Director and/or staff about scheduling a pre-application consultation to discuss the conceptual subdivision plan and how it relates to the Subdivision Ordinance objectives/requirements as addressed in Sections 17.05.040 and 16.08.010 of the City and County Subdivision Codes. Information provided by staff in these concept planning discussions can be highly valuable to applicants in avoiding delays in the subdivision review process, and/or in saving time/money through learning upfront about possible subdivision design options to meet Code standards/requirements.

Step 2. Information Needed to File – The filing of a completed APC Form 101SUB: Subdivision Application signed by the property owner with the Area Plan Commission office shall include all required attachments specified in the Primary Plat Review Checklist. A licensed Land Surveyor must prepare the Subdivision Plat as determined by an accurate survey in the field physically located by monumentation.

Step 3. Filing Primary Plat and Subdivision Modification or Waivers – The filing of an application and primary plat by an applicant and the administration of the project review are subject to the following procedures:

A. All Major subdivisions are subject to the deadline dates shown on the Application Deadlines and Meeting Schedule. These applications must be filed in their entirety on or before the posted filing deadline for them to be heard at the meetings listed on the schedule. Omission of any required items will result in a delay of the review process. Application fees are not subject to refund.

B. The Filing Deadlines for Minor subdivisions are at 4:30 pm on Monday of any given week, as they are considered by the Subdivision Review Committee on a weekly basis, and are heard by the Subdivision Review Committee on the following Monday morning after the Site Review Committee meeting (unless the applicant is informed in the Pre-Application meeting that the Minor subdivision shall be heard at an APC public meeting, and as such, is subject to the filing deadlines for a Major subdivision). When holidays dictate a different schedule, the APC shall post advanced notice of the change.

C. To request a subdivision modification or waiver, APC Form 102SUB: Application for Modification/Waiver of Subdivision Standards and Application for Sidewalk Waiver must be filed. This application can be filed before, with or after the filing of the associated subdivision plat.

1. A request for modification/waiver of a subdivision standard must be considered for a recommendation by the Subdivision Review Committee and for final action by the APC in a public meeting. Therefore, these requests are subject to the filing deadline schedule for Major subdivisions.
2. All requests for modification/waiver of sidewalks must also be made by filing APC Form 102SUB: the Application for Modification/Waiver of Subdivision Standards and Application for Sidewalk Waiver.
 - a. For Major subdivisions, sidewalk waiver requests shall abide by the filing deadline for Major Subdivisions and shall be reviewed as follows:
 - i. They first are to be considered by the Subdivision Review Committee for a recommendation, and then are heard at the next regularly scheduled APC public meeting;
 - ii. Depending on the proposed subdivision lot sizes, sidewalk waivers in the City could need approval from the APC, or both the APC and the Board of Public Works;
 - iii. In the County, the Area Plan Commission is just a recommending body for sidewalk waivers, as they proceed on to the County Commissioners for consideration and final approval/denial.
 - b. Sidewalk waivers involving Minor subdivisions follow the same procedures as the Minor plats themselves, in that they are heard and decided on by the Subdivision Review Committee. Waiver denials by the Committee may be appealed to and heard at an APC public meeting in accordance with the review procedure outlined in C.2.a.ii. & iii. above.

D. Upon receipt of a subdivision application and plat, the Area Plan Commission staff shall:

1. Assign a docket number for the project which shall be referenced by both the applicant and staff on all subsequent documents/communications for the project;
2. Review the sufficiency/completeness of the submittals, and within 5 working days from the filing date, inform the applicant of the sufficiency status of the application based on the evaluation of the information provided in Sections #1 - #28 of the Primary Plat Review Check List;
3. If the application/plat is determined to be sufficient, assign a meeting date for the plat to be considered by the Subdivision Review Committee, and for Major subdivisions, set a tentative date for the plat to be considered at an APC public hearing for primary approval;
4. If the application/plat is determined to be insufficient, the applicant shall be notified of the required information that is lacking, and the application must be resubmitted and pass a sufficiency review, before a hearing date is assigned.

