

Planning Commission Staff Report

October 11, 2023

**Project Name:**

Ordinance Text Amendments to Chapter 12 of the Payson City Code to comply with revised state code.

Applicants:

Staff Initiated

Location:

City Wide

Applicability:

Preliminary Plan and Final Plat Approval.

REQUEST

Staff is requesting a recommendation of approval from the planning commission for the proposed changes to Title 12 of the Payson City Code, relating to Approval of Preliminary Plans and Final Plat for single-family, two-family, and townhome projects. This proposal designates the land use authority or designee as the approving body for these projects to comply with Senate Bill 174, approved by the State Legislature.

BACKGROUND AND PROJECT DESCRIPTION

The State Legislature passed Senate Bill 174 in March 2023 to enact a new process for subdivision review and approval. The Legislature moved the approval of subdivision review and approval from the planning commission or city council to a specific land use authority as an administrative action.

Staff has reviewed the requirements and has proposed the following amendments to comply with the new State Code. The land use authority for the subject projects will comprise of the Development Services Director and the Public Works Director or their designees.

The planning commission may recommend approval of all the proposed amendments. The commission may also modify the request to accept some changes and reject others or reject the proposal entirely.

APPROVAL PROCESS

Staff seeks a recommendation of approval to amend Title 12 of the PCC to comply with changes made to State Code, relating to subdivision approvals.

Staff feels the proposed amendments can help to improve the approval process for single-family, two-family, and townhome subdivision projects.

ANALYSIS

The proposed amendments to Title 12 would be applicable single-family, two-family, and townhome subdivision projects city-wide. In making a recommendation, the planning commission will want to consider whether or not these changes are appropriate city-wide and also whether the desired outcome could be accomplished by other means.

Requested amendments include the following (see attached documents for more detail):

- Review and approval of preliminary plans.
- Review and approval of final plats.

FINDINGS

- The State Legislature has modified State Code to create a new process for subdivision review and approval.
- The City of Payson is a subdivision of the State and subject to the requirements of State Code.
- The proposed amendments are consistent with the intent of the existing Payson City Code and State Code.

RECOMMENDATION

After a thorough review of the proposed amendments to Title 12 of the PCC, relating to subdivision approvals, staff recommends the Planning Commission forward a positive recommendation to the City Council for the adoption of the proposed amendments.

Following a public hearing to receive public comment, the planning commission may do the following for each land use application being considered:

1. Forward a positive recommendation that the City Council adopt the proposed amendments to Title 12 of the Payson City Code, related to review and approval of single-family, two-family, and townhome subdivision projects, based upon the staff report and findings.
2. Remand the request back to staff for further review or to provide additional information. This action should be taken if it is determined that there is not enough information provided by the applicant for the planning commission to make a well-informed recommendation.
3. Recommend denial of the proposal. This action would put the City in noncompliance with State Code.

The recommendation of the planning commission should include findings that indicate reasonable conclusions for the recommendation.

12.14.040 Preliminary Plan And Construction Plans

Following review of the Concept Plan and after receiving staff comments, the applicant may prepare a Preliminary Plan and Construction Plans in accordance with PCC 12.46. ~~The planning commission will hold a public hearing to receive input regarding the Preliminary Plan. Notice of the public hearing will be in accordance with PCC 12.16. Following a public hearing, the planning commission will forward a recommendation to approve, approve with conditions, or deny approval of the Preliminary Plan.~~

~~After receiving a recommendation from the planning commission, the city council may approve, amend and approve, approve with conditions, remand the land use application back to the planning commission for further review, or deny the application. The city council, at their discretion, may approve the Preliminary Plan and the Final Plat concurrently.~~

12.14.050 Final Plat

Following approval of the Preliminary Plan ~~by the land use authority or designee~~ ~~by the city council~~, the applicant may prepare the Final Plat in accordance with PCC 12.48. The ~~land use authority or designee~~ ~~city council~~ may approve, amend and approve, approve with conditions, or deny the application for Final Plat approval. The ~~land use authority or designee~~ ~~city council~~, ~~at their discretion~~ may approve the Preliminary Plan and the Final Plat concurrently.

