

ROSEVILLE
REQUEST FOR COUNCIL ACTION

DATE: 9/13/2010
ITEM NO: 11 . a

Department Approval:



City Manager Approval:



Item Description: Request by the Roseville Planning Division for Public Hearing and consideration of a subdivision ordinance TEXT AMENDMENT to clarify the purpose and application of alternatives to the plat process (**PROJ-0017**)

1.0 BACKGROUND

1.1 During the current process of reviewing a proposed minor subdivision of the property at 2218 Highway 36 into three parcels that would meet or exceed the minimum parcel size requirements, the City Council had some concerns about statutory authorization of minor subdivisions as well as Roseville's Subdivision Code language establishing the minor subdivision processes as alternatives to the more formal plat process. Planning Division staff was then directed to extend the State-mandated 60-day action timeline for the subdivision application in order to prepare a TEXT AMENDMENT to the minor subdivision ordinance to address the concerns with the existing text.

1.2 The Planning Commission was originally scheduled to hold the public hearing for this Subdivision Code TEXT AMENDMENT, but the Planning Commission failed to produce a quorum on its most recent meeting date. Because the 60-day timeline for the minor subdivision application expires on October 2, 2010, the City Council needs to take final action on that application by September 27th, the last meeting date before the deadline; And because action on the minor subdivision application now depends on an amendment to the subdivision ordinance having been approved by the City Council and then published in the Roseville Review, the City Council must hold the public hearing for, and take action on, the proposed Subdivision Code TEXT AMENDMENT on September 13, 2010.

2.0 STAFF COMMENTS

2.1 Minnesota Statute 505.03 subd. 1 states in part that: "*Plats that ... comply with a minor subdivision procedure may be approved by a local government official designated by the governing body of the local governmental unit exercising authority over the subdivision of land.*" For the purposes of this statute, "plats" are defined as "*delineation[s] of one or more existing parcels of land drawn to scale showing all data as required by this chapter, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways*", and "minor subdivision procedures" are defined as "*approval process[es] that a local unit of government may adopt under this chapter for simple land divisions.*" Roseville clearly has the statutory authority to adopt processes for reviewing and approving certain, specified, "simple" land divisions and that such land divisions may be approved administratively.

2.2 According to Roseville’s Subdivision Code, the minor subdivision process applicable to the proposed division of 2218 Highway 36 requires a public hearing by the City Council. Any public hearing related to land use or land division triggers the same forms of public notification whether the hearing is held by the Planning Commission or the City Council. Although the Three-Parcel Minor Subdivision process is simpler and shorter than the platting process, Planning Division staff believes that it is no less transparent.

2.3 Chapter 1102 of the Subdivision Code introduces the procedure for reviewing proposals to subdivide property as follows:

Except as provided in Section 1104.04 of this Title, before dividing any tract of land into two or more lots or parcels, the owner or subdivider shall submit a preliminary plat of the subdivision for the approval of the Planning Commission and City Council [as described in the ensuing six pages of code requirements].

This chapter, which establishes the lengthy and information-intensive process of reviewing plats for subdivision proposals, literally begins by referring the reader to another set of requirements that describes – in little more than one page of text – the requirements for five different subdivision types.

2.4 Broadly speaking, the set of five alternative subdivision types are a sharp contrast to the plat process: none of them involves the Planning Commission and only one (i.e., the duplex subdivision) requires any plans more formal than a basic sketch of the proposal. Only one of the alternative subdivision types requires a public hearing, held by the City Council; another requires only Council approval *without* a public hearing; and the remaining three are administratively approved. The minor subdivision processes were established with the adoption of Ordinance 1171 on September 23, 1996 specifically to accommodate more efficiently the small divisions and combinations of land that are common in fully-developed communities like Roseville.

2.5 A more detailed parsing of the purpose statement of Section 1104.04 (Platting Variations and Minor Subdivisions) of the City Code allows for specific analysis of the meaning and intent of the code language; the purpose statement reads:

In any case in which the compliance with the provisions of the Title will involve unnecessary hardship and failure to comply does not interfere with the purpose of the platting regulation, five types of minor subdivisions may be granted...

2.6 In the present minor subdivision application, the primary source of concern for City Councilmembers was the part about “unnecessary hardship.” Because of the similarity of that language to ordinances pertaining to variances, members of the City Council were worried that they needed to identify specific findings of hardship in order to review a proposed lot split as a minor subdivision instead of a more formal plat. The reference to “hardship” in this context is materially different than the way it is used in discussions of variances; the difference is based in part on the fact that the minor subdivision process has historically been used simply as an alternative to platting when a proposal doesn’t involve new roads or other infrastructure, which can be better addressed in plats. In this case, the reference to “unnecessary hardship” has essentially been interpreted as “an unnecessarily time-consuming and expensive process for reviewing relatively simple applications.”