Step 4. Subdivision Review Committee – The Subdivision Review Committee (or Technical Review Committee) is established by the Area Plan Commission to assist with the technical evaluation of subdivisions and to make technical recommendations to the Area Plan Commission. The Committee meets monthly for Major subdivisions, and weekly for Minor subdivisions. The applicant or a representative must attend the Subdivision Review Committee meeting at which the plat will be discussed to answer questions that might arise

and to be informed of any required plat changes or recommendations made by the Committee. The APC Executive Director, as part of the Subdivision Review Committee, may grant primary plat approval for Minor subdivisions once they are approved by the Committee.

A. The APC staff and the review agencies shall review the plat for, among other things, conformance with the following:

1. the Subdivision Code requirements;
2. the requirements of the Zoning Ordinance, Floodplain Management Ordinance and other applicable codes;
3. the Primary Plat Review Checklist;
4. information on record concerning the property including deeds, County Assessor data, aerial photos, topographic contours, etc.;
5. the layout requirements provided on the approved sample plat drawing and the APC Standard Language for Subdivision Plats (available on [APC Website](#)).

B. The review agencies including the APC shall provide comments on proposed plats, and for items determined to be deficient, the comments shall distinguish between:

1. any Code **requirements** that the plat does not comply with; and
2. any suggested **conditions of approval** (a recommendation but not a direct Code requirement).

C. For Major subdivisions, the Subdivision Review Committee may determine that:

1. The subdivision proceeds forward to the Area Plan Commission as proposed;
2. The subdivision proceeds to the Area Plan Commission with recommended plat changes;
3. By simple majority vote, the subdivision needs major changes and the revised plat must return to the Committee for further consideration, before proceeding to APC.

D. For Minor subdivisions, the Subdivision Code authorizes the Executive Director to determine, based on the Subdivision Review meeting, whether:

1. Primary plat approval is granted with or without conditions, and notice of this decision shall be provided by the Executive Director in writing.
2. The Minor subdivision plat must be heard at an Area Plan Commission hearing. The Executive Director shall consider the review agency comments, any public comments, and other relevant information. It shall be automatic that the Minor Plat be heard at an APC meeting, if any of the following conditions apply:
 - a. The plat requires the creation of a new street;
 - b. The plat requires the extension of municipal facilities;
 - c. The plat requires creation of public improvements; or
 - d. The available information about the subdivision, the site area, and/or the specific circumstances warrant a public hearing; or
3. By simple majority vote of the Subdivision Review Committee, the subdivision needs major changes and the revised plat must return to the Committee for further consideration.

F. For plats that must return to the Subdivision Review Committee, revised plats shall be submitted to APC by the filing deadlines for Major and Minor subdivisions to be heard at the next meeting following the deadline.

Step 5. Drainage Plan – If applicable, submit a drainage plan in accordance with the deadlines of the City Board of Public Works or the County Drainage Board, whichever has jurisdiction. Drainage plans for property in the City are reviewed for approval by the Board of Public Works, and by the County Drainage Board for property in the County (check with these offices for their meeting schedules). **Preliminary drainage plan approval is required for a subdivision to be heard by the Area Plan Commission.**

Step 6. Notice – Notice of the Area Plan Commission meeting must be provided by the applicant to adjacent property owners in accordance with the following requirements:

A. Notice shall be postmarked by the Deadline to Mail Notice Letters shown on the APC Meeting Schedule.

B. Notice must be sent by USPS Certificate of Mailing – PS Form 3665 to each landowner whose property abuts the proposed subdivision or any additional land owned by the applicant adjacent to the subdivision [use the wording of the appropriate sample letter – APC Form 302SUB for: Notice of Public Hearing for Major and Minor Subdivisions or Waivers Going to Public Hearing; APC Form 301SUB for: Notice of Minor Subdivision Going to APC Technical Review Meeting; and APC Form 303SUB for: Notice to Property Owner of Subdivision Ordinance Violation]. Abutting property is defined as any property which would touch at any point the property that contains in whole or in part the subdivision, disregarding separations caused by streets, alleys, easements, etc. (meaning owners across streets and alleys must be notified).

