



Legislation Text

File #: DCA17-0010, **Version:** 1

Planning Report

DCA17-0010 / Development Agreements

Planning & Zoning Commission

September 13, 2017

REQUEST:

Hold a public hearing and consider making a recommendation to City Council regarding an amendment to the Denton Development Code, Subchapter 35.16, Sections 35.16.6 and 35.16.20, by clarifying agreements required for plat approvals and building permits (DCA17-0010, Development Agreements, Jim Jenks).

BACKGROUND:

Per Section 35.16.6.D of the Denton Development Code (DDC), new developments within the City of Denton require the approval and recordation of a final plat and the construction of public improvements prior to issuance of any building permits and commencement of private construction improvements on a site. However, there have been several instances where a developer requests to install the public and private infrastructure concurrently. In an effort to accommodate the developer's construction timelines, the City devised the creation of 3-Way Agreements (when public infrastructure is required) and Hold Harmless Agreements when the public and private infrastructure is installed together.

What is a 3-Way Agreement and when is it required?

- As part of development, public infrastructure improvements are often required. These public improvements are reviewed by the City in conjunction with a final plat, and can include streets, drainage facilities, water lines, and/or sewer lines to serve a proposed development. A final plat may be approved, but cannot be filed of record until a 3-Way Agreement is executed between the City, the developer, and the developer's contractor. A 3-Way Agreement is required in order to ensure accurate construction and completion of necessary public improvements.
- However, although these agreements were intended to facilitate the progression to building construction, 3-Way Agreements have become too onerous on the developer, requiring the participation of a contractor very early in the process. This requirement places an unnecessary burden on a developer by either requiring early contractor selection, or delaying the plat filing until a contractor has been chosen.

What is Hold Harmless Agreement and when is it required?

- DDC Section 35.16.6.D stipulates that all public improvements must be accepted by the City prior to the issuance of any building permits. This requirement effectively delays all construction of private improvements on a site until the public improvements have been constructed, inspected, and transferred to City ownership.
- Because of this potential delay, the DDC permits Hold Harmless Agreements (HHA) for multi-family,

commercial, and industrial development projects so that the private improvements may be constructed concurrently with the public improvements, allowing a development to move forward while protecting the City if the developer fails to install the required public improvements.

CONSIDERATIONS:

1. It is evidenced by the delays caused in securing a contractor by the developer that the 3-Way Agreements have become too onerous and are in fact a hindrance to the development process and securing a building permit. As a result, the recommendation is to amend the DDC and revise the 3Way Agreements with the following:
 - a. **2-Way Agreement with Developer** to be executed after final plat approval, but before filing. The parties to this development contract would include the City and developer, thus removing the contractor from the agreement. Once both parties have executed this agreement and all other prerequisites have been satisfied, City would file the final plat.
 - b. **2-Way Agreement with Contractor** to include the City and the contractor who will be performing the work. Once both parties have executed this agreement and all other prerequisites have been satisfied, City would schedule a Pre-Construction Meeting and issue any permits for construction.
2. In order to streamline the number of agreements and associated paperwork, the HHA would be incorporated into the proposed 2-Way Agreement with the Developer.
3. Under the current system, development is held up for the required agreements, resulting in permit delays for the developer and an accumulation of plats waiting for recordation. As such, the recommended modifications to the DDC are scheduled for City Council consideration on October 17, 2017 to simplify the development process and reduce the inefficiencies in the current 3-Way and Hold Harmless Agreements.

STAFF RECOMMENDATION:

Staff recommends approval of the request as the proposed changes will 1) facilitate an expedited plat filing for the Developer's benefit, while ensuring that the City's interests are protected; and 2) help streamline the pre-construction process.

OPTIONS:

1. Recommend approval as submitted.
2. Recommend approval subject to conditions.
3. Recommend denial.
4. Table the item.

PUBLIC NOTIFICATION:

To comply with the public hearing notice requirements, a notice was published in the Denton Record Chronicle.

EXHIBITS:

To be provided at the meeting

Respectfully submitted:
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