2.7 Additional evidence of the difference can be found in the 2008 adoption of Ordinance 1359 which formalized the process by which requested variances to the plat and minor subdivision requirements are to be handled. That the “variances” section of the

78 Subdivision Code is separate and distinct from the section about “platting variations and
79 minor subdivisions” suggests that the minor subdivision review process is not meant to
80 be limited only to situations in which the requirements of the Subdivision Code are so
81 strict as to prevent the reasonable division of property.

82 2.8 In recognition of the historical understanding and administration of the minor subdivision
83 process and the recent adoption of an actual subdivision variance process, Planning
84 Division staff proposes the TEXT AMENDMENT shown Attachment A, which includes for
85 context the entire Chapter 1104 of the Subdivision Code.

86 **3.0 STAFF RECOMMENDATION**

87 Hold the public hearing to solicit public comment on the proposed Subdivision Code
88 TEXT AMENDMENT and, pursuant to the public hearing, take action on the proposal.

89 **4.0 SUGGESTED ACTION**

90 Based on the comments and findings in Section 2 of this report and the input received
91 during the public hearing, adopt an ordinance amending §1104.04 of the Subdivision
92 Code.

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Attachments: A. Chapter 1104 of the Subdivision Code B. Draft ordinance

CHAPTER 1104 ADMINISTRATION AND ENFORCEMENT

SECTION:

- 1104.01: Inspection at Subdivider's Expense
- 1104.02: Building Permit
- 1104.03: Occupancy Permit
- 1104.04: Platting Variations and Minor Subdivisions
- 1104.05: Variances
- 1104.06: Record of Plats

1104.01: INSPECTION AT SUBDIVIDER'S EXPENSE:

All required land improvements to be installed under the provisions of this Title shall be inspected during the course of construction by the Public Works Director. Salaries and all costs pursuant to such inspection shall be paid by the owner or subdivider in the manner provided in Section 1102.07 of this Title. (Ord. 216, 7-5-1956; 1990 Code)

1104.02: BUILDING PERMIT:

No building permit shall be issued for the construction of any building, structure or improvement to the land or any lot within a subdivision as defined herein which has been approved for platting until all requirements of this Title have been complied with fully. (Ord. 216, 7-5-1956; 1990 Code)

1104.03: OCCUPANCY PERMIT:

No occupancy permit shall be granted for the use of any structure within a subdivision approved for platting or replatting until required utility facilities have been installed and made ready to service the property and roadways providing access to the subject lot or lots have been constructed or are in the course of construction and are suitable for car traffic. (Ord. 216, 7-5-1956; 1990 Code)

1104.04: PLATTING VARIATIONS AND MINOR SUBDIVISIONS ALTERNATIVES:

~~In any case in which the compliance with the provisions of the Title will involve unnecessary hardship and failure to comply does not interfere with the purpose of the platting regulation, five types of minor subdivisions may be granted~~ **The following processes may be utilized, within the parameters set forth therein, as alternatives to the plat procedures established in Chapter 1102:**

- A. Common Wall Duplex Subdivision: A common wall duplex minor subdivision may be approved by the City Manager upon recommendation of the Community Development Director. The owner shall file with the Community Development Director three copies of a

certificate of survey prepared by a registered land surveyor showing the parcel or lot, the proposed division, all building and other structures or pavement locations and a statement that each unit of the duplex has separate utility connections. This type of minor subdivision shall be limited to a common wall duplex minor subdivision of a parcel in an R-2 District or other zoning district which allows duplexes, along a common wall of the structure and common lot line of the principle structure where the structure meets all required setbacks except the common wall property line. Within 60 days after approval by the City Manager, the applicant for the common wall duplex minor subdivision shall record the subdivision and the certificate of survey with the Ramsey County Recorder. Failure to record the subdivision within 60 days shall nullify the approval of the subdivision.