C. Names and tax codes of abutting property owners must be obtained from the official owners of record on file at the Assessor's office. The mailing addresses for the owners of record can be found by referencing the tax codes at the Treasurer's office. [Occasionally the names of the owners of record in the Assessor's office do not correspond with the names in the Treasurer's records; if this situation occurs, send notice to both parties.] Staff shall inform the applicant of any needed revisions to the abutting owners list at the Subdivision Review Committee meeting.

D. Please contact the APC staff of any issues or problems you might have PRIOR to mailing your notice letters.

E. Check with the City Clerk's office or the County Commissioners' office to determine if the subject property lies within or contiguous to a Registered Neighborhood Association. If a neighborhood association is involved, notice to the contact person for the neighborhood association must also be sent.

F. All subdivisions shall notify of the meeting date except for Minor subdivisions that are not heard by the APC in a public meeting. The APC Form 401SUB: Subdivision Comment Form, and a reduced copy of the plat that is legible shall be enclosed with all notice letters.

If changes to the plat are being made after the Subdivision Review Committee meeting, the copy of the plat that is mailed to abutting property owners must be the revised version. APC Form 303SUB: Notice to Property Owner of Subdivision Ordinance Violation (or “Red Flag” notice letter) shall also be used when staff indicates to the applicant that an abutting property has been split or modified in a manner that does not conform with the Subdivision Code.

Step 7. Documenting Notice – Submit a notarized affidavit using APC Form 203SUB: Subdivision Affidavit of Notice, along with one copy of the notice and the USPS Certificate of Mailing to the APC **by 12:00 noon the Monday before the APC meeting**. This form must be filled out completely, signed, and stamped by the Post Office at the time of mailing. The Post Office will verify that all of the information listed on each sheet matches the items to be mailed. If everything is correct and accounted for, each sheet should then be **postmark stamped and signed by the Post Office agent**. The Certificate of Mailing is not valid proof of notice without both the signature and stamp. If these requirements are not met, the subdivision will be continued until the next regularly scheduled meeting, and the notification process must be repeated for that meeting. The applicant shall also pay a continuance fee to get back on the APC agenda.

IF ALL OF THESE STEPS ARE NOT COMPLETED AS DETAILED IN THESE INSTRUCTIONS, THE PROPOSED SUBDIVISION CANNOT BE HEARD AT THE REGULARLY SCHEDULED MEETING.

Step 8. APC Meeting – The conduct of the hearing on primary plat approval is as follows:

- A.** The applicant or a representative is required to attend the Area Plan Commission meeting at which the proposed subdivision will be heard.
- B.** Consideration of each subdivision plat will begin with a report by staff. The applicant will then have the opportunity to speak; followed by any remonstrators. The applicant will be offered a chance to present a response to remonstrators and/or a summation. Throughout the proceedings, the Area Plan Commission may ask questions; and may determine that more information is needed before taking action resulting in a continuance of the agenda item; or may proceed to a vote.
- C.** In order for a final action to occur on a proposed plat, it must receive at least 7 votes for approval or denial. Any plat that receives less than 7 votes for or against (a no action vote), will automatically return to the APC for reconsideration the following month. The APC has sole authority for approving or denying subdivisions.
- D.** In their consideration of a proposed plat, the APC may determine that:
 1. Primary plat approval is granted;
 2. Primary plat approval is granted with requirements/conditions;
 3. The plat must be reconsidered at the next meeting due to a no action vote;
 4. The plat is continued at the request of the applicant or the APC, or due to the plat not meeting notice or drainage approval requirements; or
 5. Primary plat approval is denied.

