



## MAYOR AND COUNCIL COMMUNICATION

DATE: 09/06/2016

**REGULAR**

ITEM #: 16

**AGENDA ITEM:** Exemption from Platting for Subdivision of Property Resulting from Acquisition by Governmental Agencies

**SUBMITTED BY:** Emily Becker, City Planner

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Stephen Wensman, Planning Director  
Sarah Sonsalla, City Attorney

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### **BACKGROUND:**

Recent agreement between the City and a property owner was made to have property owners convey fee title to a portion of their property to the City for a recently constructed roadway, instead of the property owners granting the City an easement. The City Attorney advised Staff to approve the lot split (following whatever process is required) and record the deed. Upon review of Chapter 153: Subdivision Regulations, Staff was unable to determine the process that is required, as the foregoing situation does not fit neatly in to the situations described where platting is required, nor does it meet the definitions or conditions of any exceptions to platting, as outlined in this Chapter. Because the Ordinance was unclear, Staff consulted the City Attorney to determine the correct process.

After review of Section 153.09: Exceptions to Platting, of Chapter 153: Subdivision Regulations, of the City Code, the City Attorney determined that the subdivision of property resulting from acquisition by governmental agencies for public improvement or uses does not apply to any exceptions set forth in the aforementioned Section, as it does not meet the definitions or conditions set forth for a minor subdivision or lot line adjustment. She suggested this Ordinance be brought forth to amend the City's subdivisions regulations to allow this type of situation as an exception and to then follow the process set forth by this exception so this lot split can be processed.

The subdivision ordinance is not within the zoning code and therefore, the amendment does not require a public hearing.

### **ISSUE BEFORE COUNCIL:**

In order to expedite the aforementioned subdivision of a property for public purpose, the Council is respectfully requested to consider, as part of tonight's consent agenda, whether or not an amendment to Section 153.09 should be made that would add this exemption from the platting process.

### **PROPOSAL DETAILS/ANALYSIS:**

The current exceptions to platting, as provided forth in Section 153.09, are as follows:

(A) Minor subdivision. A minor subdivision is a division of land which results in no more than 4 parcels wherein each resultant parcel complies with the city's minimum lot dimension and public road frontage requirements for the zoning district in which the land is located.

(B) Lot line adjustment. A lot line adjustment is a division of land which results in no more than 4 parcels wherein each resultant parcel does not comply with the city's minimum lot dimension and/or public road frontage requirements for the zoning district in which the land is located. The City Council hereby waives compliance with the city's platting regulations for lot line adjustments which satisfy 1 of the following conditions:

(1) Each resultant parcel, when combined with an abutting parcel through a Tax Parcel Consolidation Procedure approved by Washington County, equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located;

(2) In those cases where the City Administrator determines that it is not reasonably possible for each resultant parcel to comply with the provisions of division (B)(1) above, each resultant parcel, when combined with an abutting parcel through a Tax Parcel Consolidation Procedure approved by Washington County, is less non-conforming after the lot consolidation than it was before the lot consolidation; or

(3) In those cases where, in regard to property which is zoned agricultural or rural residential, the City Administrator determines that each resultant parcel will equal or exceed minimum lot dimensions for the zoning district in which the property is located, but that 1 of the resultant parcels cannot satisfy the minimum public road frontage requirements for the zoning district in which the property is located, access to the noncomplying parcel is protected by a restrictive covenant approved by the City Attorney which includes the city as a beneficiary.

As previously mentioned, subdivision of property resulting from the acquisition of land by governmental agencies for the purpose of public use or acquisition does not apply to any definition or condition listed above.

Because the subdivision of property resulting from the acquisition of land by governmental agencies for the purpose of public use or acquisition does not meet the definitions or conditions of neither a minor subdivision nor a lot line adjustment, and because platting is only required for the subdivision of a tract of land which is to be divided into 3 or more lots or parcels, there is no clear direction on what process to follow for such a subdivision.

Minor subdivisions and platting require a public hearing and Council approval. Generally, when land is being acquired for public acquisition or use, it is for the purpose of a project, like a street improvement project, which has already been approved by Council. Therefore, it would be redundant for Council to hear and approve such a subdivision of property. Furthermore, the platting process takes a significant amount of time and Staff resources, and would delay public projects.

Due to the aforementioned, Staff is recommending that property that is being subdivided due to governmental agency acquisition for public improvement or uses be added as an exception to the platting

process as a separate item and be approved administratively. This would greatly facilitate and speed up the acquisition process.

**FISCAL IMPACT:**

Less Staff time would be spent in preparing reports and going before Planning Commission and Council to go through the platting process for such lot splits. Additionally, clearly outlining this exception to platting would ensure that such process is being done legally and correctly.

**OPTIONS:**

The Council may either approve or deny the proposed amendment to Section 153.09 of Chapter 153: Subdivision Regulations.

**RECOMMENDATION:**

Staff recommends that Council approve the proposed amendments to Section 153.09: Exceptions to Platting by adding “a subdivision of property resulting from acquisition by governmental agencies for public improvements or uses” as an exception to platting and the summary publication of the ordinance with the following motion:

***“Move to approve Ordinance Amendment 08-153 amending Chapter 153: Subdivision Regulations; Section 153.09: Exceptions to Platting, by inserting, as an additional exception to platting, a subdivision of property resulting from acquisition by governmental agencies for public improvements or uses, and Resolution 2016-76 for its summary publication.”***

**ATTACHMENTS:**

- Draft Ord. 08-153 (redlined version and edited version)
- Resolution 2016-76 approving summary publication of Ord. 08-153
- Email from City Attorney Sonsalla