



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

03/09/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 003-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, March 23, 2012

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

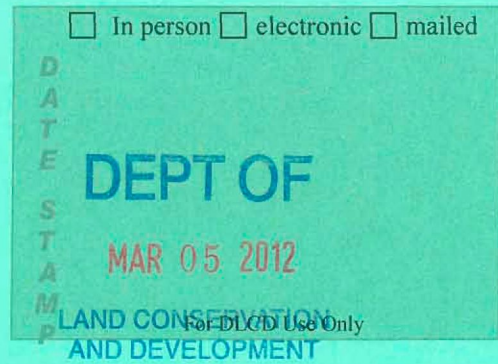
If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Dianne Morris, City of Brookings
Angela Lazarean, DLCD Urban Planner
Dave Perry, DLCD Regional Representative

<paa> N

Notice of Adoption



THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **City of Brookings**

Local file number: **LDC-5-11**

Date of Adoption: **2/27/2012**

Date Mailed: **3/2/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

revisions to Chapter 17.172.060(E) Partition, Chapter 17.172.070(G) Subdivisions, Expiration of Preliminary Plat, and Chapter 17.172.080, Subdivisions, Final subdivision plat approval, needed a couple of housekeeping revisions to clarify process.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

n/a

Local Contact: **Dianne Morris**

Phone: **(541) 469-1138** Extension:

Address: **898 Elk Dr.**

Fax Number: **541-469-3650**

City: **Brookings**

Zip: **97415-**

E-mail Address: **dmorris@brookings.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

ORDINANCE NO. 12-O-692

**IN THE MATTER OF ORDINANCE 12-O-692, AN ORDINANCE AMENDING SECTIONS 17.172.060(E),
17.172.070(G) AND 17.172.080 OF CHAPTER 17.172, LAND DIVISIONS, OF THE BROOKINGS
MUNICIPAL CODE.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Sections 17.172.060(E), 17.172.070(G) and 17.172.080.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Sections 17.172.060(E), 17.172.070(G), and 17.172.080 of Chapter 17.172, Land Divisions, of the Brookings Municipal Code.

Section 2. Amends Sections 17.172.060 (E), 17.172.070 (G) and 17.172.080: Sections 17.172.060(E), 17.172.070 (G) and 17.172.080 are amended to reads as follows:

17.072.060 (E) Filing an approved final plat must be completed within one year from the date of preliminary approval. An extension of time may be granted, for good cause, by the City if such extension request is submitted prior to the expiration of the initial one-year period and provided such extension does not exceed one additional year. After obtaining all required approvals and signatures, the developer shall:

1. File the plat with the Curry County surveyor within 90 days of receiving approval and signature of the partition plat by the city of Brookings, and failure to file same within said time period shall render the approval null and void.
2. Within 10 days after filing the survey plat with the county surveyor, the owner/developer shall provide the city two copies of the survey plat.”

17.172.070 (G) Expiration of Preliminary Plat. The applicant has two years from the date of approval to submit the final plat for approval. An extension of time may be granted, for good cause, by the City if such extension is submitted prior to expiration of the two-year period, and provided such extension not exceed two additional years. No further extensions may be authorized without resubmittal of a preliminary plat application to the Planning Commission. [Ord. 07-O-587 § 2; Ord. 99-O-446.FF § 3; Ord. 96-O-446.BB § 9; Ord. 93-O-446.N § 7; Ord. 92-O-446.J § 5; Ord. 89-O-446 § 1. Formerly 17.172.060.]”

17.172.080. Final subdivision plat approval. The form and content of a final plat shall be in accordance with the provisions of ORS Chapter 92.010 et seq., and in addition shall comply with all the provisions of this code. A complete application together with all required materials shall be submitted to the city manager or his/her designee prior to review of the request for final plat approval. Within 30 days of submission, the city manager or his/her designee shall determine whether the final plat substantially conforms to the approved preliminary plat, and conforms with the applicable requirements of this code. If it is found that the plat fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections.

A. Final Plat Requirements. The plat must comply with ORS Chapter 92.010 et seq. The application shall be accompanied by 2 copies of the plat not less than 18 inches by 24 inches in size, prepared by a surveyor licensed in the state of Oregon and shall contain, but not be limited to, the following material:

1. North arrow, date of preparation, and scale (appropriate to the area involved and sufficient to show detail of the plan and related data at a standard engineering scale).
 2. Names of the owner(s) and surveyor.
 3. All monuments found or existing and set pertinent to the subdivision.
 4. Existing streets: location, names, pavement widths, alleys, and rights-of-way on, abutting, and/or adjoining the tract.
 5. New streets: location, names, rights-of-way, pavement widths, radius of curves, grades, and proposed connectivity. Streets that are proposed to be held for private use shall be distinguished from the public streets on the subdivision plat, and shall indicate reservations and restrictions relating to the private streets.
 6. All easements shall be clearly labeled and identified and, if they are already easements of record, the plat must state that. The widths of the easements and the lengths, bearings of the lines, and sufficient titles thereon to definitely locate the easement with respect to the subdivision must be shown. If an easement, other than a right-of-way, is being dedicated by the plat, it shall be referred to in the certificate of dedication and its purpose and scope shall be adequately stated in said certificate.
 7. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.
 8. Lot size: existing and proposed lot size in square feet and acreage.
 9. Identification of land to be dedicated for any public purpose, or designated for any private purpose, to distinguish it from lots. The following phrasing shall be used when identifying open space areas:
 - a. Common open space shall be used to identify those areas created for the purpose of common ownership, enjoyment, and maintenance by an approved homeowners' association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
 - b. Public open space shall be used when identifying those areas dedicated to the city of Brookings for open space purposes.
 10. The following certificates which may be combined where appropriate:
 - a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.
 - b. A certificate signed and acknowledged as above, designating all areas shown on the final plat intended for private use.
 - c. A certificate conforming to ORS Chapter 92.010 et seq. with the seal and signature of the surveyor responsible for the survey and final plat.
 - d. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any streets, roads, public open space, bikeways, and pedestrian facilities.
 - e. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any utility infrastructure.
 11. The Federal Emergency Management Agency (FEMA) 100-year floodplain, as applicable.
- B. Supplementary Materials. At the time of filing for final plat approval, the applicant shall also file concurrent therewith the following:
1. Written confirmation from the city that all infrastructure has been installed, improved, and accepted by the city or that a satisfactory secured improvement agreement, as described in Chapter 17.80 BMC, has been provided and accepted by the city. The applicant must also provide a copy of the required warranty bond for the project.
 2. A title report or subdivision guarantee by a title company doing business in Curry County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to the public use, and their interest therein, certified for the benefit and protection of the

city that the persons therein named are all of the persons necessary to dedicate to the streets and other easements thereon. Said title report shall be dated no later than 15 days from the date of submittal.

- 3. A copy of proposed covenants, conditions, and restrictions (CC&Rs) if the CC&Rs contain a statement required as a condition of approval. This must be recorded simultaneously with the plat and the instrument number shown on the plat.
- 4. Such streets, offers of dedication, or other instruments as are required by the conditions of approval of the preliminary plat.
- 5. A statement that all applicable fees required by the city code have been paid.
- 6. A plan showing building setback lines, if any are to be made a part of the subdivision's deed restrictions.

C. City Authority. The City shall approve or deny the request for final plat approval based upon the following criteria:

- 1. Substantial conformance with the approved preliminary plat.
- 2. Compliance with conditions of approval. The applicant must provide written documentation in the form of the final plat and other materials documenting that all required conditions of approval have been met.

D. Final Action. The City will provide written confirmation to the applicant concerning the approval or denial of the request.

E. Appeals. The final action of the City staff may be appealed as provided in Chapter 17.156, BMC.

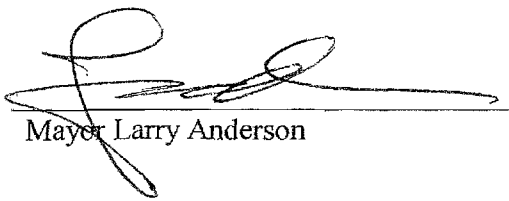
F. Approval Signatures and Recording of Final Plat. Following review and approval of the final plat, the developer/owner shall, within six months of the date of final approval, take the following actions:

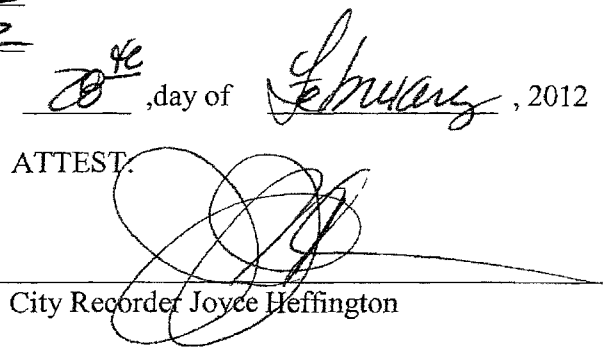
- 1. Obtain the signature of the chair of the Planning Commission and City staff certifying the final plat is approved by the city.
- 2. Obtain all other signatures required to be on the final plat as stated in ORS Chapter 92.010 et seq.
- 3. After all the necessary approvals and signatures have been obtained, the applicant shall forthwith file for record the approved final plat.
- 4. Within 10 days after recordation of the final plat, the developer/owner shall provide the city with two copies of the recorded plat.

G. Staff shall provide a copy of the final, approved subdivision plat to the Planning Commission at their next meeting. If a majority of the Commission does not believe the plat is in substantial conformance with the preliminary approval, the Commission chair will notify the City Manager of this determination. [Ord. 07-O-587 § 2; Ord. 94-O-446.W § 3; Ord. 89-O-446 § 1. Formerly 17.172.070.]”

First Reading: February 27, 2012
 Second Reading: February 27, 2012
 Passage: February 27, 2012
 Effective Date: March 28, 2012

Signed by me in authentication of its passage this 20th day of February, 2012


 Mayor Larry Anderson

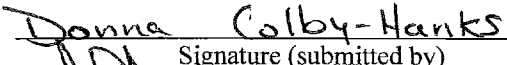
ATTEST.

 City Recorder Joyce Heffington

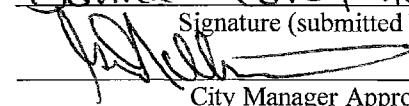
Findings

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: February 27, 2011



 Signature (submitted by)


 City Manager Approval

Originating Dept: Planning Dept.

Subject: A hearing on file LDC-5-11 for consideration and possible adoption of revisions in Sections 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions as proposed for Sections 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code (BMC).

Financial Impact: This will result in a savings of staff time and application fees charged to the applicant.

Background/Discussion: The Planning Commission reviewed Code revisions concerning extensions of time for previously approved Conditional Use Permits, Partitions, and Subdivisions. They agreed that in an effort to save the applicant both time and money it is appropriate for staff for review and approve these requests. The Planning Commission recommended approval to the City Council.

The Planning Commission also considered a proposed revision to allow staff to review and approve Final Subdivision Plats. The Legislature has changed the law regarding this review process making it no longer a quasi-judicial matter and allowing staff to approve administratively. The review of a Final Subdivision Plat involves making sure all conditions of approval have been met, and that the plat is in "substantial conformance with the approved preliminary plat". "Substantial conformance" is a standard term used statewide that allows for slight changes to the angle of a lot line, for instance, that may result when final survey work is done. Although the Planning Commission expressed confidence in the current staff to make these decisions, they felt future staff may allow significant changes to the plat that the Planning Commission had not approved. They recommended denial of the proposed revision.

The revision would result in saving of time and also the majority of the current \$515 fee. Staff met with the Council in a workshop setting and discussed this matter. In order to alleviate concerns expressed by the Planning Commission, additional language has been drafted as follows:

"Staff shall provide a copy of the final subdivision plat to the Planning Commission at their next meeting. If a majority of the Commission does not believe the plat is in substantial conformance with the preliminary approval, the Commission Chair will notify the City Manager of this determination."

If City staff would approve a final plat that is significantly different that what was preliminarily approved, they may also be signing off on building permits, Conditional Use Permits, etc. that

don't meet requirements. This Final Plat language may provide oversight to bring a potential problem to light.

Attached are copies of the Planning Commission staff report and the draft Code revisions.

Policy Considerations: None.

Attachment(s): A. Planning Commission Staff Report
B. Draft 17.172.060(E)
C. Draft 17.172.070(G)
D. Draft 17.172.080

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-5-11
HEARING DATE: January 3, 2012

REPORT DATE: December 22, 2011
ITEM NO: 7.2

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Revisions to Chapter 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

Over the last several years staff has drafted many revisions to the Code in an effort to clarify, eliminate conflicts, expedite processes, and conform to new law. The State Legislature has revised the law regarding final approval of subdivision plats by removing them from the quasi-judicial land use decision process. Oregon Revised Statute 197.015 (10)(b)(G) states approval of a final subdivision plat is not a "land use decision". This means the review to determine if all the Conditions of Approval have been met can be as an administrative decision handled by staff at a great savings of time and materials compared to conducting a hearing on the matter.

Staff has prepared revisions to 17.172.080, Final Subdivision Plat Approval, to eliminate text that describes a Planning Commission process for this matter and inserted text providing for staff to review and give approval to record the plat.

In addition, revisions are proposed to requests for extensions of time for preliminary approval of both partitions, 17.172.060, and subdivisions, 17.172.070(G). Extensions can be granted if there is "good cause". Circumstances that have warranted extensions in the past include weather constraints, delays in obtaining other agency permits, financial difficulties, etc. The request for the extension must be submitted prior to expiration of the approval. These requirements could be reviewed and verified by Staff.

By allowing Staff to review and approve the final subdivision plats and requests for an extension of time, there would be a savings of Planning Commission, applicant, and Staff time. Due to this saving of time, staff will propose a reduction of the related fees to the City Council.

Site Plan Committee is supportive of these revisions. Following this report are the draft versions of these Sections (Attachment A).

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-5-11, to the City Council.

DRAFT

December 6, 2011

**17.172.060
Partition**

Text to be omitted has ~~strikethroughs~~ and text to be added is ***bold and italicized***.

E. Filing an approved final plat must be completed within one year from the date of preliminary approval. An extension of time may be granted, for good cause, by the ***City planning commission*** if such extension request is submitted prior to the expiration of the initial one-year period and provided such extension does not exceed one additional year. After obtaining all required approvals and signatures, the developer shall:

1. File the plat with the Curry County surveyor within 90 days of receiving approval and signature of the partition plat by the city of Brookings, and failure to file same within said time period shall render the approval null and void.
2. Within 10 days after filing the survey plat with the county surveyor, the owner/developer shall provide the city two copies of the survey plat.

DRAFT

December 6, 2011

17.172.070 (G)

Text to be omitted has ~~strikethroughs~~ and text to be added is *bold and italicized*.

G. Expiration of Preliminary Plat. The applicant has two years from the date of approval to submit the final plat for ~~the planning commission hearing~~ *approval*. An extension of time may be granted, for good cause, by the ~~planning commission~~ *the City* if such extension is ~~authorized by the commission~~ *submitted* prior to expiration of the two-year period, and provided such extension not exceed two additional years. No further extensions may be authorized without resubmittal of a preliminary plat application to the Planning Commission. [Ord. 07-O-587 § 2; Ord. 99-O-446.FF § 3; Ord. 96-O-446.BB § 9; Ord. 93-O-446.N § 7; Ord. 92-O-446.J § 5; Ord. 89-O-446 § 1. Formerly 17.172.060.]

DRAFT

December 6, 2011

17.172.080

Text to be omitted has ~~strikethroughs~~ and text to be added is *bold and italicized*

17.172.080 Final subdivision plat approval.

The form and content of a final plat shall be in accordance with the provisions of ORS Chapter 92.010 et seq., and in addition shall comply with all the provisions of this code. A complete application together with all required materials shall be submitted to the city manager or his/her designee prior to review of the request for final plat approval. Within 30 days of submission, the city manager or his/her designee shall determine whether the final plat substantially conforms to the approved preliminary plat, and conforms with the applicable requirements of this code. If it is found that the plat fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections. ~~When it is found to conform, the application will be scheduled for a planning commission hearing.~~

A. Final Plat Requirements. The plat must comply with ORS Chapter 92.010 et seq. The application shall be accompanied by ~~10~~ **2** copies of the plat not less than 18 inches by 24 inches in size, prepared by a surveyor licensed in the state of Oregon and shall contain, but not be limited to, the following material:

1. North arrow, date of preparation, and scale (appropriate to the area involved and sufficient to show detail of the plan and related data at a standard engineering scale).
2. Names of the owner(s) and surveyor.
3. All monuments found or existing and set pertinent to the subdivision.
4. Existing streets: location, names, pavement widths, alleys, and rights-of-way on, abutting, and/or adjoining the tract.
5. New streets: location, names, rights-of-way, pavement widths, radius of curves, grades, and proposed connectivity. Streets that are proposed to be held for private use shall be distinguished from the public streets on the subdivision plat, and shall indicate reservations and restrictions relating to the private streets.

