

City of Fayetteville Staff Review Form

2019-0293

Legistar File ID

6/4/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Garner Stoll

5/9/2019

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

2019-0293 Administrative Item (Amend UDC chapter 166: Exemptions for Small Site Improvement Plans):
Submitted by the Development Services Department for revisions to UDC Chapter 166. The proposed code changes would remove the exemption for Small Site Improvement Plans to dedicate street right-of-way.

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u>No</u>	Item Cost
Budget Adjustment Attached? <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 4, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Garner Stoll, Development Services Director
Andrew Garner, City Planning Director

DATE: May 9, 2019

SUBJECT: **2019-0293 Administrative Item (Amend UDC chapter 166: Exemptions for Small Site Improvement Plans):** Submitted by the Development Services Department for revisions to UDC Chapter 166. The proposed code changes would remove the exemption for Small Site Improvement Plans to dedicate street right-of-way.

RECOMMENDATION:

Staff recommends approval of an amendment to Section 166.04 (B)(3)(a) of the Unified Development Code to remove the exemption for Small Site Improvement Plans from dedicating street rights-of-way.

BACKGROUND:

As described in the attached memo from the City Attorney, this exemption creates a loophole in Fayetteville's rights-of-way dedication requirements inconsistent with the City's dedication requirements through other approval processes which may not be proportionate to need.

Best planning and development practices dictate acquiring needed rights-of-way through the development review process before development occurs. This best practice applies to small site improvement plans and there is no rational basis for this exemption based on a single application category. Acquisition of right's-of-way after buildings have been approved and constructed can increase cost and disrupt developed property.

DISCUSSION:

The details of the proposed code change are discussed in the attached memo from the City Attorney.

BUDGET/STAFF IMPACT:

None



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Lioneld Jordan**, Mayor
City Council

CC: **Don Marr**, Chief of Staff
Garner Stoll, Community Services Director
Andrew Garner, Planning Director

FROM: **Kit Williams**, City Attorney

DATE: **May 8, 2019**

RE: **Remove Exemption for Small Site Improvement Plans**

The *Unified Development Code* currently requires street right-of-way dedication for a lot split, but has specifically exempted small site improvement plans from dedicating any on-site street right-of-way. §166.04 (B)(3)(a)(i)(a). This is strange because a small site improvement plan could be a development of up to 23 apartments and be almost an acre in size. The rough proportionality of the impact of 23 apartments is vastly more than one additional house or duplex on a recently split lot. Therefore, the City can constitutionally require a much greater exaction (such as street right-of-way dedication) from the small site improvement plan than for a lot split that only creates a single new house or duplex. And yet the U.D.C. requires street right-of-way dedication for the lot split, but not for the 23 unit apartment complex built on a .99 acre lot pursuant to a small site improvement plan.

I recommend that the City should repeal § 166.04(B)(3)(a)(i)(a) of the U.D.C.: "*Exemption*. Small site improvement plan applications are exempt from this (street dedication) requirement." I also recommend that subsection (ii), which also deals with small site improvement plans and street dedications, also be repealed. Then, small site improvement plans will

be treated exactly the same as all other subdivision of land applications which could require street right-of-way dedications if the amount of the new development's impact upon the City's street infrastructure needs justifies such dedication. The current subsection (iii) should also be renumbered to (ii) and renamed from "*Dedications.*" To "*Council Acceptance of Streets and Alleys.*"

(2) Lot Split.

- (a) *Dedication of Right-of-Way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Subdivision Committee or Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.
- (i) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.

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code

(3) Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.

(a) *Dedication of Right-of-Way.*

- (i) *On-site.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property and new streets proposed interior to the property, into conformance with the right-of-way requirements of the Master Street Plan for said streets, shall be approved by the Planning Commission or Subdivision Committee; provided, the Planning Commission or Subdivision Committee may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

To be removed

(a) *Exemption.* Small site improvement plan applications are exempt from this requirement.

(ii) *Off-Site.* Off-site right-of-way dedication may be required as needed to construct off-site street improvements that are required based on the rough proportionality and rational nexus of the impacts of the project.

renumbered → (ii)

(iii) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.

Renamed to

"Council Acceptance of Streets and Alleys"

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 166.04(B)(3)(a) TO REMOVE THE EXEMPTION OF SMALL SITE IMPROVEMENT PLANS FROM THE NORMAL REQUIREMENT TO DEDICATE STREET RIGHT-OF-WAY TO MEET MASTER PLAN STREET REQUIREMENTS

WHEREAS, all types of subdivisions from lot splits to preliminary and final plats to large scale developments and large site improvement plans are required to dedicate sufficient street right-of-way to meet master plan street requirements based upon the rough proportionality of the proposed development upon the city street infrastructure needs; and

WHEREAS, for uncertain reasons, small site improvement plans (which can have up to 23 apartments) are currently exempt from the street right-of-way dedication requirements for all other subdivisions, even lot splits which could result in only a single new household.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends § 166.04(B)(3)(a) of the *Unified Development Code* by repealing what is currently § 166.04(B)(3)(a)(i)(a) and (a)(ii). Additionally, the language currently found in § 166.04(B)(3)(a)(iii) shall be renamed: "*Council Acceptance of Streets and Alleys*" and renumbered to § 166.04(B)(3)(a)(ii).

PASSED and APPROVED this 4th day of June, 2019.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer