Midway City Council
20 August 2019
Regular Meeting

Ordinance 2019-09 /
Multiple Plat Maps Per Phase

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING:	August 20, 2019
NAME OF APPLICANT:	Berg Engineering
OWNERS OF RECORD:	Probst Higley Developers LLC
AGENDA ITEM:	Code Text Amendment of Title 16.16.20

ITEM: 9

Berg Engineering, agent for Probst Higley Developers LLC, is proposing a code text amendment of Midway City's Land Use Code. The proposed amendment would allow a developer to record multiple plats in a phase of a development.

BACKGROUND:

Paul Berg, agent for Probst Higley Developers LLC, is proposing a code text amendment to Title 16.16.20 of the City's Land Use Code. The proposed amendment would allow for multiple plats to be recorded per each phase of an approved master plan. Currently, Section 16.16.20 reads as follows:

> *In addition to all other requirements, the proposed final subdivision or condominium plat shall show an address block containing addresses for each dwelling unit and for each main building within the plat, subject to approval by the Wasatch County Recorder's office.*

The applicant would like to add two more sections to the above language that would continue as follows:

B. Plats for a subdivision or planned unit development shall match the phasing plan approved by the City Council during the master plan unless the conditions in Item C are met.

C. Multiple plats may be recorded for a phase within a large-scale subdivision or a planned unit development if:

- *i. The first plat recorded for a phase includes all open space for the phase.*
- *ii. The roads needed to comply with city codes and construction standards for the phase are platted and constructed with the first plat within the phase.*
- *iii. All utilities associated with the phase are bonded and constructed with the first plat within the phase.*
- *iv. The water rights for the entire phase are turned over to the city with the recording of the first plat within the phase. This requirement includes units that are planned within the phase but are not included in the first plat.*
- *v. Since the first plat for a phase contains the open space, roads and easements needed for utilities, the remaining plats for the phase will generally be building pads and small amounts of common area between or around building pads.*
- *vi. Once a developer has received final approval from the City Council for a phase, a separate final approval is not required for each plat if multiple plats are recorded.*

The proposed amendment would allow more flexibility for developers regarding the recording of plats. All infrastructure would be required with the first plat of each phase, but by not platting all the units, there would be property tax savings for the developer. For example, if a developer received approval for a five-phase master plan and phase 4 contained 20 units, currently the developer would bond for and record 20 units on the phase 4 plat. He or she would then be responsible for paying the property taxes on every unit owned by the developer each year. In some cases, the developer may own units in a phase for several years and each year the property taxes would need to be paid. With the proposed amendment, the developer would again receive approval for five phases and phase 4 would again contain 20 units. Instead of recording one plat containing 20 units the developer would still bond for all infrastructure in all of phase 4 but only record a plat containing five of the units. This would, in turn, save the developer from paying property taxes on the other 15 units until those units are recorded as part of a subdivision plat. This proposal is also beneficial for the developer regarding the issue of risk. It is difficult to know what will happen to the economy. If there is an economic downturn after a plat is recorded, then those lots will most likely not sell for some years. Having some flexibility regarding the recording of plats reduces the risk of the consequences of an economic downturn.

Staff has discussed the proposal and feels that it could work, if all the infrastructure is built, opens space dedicated, bonding established, and water rights are tendered to the City with the first plat of the phase, but there are consequences should be considered.

- First, this change will add more work for staff. Instead of reviewing one plat per phase there could be several plats per phase. Each plat would need to be reviewed by planning department, city recorder, county surveyor, and then the city recorder's office would need to gather all those who sign the plats which is a time-consuming process that usually takes a few weeks. Throughout this process there is communication regarding the plat with the applicant and their representatives in meetings, over the phone, and through emails which all takes administrative time. Time has been of short supply in the past four years so taking on more time-consuming work would be a difficult prospect. Staff feels that if the City does accept the proposed amendment, an application fee should be adopted that would cover the City's cost which could range from $1,000 to $3,000 per plat.

- Second, if the developer saves on taxes, essentially the County, school district, fire district, City, and others are all losing taxes. If the property tax for those units are not required because they are not part of a plat, then the property tax is not required, and the taxes will not be paid and distributed to the receiving entities.

- Third, staff feels that if the proposal is adopted then there should be a minimum number of units allowed per plat. Staff suggests a minimum of five units would be required per plat. The reasoning is to avoid an extreme situation where 20 units are included in a phase and the developer chooses to record a plat for each of the 20 units on a separate plat. Even if a fee were adopted to cover the City's costs, there simply is not enough time to process that many plats.

- Lastly, the amendment is not needed in the fact that the developer can always propose as many phases as desired at the master plan phase and then they can plat each phase separately. This does not give the developer the flexibility that is desired and would require more planning on their part, especially at the beginning of the application process, but it is an option.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Bouwhuis: I make a motion of recommendation for denial for the proposed code text amendment of Midway City's Land Use Code. The proposed amendment would allow a developer to record multiple plats in a phase of a development. Accept the staff findings and recognize that there is no benefit to the city.
Seconded: Commissioner McKeon
Chairman Kohler: Any discussion the motion?
There was none
Chairman Kohler: All in favor.

Ayes: Commissioners: Payne, Nicholas, Ream, Bouwhuis, McKeon
Nays: None
Motion: Passed

POSSIBLE FINDINGS:

- The proposed amendment would allow flexibility for the developer to record multiple plats per phase.
- The proposal would save property taxes for the developer.
- The proposal would reduce developer risk.
- The proposed amendment would increase administrative work for staff.
- An application fee could be adopted to the City's fee schedule to cover the City's costs.
- The City and other entities could potentially lose some potential property taxes because of the proposal.
- The developer has the ability to propose as many phases as desired with the current code.

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.

   a. Accept staff report
   b. List accepted findings
   c. Reasons for denial