6. All easements shall be clearly labeled and identified and, if they are already easements of record, the plat must state that. The widths of the easements and the lengths, bearings of the lines, and sufficient titles thereon to definitely locate the easement with respect to the subdivision must be shown. If an easement, other than a right-of-way, is being dedicated by the plat, it shall be referred to in the certificate of dedication and its purpose and scope shall be adequately stated in said certificate.
7. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.
8. Lot size: existing and proposed lot size in square feet and acreage.
9. Identification of land to be dedicated for any public purpose, or designated for any private purpose, to distinguish it from lots. The following phrasing shall be used when identifying open space areas:
 - a. Common open space shall be used to identify those areas created for the purpose of common ownership, enjoyment, and maintenance by an approved homeowners' association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
 - b. Public open space shall be used when identifying those areas dedicated to the city of Brookings for open space purposes.
10. The following certificates which may be combined where appropriate:
 - a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.
 - b. A certificate signed and acknowledged as above, designating all areas shown on the final plat intended for private use.
 - c. A certificate conforming to ORS Chapter 92.010 et seq. with the seal and signature of the surveyor responsible for the survey and final plat.
 - d. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any streets, roads, public open space, bikeways, and pedestrian facilities.
 - e. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any utility infrastructure.

11. The Federal Emergency Management Agency (FEMA) 100-year floodplain, as applicable.

B. **Supplementary Materials.** At the time of filing for final plat approval, the applicant shall also file concurrent therewith the following:

1. Written confirmation from the city that all infrastructure has been installed, improved, and accepted by the city or that a satisfactory secured improvement agreement, as described in Chapter 17.80 BMC, has been provided and accepted by the city. The applicant must also provide a copy of the required warranty bond for the project.

2. A title report or subdivision guarantee by a title company doing business in Curry County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to the public use, and their interest therein, certified for the benefit and protection of the city that the persons therein named are all of the persons necessary to dedicate to the streets and other easements thereon. Said title report shall be dated no later than 15 days from the date of submittal.

3. A copy of proposed covenants, conditions, and restrictions (CC&Rs) if the CC&Rs contain a statement required as a condition of approval. This must be recorded simultaneously with the plat and the instrument number shown on the plat.

4. Such streets, offers of dedication, or other instruments as are required by the conditions of approval of the preliminary plat.

5. A statement that all applicable fees required by the city code have been paid.

~~6. One copy eight and one half inches by 11 inches of the final plat to be used for exhibit purposes.~~

6. A plan showing building setback lines, if any are to be made a part of the subdivision's deed restrictions.

C. ~~Planning Commission~~ **City** Authority. The ~~planning commission~~ **City** shall approve or deny the request for final plat approval based upon the following criteria:

1. Substantial conformance with the approved preliminary plat.

2. Compliance with conditions of approval. The applicant must provide written documentation in the form of the final plat and other materials documenting that all required conditions of approval have been met.

D. Final Action. ~~The planning commission shall review the final plat and shall state findings to approve or deny the request.~~ ***The City will provide written confirmation to the applicant concerning the approval or denial of the request.***

E. Appeals. The final action of the ~~planning commission~~ ***City staff*** may be appealed as provided in Chapter ~~17.152~~ **17.156** BMC.

F. Approval Signatures and Recording of Final Plat. Following review and approval of the final plat, the developer/owner shall, within six months of the date of final approval, take the following actions:

1. Obtain the signature of the chair of the planning commission and planning director certifying the final plat is approved by the city.
2. Obtain all other signatures required to be on the final plat as stated in ORS Chapter 92.010 et seq.
3. After all the necessary approvals and signatures have been obtained, the applicant shall forthwith file for record the approved final plat.
4. Within 10 days after recordation of the final plat, the developer/owner shall provide the city with two copies of the recorded plat. [Ord. 07-O-587 § 2; Ord. 94-O-446.W § 3; Ord. 89-O-446 § 1. Formerly 17.172.070.]