PROCEDURES FOR SECONDARY SUBDIVISION/REPLATS/APC CONDITIONS AMENDMENTS/ PLAT APPROVAL

Step 1. Submittal of Secondary Plat – A plat submitted for secondary approval to record all or a portion of a primary plat must be drawn by the applicant's surveyor and filed with the Area Plan Commission. The initial secondary plat shall be an electronic copy (AutoCAD “DWG” or compatible and an Adobe “PDF” file) for review by the APC and the other subdivision review agencies. This administrative review process does not involve approval at a public meeting. The APC delegates secondary plat approval to the Executive Director. Staff will distribute the electronic copy of the secondary plat to the subdivision review agencies within 3 working days of submittal. For the purposes of tracking revisions, the Surveyor’s Certificate must be signed and sealed for the plat to be reviewed.

Step 2. Secondary Plat Review

A. The APC staff reviews the plat for conformance with the following:

1. the Subdivision Code requirements;
2. the Secondary Plat Review Checklist;
3. the primary plat;
3. any conditions placed on the plat by the Area Plan Commission;
4. any commitments offered by the applicant in the process or in public meeting;
5. County Assessors records, deeds and other information relevant to the accuracy of the technical information on the plat, and
6. the layout requirements provided on the approved sample plat drawing and the APC Standard Language for Subdivision Plats (available on [APC Website](#)).

B. Based on the secondary plat review, staff determines whether or not any additional plat corrections are necessary for the APC review items, and the applicant's surveyor is notified via e-mail punch list of the required changes in a timely manner. Additional plat changes could also be required by the other subdivision review agencies in their written secondary plat comments. These comments shall be checked by the applicant directly with the Department representatives or by checking the APC website Plat Review App to see any agency comments. It is the surveyor’s responsibility to revise the secondary plat in accordance with any required changes, and resubmit the plat on mylar with the required signatures for a final plat review.

C. The Area Plan Commission Plat Release Fee covers the initial review by Staff of the secondary plat. Another review for the version of the secondary plat responding to agency comments is also covered by the Plat Release Fee. For any additional plat reviews resulting from the submittal of a subsequent version(s) of the plat, the Area Plan Commission will charge a separate Secondary Plat Re-review Fee for each additional version of the plat requiring a review by staff. The plat will not be recorded until all fees are paid.

Step 3. Construction of or Surety for Public Improvements

A. Prior to secondary plat approval, the Subdivision Ordinance requires that public improvements in a subdivision must either be constructed and approved or accepted by the

appropriate government entity, or a letter of credit in favor of the Area Plan Commission must be filed with the APC as proof of financial responsibility.

B. For the subdivision public improvements, excepting sidewalks, the agency comments for primary plat approval specify whether a letter of credit is required. This information is also included in the staff field reports and expressed again at the APC meeting for all major subdivisions. Sidewalks are required unless waived pursuant to the Subdivision Code. The applicant has the option to have sidewalks constructed on a lot-by-lot basis prior to issuance of a Certificate of Occupancy for any structure on each lot, or post a letter of credit for sidewalks.

C. When a letter of credit (LOC) is filed, the following procedures must be followed:

1. A cost estimate for the public improvements in the subdivision must be prepared by the applicant's engineer and submitted to APC, the City or County Engineer and the Water and Sewer Department (whichever is applicable). When necessary, the APC may also have cost estimates sent to other appropriate agencies. The format and information included in cost estimates shall be submitted as shown on APC Form 501SUB: the Engineer's Cost Estimate. Cost estimates that do not contain all the information required on the Engineer's Cost Estimate will be returned to the engineer for revisions.
2. Once the cost estimate is approved by the appropriate agencies, a letter of credit can be filed with the APC. A letter of credit must be written in the amount of the approved estimate and contain the exact language in APC Form 601SUB: Irrevocable Letter of Credit – Automatic Extension. The letter of credit form is for letters that automatically renew until the improvements are accepted. Letters of credit that do not comply with the form; are written for amounts that do not reflect the approved cost estimate; or are based on unacceptable cost estimates, will be returned to the financial institution. In the event a letter of credit is not accepted by the Area Plan Commission and is returned, an acceptable letter must be filed with the APC before the plat will be recorded.
3. The approved cost estimates and Letter of Credit will be required to be recorded and cross referenced to the plat along with any subsequent reductions if any.