- B. Recombination: to divide one recorded lot or parcel in order to permit the adding of a parcel of land to an abutting lot and create two buildable parcels, the proposed subdivision, in sketch plan form, shall be submitted to the City Council for approval. No hearing or Planning Commission review is necessary unless the proposal is referred to the commission by the Community Development Director for clarification. The proposed recombination shall not cause any portion of the existing lots or parcels to be in violation of this regulation or the zoning code. Within 30 days after approval by the City Council, the applicant shall supply a certificate of survey to the Community Development Director and City Manager for review and approval. After completion of the review and approval by the Community Development Director and City Manager, the survey shall be recorded by the applicant with the Ramsey County Recorder within 60 days after approval by the City Manager.
- C. Consolidations: The owner of two or more contiguous parcels or lots of record may, subject to Community Development Director and City Manager approval, consolidate said parcels or lots into one parcel of record by recording the consolidation with Ramsey County Recorder as a certificate of survey showing same, within 60 days of approval. No hearing is necessary unless the proposal is appealed by the applicant to the City Council. The proposed parcels shall not cause any portion of the existing lots, parcels, or existing buildings to be in violation of this regulation or the zoning code.
- D. Corrections: When a survey or description of a parcel or lot has been found to be inadequate to describe the actual boundaries, approval of a corrective subdivision may be requested. This type of subdivision creates no new lots or streets. The proposed corrective subdivision, in sketch plan form, along with a letter signed by all affected owners agreeing to the new subdivision, shall be submitted to the City Council for approval. No hearing or Planning Commission review is necessary unless the proposal is referred to the Commission by the Community Development Director for clarification. The proposed parcels shall not cause any portion of the existing lots, parcels, or existing buildings to be in violation of this regulation or the zoning code. A certificate of survey illustrating the corrected boundaries shall be required on all parcels. Within 30 days after approval by the City Council, the applicant shall supply the final survey to the Community Development Director and City Manager for review and approval. After completion of the review and approval by the Community Development Director and City Manager, the survey shall be recorded by the applicant with the Ramsey County Recorder within 60 days. Failure to record the subdivision within 60 days shall nullify the approval of the subdivision.
- E. Three Parcel Minor Subdivision: When a subdivision creates a total of three or less parcels, situated in an area where public utilities and street rights of way to serve the proposed parcels already exist in accordance with City codes, and no further utility or street

82 extensions are necessary, and the new parcels meet or exceed the size requirements of the
83 zoning code, the applicant may apply for a minor subdivision approval. The proposed
84 subdivision, in sketch plan form, shall be submitted to the City Council at a public hearing
85 with notice provided to all property owners within 500 feet. The proposed parcels shall not
86 cause any portion of the existing lots, parcels, or existing buildings to be in violation of this
87 regulation or the zoning code. Within 30 days after approval by the City Council, the
88 applicant shall supply the final survey to the Community Development Director for review
89 and approval. A certificate of survey shall be required on all proposed parcels. After
90 completion of the review and approval by the City Manager, the survey shall be recorded by
91 the applicant with the Ramsey County Recorder within 60 days. Failure to record the
92 subdivision within 60 days shall nullify the approval of the subdivision. (Ord. 1171, 9-23-
93 1996) (Ord. 1357, 1-14-2008)

94 **1104.05: VARIANCES:**

- 95 A. Hardship: Where there is undue hardship in carrying out the strict letter of the provisions of
96 this Code, the City Council shall have the power, in a specific case and after notice and
97 public hearings, to vary any such provision in harmony with the general purpose and intent
98 thereof and may impose such additional conditions as it considers necessary so that the
99 public health, safety and general welfare may be secured and substantial justice done.
- 100 B. Procedure For Variances: Any owner of land may file an application for a variance by
101 paying the fee set forth in section 1015.03 of this title, providing a completed application
102 and supporting documents as set forth in the standard community development department
103 application form, and by providing the city with an abstractor's certified property certificate
104 showing the property owners within three hundred fifty feet (350') of the outer boundaries of
105 the parcel of land on which the variance is requested. The application shall then be heard by
106 the variance board or planning commission upon the same published notice, mailing notice
107 and hearing procedure as set forth in chapter 108 of this code. (Ord. 1359, 1-28-2008)

108 **1104.06: RECORD OF PLATS:**

109 All such plats of subdivisions after the same have been submitted and approved as provided in
110 this Title shall be filed and kept by the City Manager among the records of the City. (Ord. 216,
111 7-5-1956)

City of Roseville

ORDINANCE NO. _____

AN ORDINANCE AMENDING SELECTED TEXT OF:
TITLE 11 "SUBDIVISIONS", CHAPTER 1104 "ADMINISTRATION AND ENFORCEMENT",
SECTION 1104.04 "PLATTING VARIATIONS AND MINOR SUBDIVISIONS"

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Purpose: The Roseville City Code, Title 11, Section 1104.04 is hereby amended to clarify the intent of the alternatives to the platting process for reviewing minor subdivision applications.

SECTION 2. Section 1104.04 is hereby amended as follows:

**1104.04: PLATTING VARIATIONS AND MINOR SUBDIVISIONS
ALTERNATIVES:**

~~In any case in which the compliance with the provisions of the Title will involve unnecessary hardship and failure to comply does not interfere with the purpose of the platting regulation, five types of minor subdivisions may be granted:~~ **The following processes may be utilized, within the parameters set forth therein, as alternatives to the plat procedures established in Chapter 1102.**

SECTION 3. Effective Date. This ordinance amendment to the Roseville City Code shall take effect upon passage and publication.

Passed this 13th day of September 2010