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

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PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

Over the last several years staff has drafted many revisions to the Code in an effort to clarify, eliminate conflicts, expedite processes, and conform to new law. The State Legislature has revised the law regarding final approval of subdivision plats by removing them from the quasi-judicial land use decision process. Oregon Revised Statute 197.015 (10)(b)(G) states approval of a final subdivision plat is not a "land use decision". This means the review to determine if all the Conditions of Approval have been met can be as an administrative decision handled by staff at a great savings of time and materials compared to conducting a hearing on the matter.

Staff has prepared revisions to 17.172.080, Final Subdivision Plat Approval, to eliminate text that describes a Planning Commission process for this matter and inserted text providing for staff to review and give approval to record the plat.

In addition, revisions are proposed to requests for extensions of time for preliminary approval of both partitions, 17.172.060, and subdivisions, 17.172.070(G). Extensions can be granted if there is "good cause". Circumstances that have warranted extensions in the past include weather constraints, delays in obtaining other agency permits, financial difficulties, etc. The request for the extension must be submitted prior to expiration of the approval. These requirements could be reviewed and verified by Staff.

By allowing Staff to review and approve the final subdivision plats and requests for an extension of time, there would be a savings of Planning Commission, applicant, and Staff time. Due to this saving of time, staff will propose a reduction of the related fees to the City Council.

Site Plan Committee is supportive of these revisions. Following this report are the draft versions of these Sections (Attachment A).

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-5-11, to the City Council.

**Chapter 17.172.060
Partition**

Text to be omitted has strikethroughs and text to be added is ***bold and italicized***.

E. Filing an approved final plat must be completed within one year from the date of preliminary approval. An extension of time may be granted, for good cause, by the **City** ~~planning commission~~ if such extension request is submitted prior to the expiration of the initial one-year period and provided such extension does not exceed one additional year. After obtaining all required approvals and signatures, the developer shall:

1. File the plat with the Curry County surveyor within 90 days of receiving approval and signature of the partition plat by the city of Brookings, and failure to file same within said time period shall render the approval null and void.
2. Within 10 days after filing the survey plat with the county surveyor, the owner/developer shall provide the city two copies of the survey plat.

DRAFT

December 6, 2011

17.172.070 (G)

Text to be omitted has ~~strikethroughs~~ and text to be added is ***bold and italicized***.

G. Expiration of Preliminary Plat. The applicant has two years from the date of approval to submit the final plat for ~~the planning commission hearing~~ ***approval***. An extension of time may be granted, for good cause, by the ~~planning commission~~ ***the City*** if such extension is ~~authorized by the commission~~ ***submitted*** prior to expiration of the two-year period, and provided such extension not exceed two additional years. No further extensions may be authorized without resubmittal of a preliminary plat application to the Planning Commission. [Ord. 07-O-587 § 2; Ord. 99-O-446.FF § 3; Ord. 96-O-446.BB § 9; Ord. 93-O-446.N § 7; Ord. 92-O-446.J § 5; Ord. 89-O-446 § 1. Formerly 17.172.060.]

DRAFT

17.172.080

December 6, 2011

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17.172.080 Final subdivision plat approval.

The form and content of a final plat shall be in accordance with the provisions of ORS Chapter 92.010 et seq., and in addition shall comply with all the provisions of this code. A complete application together with all required materials shall be submitted to the city manager or his/her designee prior to review of the request for final plat approval. Within 30 days of submission, the city manager or his/her designee shall determine whether the final plat substantially conforms to the approved preliminary plat, and conforms with the applicable requirements of this code. If it is found that the plat fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections. ~~When it is found to conform, the application will be scheduled for a planning commission hearing.~~

A. Final Plat Requirements. The plat must comply with ORS Chapter 92.010 et seq. The application shall be accompanied by ~~40~~ **2** copies of the plat not less than 18 inches by 24 inches in size, prepared by a surveyor licensed in the state of Oregon and shall contain, but not be limited to, the following material:

1. North arrow, date of preparation, and scale (appropriate to the area involved and sufficient to show detail of the plan and related data at a standard engineering scale).
2. Names of the owner(s) and surveyor.
3. All monuments found or existing and set pertinent to the subdivision.
4. Existing streets: location, names, pavement widths, alleys, and rights-of-way on, abutting, and/or adjoining the tract.
5. New streets: location, names, rights-of-way, pavement widths, radius of curves, grades, and proposed connectivity. Streets that are proposed to be held for private use shall be distinguished from the public streets on the subdivision plat, and shall indicate reservations and restrictions relating to the private streets.

6. All easements shall be clearly labeled and identified and, if they are already easements of record, the plat must state that. The widths of the easements and the lengths, bearings of the lines, and sufficient titles thereon to definitely locate the easement with respect to the subdivision must be shown. If an easement, other than a right-of-way, is being dedicated by the plat, it shall be referred to in the certificate of dedication and its purpose and scope shall be adequately stated in said certificate.

7. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.

8. Lot size: existing and proposed lot size in square feet and acreage.

9. Identification of land to be dedicated for any public purpose, or designated for any private purpose, to distinguish it from lots. The following phrasing shall be used when identifying open space areas:

a. Common open space shall be used to identify those areas created for the purpose of common ownership, enjoyment, and maintenance by an approved homeowners' association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.

b. Public open space shall be used when identifying those areas dedicated to the city of Brookings for open space purposes.

10. The following certificates which may be combined where appropriate:

a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.

b. A certificate signed and acknowledged as above, designating all areas shown on the final plat intended for private use.

c. A certificate conforming to ORS Chapter 92.010 et seq. with the seal and signature of the surveyor responsible for the survey and final plat.

d. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any streets, roads, public open space, bikeways, and pedestrian facilities.

e. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any utility infrastructure.

11. The Federal Emergency Management Agency (FEMA) 100-year floodplain, as applicable.

B. Supplementary Materials. At the time of filing for final plat approval, the applicant shall also file concurrent therewith the following:

1. Written confirmation from the city that all infrastructure has been installed, improved, and accepted by the city or that a satisfactory secured improvement agreement, as described in Chapter 17.80 BMC, has been provided and accepted by the city. The applicant must also provide a copy of the required warranty bond for the project.
2. A title report or subdivision guarantee by a title company doing business in Curry County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to the public use, and their interest therein, certified for the benefit and protection of the city that the persons therein named are all of the persons necessary to dedicate to the streets and other easements thereon. Said title report shall be dated no later than 15 days from the date of submittal.
3. A copy of proposed covenants, conditions, and restrictions (CC&Rs) if the CC&Rs contain a statement required as a condition of approval. This must be recorded simultaneously with the plat and the instrument number shown on the plat.
4. Such streets, offers of dedication, or other instruments as are required by the conditions of approval of the preliminary plat.
5. A statement that all applicable fees required by the city code have been paid.
6. ~~One copy eight and one-half inches by 11 inches of the final plat to be used for exhibit purposes.~~
6. A plan showing building setback lines, if any are to be made a part of the subdivision's deed restrictions.

C. ~~Planning Commission~~ **City** Authority. The ~~planning commission~~ **City** shall approve or deny the request for final plat approval based upon the following criteria:

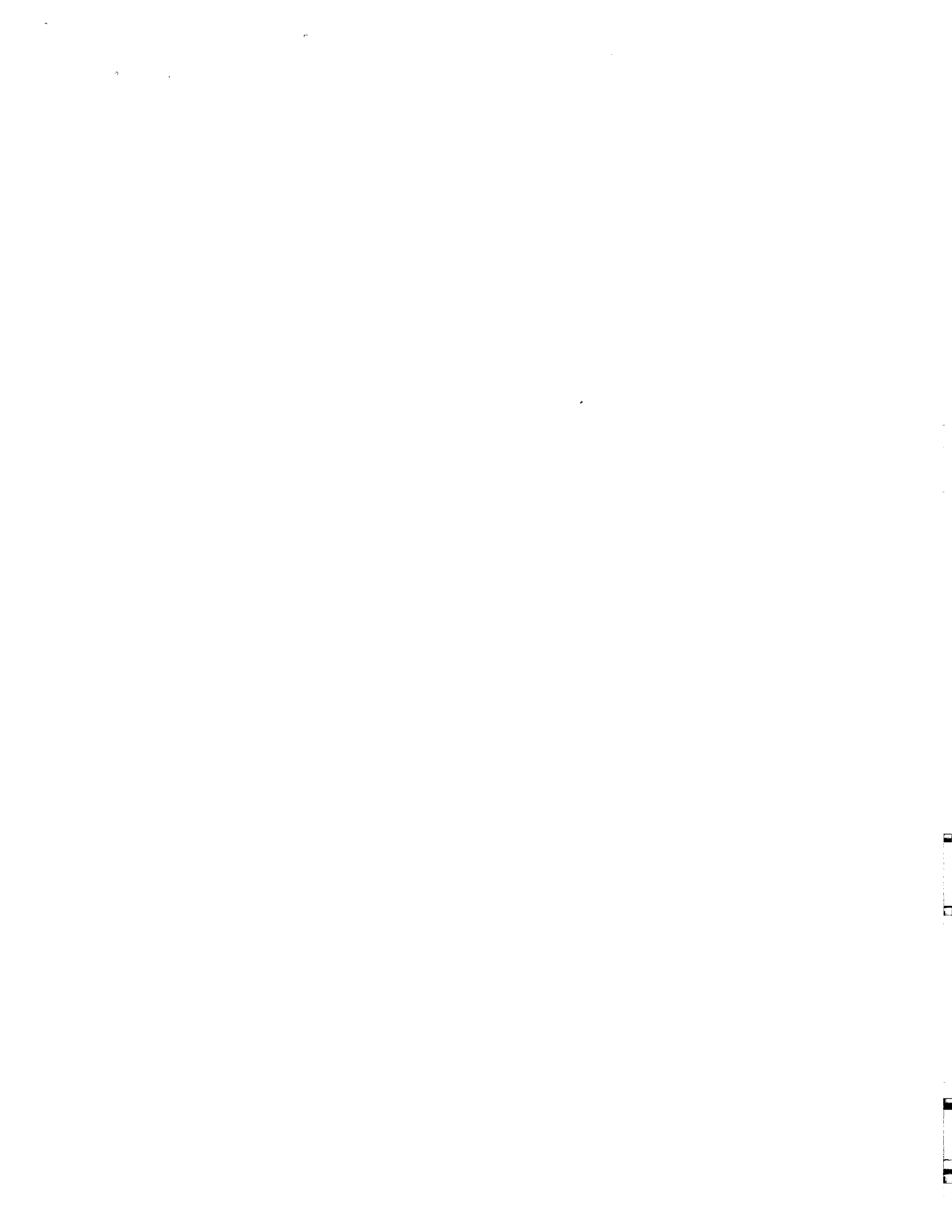
1. Substantial conformance with the approved preliminary plat.
2. Compliance with conditions of approval. The applicant must provide written documentation in the form of the final plat and other materials documenting that all required conditions of approval have been met.

D. Final Action. ~~The planning commission shall review the final plat and shall state findings to approve or deny the request.~~ **The City will provide written confirmation to the applicant concerning the approval or denial of the request.**

E. Appeals. The final action of the ~~planning commission~~ **City staff** may be appealed as provided in Chapter ~~17.152~~ **17.156** BMC.

F. Approval Signatures and Recording of Final Plat. Following review and approval of the final plat, the developer/owner shall, within six months of the date of final approval, take the following actions:

1. Obtain the signature of the chair of the planning commission and planning director certifying the final plat is approved by the city.
2. Obtain all other signatures required to be on the final plat as stated in ORS Chapter 92.010 et seq.
3. After all the necessary approvals and signatures have been obtained, the applicant shall forthwith file for record the approved final plat.
4. Within 10 days after recordation of the final plat, the developer/owner shall provide the city with two copies of the recorded plat. [Ord. 07-O-587 § 2; Ord. 94-O-446.W § 3; Ord. 89-O-446 § 1. Formerly 17.172.070.]



Chapter 17.172.060
Partition

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MAR 05 2012
LAND CONSERVATION
AND DEVELOPMENT