D. If a letter of credit is not filed, the applicant must:

1. Complete the basic public improvements necessary for the subdivision, and submit "as built" road and sewer plans (if applicable) to the appropriate agency, along with any additional information required to request City or County inspection of the improvements.
2. Obtain acceptance of improvements for maintenance at a public meeting of the appropriate board, or obtain approval of the improvements by the local agency with jurisdiction before secondary plat approval will be granted.
3. Show proof of acceptance by providing a signed acceptance form from the appropriate Board, minutes of the public meeting at which the acceptance occurred, a letter or an engineer's cost estimate showing a zero dollar amount

(\$ 0.00) signed by the appropriate agencies. When there is no formal acceptance of improvements, provide a letter or e-mail from the local agency with jurisdiction for approving the improvements (see agencies identified in Step 3.E.) based on inspection, or other approval documentation.

4. Have wording on the plat concerning construction of any required sidewalks on a lot-by-lot basis prior to issuance of a Certificate of Occupancy for each lot, or wording that the required sidewalks were waived by the appropriate entity and the date of such action (see APC Standard Language for Subdivision Plats).

E. The following agencies/individuals are responsible for determining whether subdivision improvements have been satisfactorily completed and accepted for maintenance or approved:

Sanitary Sewers & Water Lines – accepted by Utility Board (with Water & Sewer Engineering as staff);

Streets & Storm Sewers – accepted by Board of Public Works (City Engineer) or County Commissioners (County Engineer);

Drainage Facilities outside right-of-way – construction approved by City Engineer or County Engineer/County Surveyor;

Sidewalks – construction approved by City Engineer or County Engineer.

Step 4. Recording the Plat

A. A secondary plat that is suitable for recording shall be resubmitted on mylar. Any other required submittals as itemized on the Secondary Plat Review Check List shall also be provided to the APC. These items include sufficient documentation from the appropriate agency that any requirements or conditions of approval imposed by the APC at public meeting, or by the Subdivision Review Committee for Minor plats, have been satisfied or otherwise addressed.

B. Based on the final review of the secondary plat, staff shall:

1. Determine whether the plat and supporting documents are on file and ready for recording, and inform the surveyor of the determination;
2. Assign addresses to each new lot within the subdivision (proposed addresses will not be made available for distribution until the plat is recorded);
3. Grant secondary plat approval, as delegated to the APC Executive Director by the Area Plan Commission, once it is determined that the secondary plat and all other supporting information have been filed and are suitable to comply with these requirements; and
4. Hand deliver the mylar to the County Recorder's office to start the recording process.

Important Notices –

1. The process of recording the plat and assigning Tax ID Numbers for each new lot involves the County Auditor's, the County Recorder's and the County Assessor's Offices, and can take several days to complete. This creates some lag time between the recording

of a plat and when Improvement Location Permits can be issued. The Area Plan Commission will not issue permits until the APC can verify that the Tax ID Numbers have been issued for the subdivision lots. Developers should allow for up to four working days for the process to be completed before applying for Improvement Location Permits for newly recorded lots.

2. The Subdivision Code requires that secondary plats for major subdivisions must be recorded within 5 years of the date primary approval was granted by the APC or the approval is null and void. Minor subdivision plats must be recorded within one year of the primary approval date. Plat expiration dates may be extended by the APC at a public meeting. Requests for expiration date extension shall be made in writing to the APC, **and submitted in accordance with the filing deadlines on the APC Meeting Schedule.** Plats that are expired will not be recorded. If the applicant wishes to pursue an expired plat, it must be resubmitted, proceed through the subdivision review process again, and obtain a new primary plat approval before it can be recorded.

3. Secondary plat approval does not supersede requirements for federal, state or local permits. Improvement Location Permits from the Area Plan Commission and all other permits needed must still be acquired. In some instances, permits could be required for construction of the public improvements in a subdivision (e.g. DNR permit for construction in a floodway).

FOR ANSWERS TO QUESTIONS OR OTHER INFORMATION ABOUT THE SUBDIVISION PROCESS, PLEASE CONTACT THE AREA PLAN COMMISSION STAFF AT (812) 435- 5226.