



## PLANNING

**To:** Planning & Zoning Commission **Item No. 7**

**From:** Terrence S. Welch, Town Attorney

**Through:** David Hoover, Director of Development Services

**Re:** Planning & Zoning Commission Meeting – September 19, 2023

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**Agenda Item:**

Conduct a Public Hearing to Discuss and Consider an Ordinance amending the Town's Subdivision Ordinance by amending Subpart (1) of Section (D), "Plat Required," of Section 10.03.004, "Applicability," to Comply with Revised Language contained in House Bill No. 3699; amending Subsection (B) of Section 10.03.034, "Director of Development Services," relative to Authorizing the Director of Development Services to Approve or Deny Plats; amending Section 10.03.063, "30-day Time Frame for Plat Approvals," to Reflect that the Right to 30-day Action for Plat Applications Begins on the Filing Date and One or More 30-day Extensions shall be authorized; adding a Definition of "Filing Date," amending the Definitions of "Approval" and "Plat," and repealing the definitions of "Administratively Complete" and "Official Submission Date," contained in Section 10.03.192, "Words and Terms Defined"; providing that the phrase "Official Submission Date" shall be replaced with the phrase "Filing Date" in Sections 10.03.084(f)(2) and 10.03.085(h)(2).

**Description of Agenda Item:**

The Legislature recently passed, and the Governor signed, House Bill No. 3699 ("HB 3699"), which provided for multiple amendments to the platting statute, contained in Chapter 212 of the Texas Local Government Code. Consequently, it is necessary for the Town to amend its Subdivision Ordinance to comply with HB 3699, even though many of the amendments to the Subdivision Ordinance are technical and should not greatly affect the day-to-day operations of Development Services.

### **Comprehensive Factors:**

The amendments are as follows:

#### **1. Amend current Section 10.03.004(D)(1) to read as follows:**

“In accordance with LGC Section 212.004, the owner of a tract of land located within the Town’s corporate limits or in the Extraterritorial Jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use ~~or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts~~ must have a Plat of the subdivision prepared.”

This amendment is a technical revision to comply with wording in Section 4 of HB 3699.

#### **2. Amend current Section 10.03.034 to allow the Director of Development Services to approve or deny a plat.**

Due to the definition of “filing date” contained in Section 4 of HB 3699—the date on which a plat is submitted to the Town along with a completed application and applicable fees—there may arise occasions when a plat cannot be timely reviewed and acted upon by the Town within 30 days, as required by statute. Section 6 of HB 3699 allows for administrative approval or denial of plats, and an appeal to either the Planning and Zoning Commission or Town Council in the event of denial. Consequently, this proposed amendment would be utilized if a plat cannot be timely placed on a Planning and Zoning Commission agenda and acted upon within the statutorily mandated 30-day period. Again, if a plat were denied administratively, the applicant may appeal such denial.

#### **3. Amend current Section 10.03.063 to provide that the 30-day action period commences on the filing date and the Planning and Zoning Commission or Town Council may approve one or more 30-day extensions to the 30-day action period.**

Since the Town’s definition of “filing date” is being amended in accordance with Section 4 of HB 3699, it is necessary to amend the Subdivision Ordinance to reflect that the filing date triggers the 30-day action period. Additionally, the last legislative amendments in 2019 specifically did not allow the Town to request or even suggest a 30-day extension of the 30-day action period in the event the review of the plat had not been completed; however, Section 8 of HB 3699 now allows the Town and the applicant to mutually request Planning and Zoning Commission or Town Council approval of one or more 30-day extensions of the 30-day action period.

#### **4. Amend certain definitions contained in Section 10.03.192 to comply with HB 3699.**

As noted, with the adoption of HB 3699, the following definitions are added or amended— “filing date,” “approval” and “plat,” while the definitions of “administratively complete” and “official submission date” are repealed since they are no longer necessary or in compliance with HB 3699. “Official submission date” is now replaced with “filing date.”

Other items contained in HB 3699 are currently addressed in existing Subdivision Ordinance provisions and no additional amendments are necessary.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached ordinance as to form and legality.

**Attachments:**

1. Ordinance

**Staff Recommendation:**

The Town Attorney recommends that the Town Council adopt the attached ordinance to be compliance with HB 3699.

**Town Council Public Hearing:**

Upon a recommendation by the Planning & Zoning Commission, a Public Hearing for this item will be scheduled for the Town Council at their Regular meeting on September 26, 2023.