12.14.070 Traditional Subdivisions Of Three Lots Or Less Along An Existing Public Street

Following an initial review and a finding by staff that a traditional subdivision which does not require any legislative action, is consistent with the land use objectives of Payson City, and is likely to have minimal impact on surrounding properties, the ~~land use authority or designee~~ ~~planning commission~~ is hereby authorized to take final administrative action on the application. The traditional subdivision must consist of three lots or less along an existing street and satisfy all regulations of this Title and all other applicable requirements of the development ordinances of Payson City. The ~~land use authority or designee~~ ~~planning commission~~ may grant Preliminary Plan and Final Plat approval ~~and further approval from the city council is not necessary~~. Prior to consideration of the project the applicant shall provide notice as required by this Title. ~~and the planning commission shall hold a public hearing consistent with the procedures included herein.~~

~~If the planning commission determines that the subdivision could have a detrimental impact on surrounding properties or would impede the land use goals of Payson City, the planning commission may forward a recommendation to the city council for final action on the application.~~

12.18.010 Requirements

Upon payment of the required application fees and submission of a completed application, that includes all information requested ~~by the city council, planning commission and staff in order~~ to complete a reasonable review of the project, an applicant shall be entitled to have the application reviewed and acted upon pursuant to the terms of this Title. Vesting is usually indicated by approval of the Preliminary Plan ~~by the city council and is subject to the exceptions set forth below~~. The applicant may take advantage of amendments to this Title that would permit greater density or more intense use of the land, provided however, that these changes may be deemed a modification of the plan and require the payment of additional planning review fees and loss of vesting.

For the purposes of this Title and in particular this Chapter, vesting of zoning rights entitles an applicant to only the use, density and general configuration of the Preliminary Plan ~~approved by the city council~~.

For the purposes of this Title, a complete application includes all documentation required by this Title, other relevant laws and ordinances of Payson City, relevant state and federal laws, and any other information deemed necessary by ~~the land use authority or designee~~ ~~the planning commission, and city council~~ to complete a thorough review of the proposed project and make a well-informed decision. Following review of the Concept Plan, ~~staff will inform~~ the applicant ~~will be informed~~ of any additional information required by the staff for their review. The land use authority or designee ~~planning commission and city council~~ will complete a review of the Preliminary Plan to determine if any additional information is required in order to properly review the Preliminary Plan. The land use authority or designee ~~planning commission~~ will review the Preliminary Plan and ~~recommend approval, approval with conditions, or denial of~~ ~~approve, approve with conditions, or deny~~ the Preliminary Plan. ~~The city council will review the Preliminary Plan and make a finding of whether or not the applicant has completed the application process. If the city council determines that an applicant has completed the application process, the applicant will be deemed vested under the development ordinances in effect on that date.~~

An applicant may not appeal the need to provide information required by this Title or any other City ordinance, or any state or federal law.

Non-subdivision related matters, including, but not limited to, site development standards, procedural requirements and building code requirements will not vest until complete building permit applications have been filed and required fees have been paid. Water and sewer connection availability, costs of water and sewer connection and water development fees, applicable impact fees and other charges will vest only upon payment of the building permit application fees and submission of all materials necessary for the issuance of a building permit.

12.24.050 Staff Action On Concept Plan

There is no approval of a Concept Plan required or given. After reviewing and discussing the Concept Plan and other reports submitted by invited agencies and officials, the staff will advise the applicant of the specific changes or additions, if any, it will require in the layout, and the character and extent of required improvements and reservations as a prerequisite to the approval of the Preliminary Plat. The staff, ~~planning commission and/or city council~~ may require additional changes as a result of further study of the subdivision in final form.

12.24.060 Planning Commission Action On Concept Plan

~~There is no approval of a Concept Plan required or given. For Concept Plans which have been submitted to the planning commission, after reviewing and discussing the Concept Plan, staff report and other reports as submitted by invited agencies and officials, the planning commission will advise the applicant of the specific changes or additions, if any, it will require in the layout, and the character and extent of required improvements and reservations as a prerequisite to the approval of the Preliminary Plat. The staff, planning commission and/or city council may require additional changes as a result of further study of the subdivision in final form.~~

12.26.010 Plats Generally

After an applicant has submitted a Concept Plan and been authorized to prepare a Preliminary Plan and subsequently the Final Plat, the applicant shall prepare a Preliminary Plan using the criteria in this Section as a guide. The ~~land use authority or designee~~ ~~planning commission and city council~~ will also use this criteria in its consideration of approval or denial of the Preliminary Plan and Final Plat.

In addition to the requirements established herein, developments shall comply with the following:

- A. Applicable statutory provisions of Utah Code
- B. Payson City General Plan and Area Specific Plans
- C. Payson City land use and development ordinances
- D. Capital improvements plan
- E. Utility master plans
- F. Payson City Development Guidelines
- G. Adopted building, fire and related codes
- H. Payson City Fee Schedule
- I. Regulations of other government agencies having jurisdiction in the development.

If the owner places restrictions on any of the land contained in the development greater than those required by this Title or any other City regulation or requirement, such restrictions or reference thereto may be required to be indicated on the Final Plat, or the ~~land use authority or designee~~ ~~city council~~ may require restrictive covenants be recorded with the county recorder in a form approved by the city attorney.

12.46.010 Timing Of Preliminary Plan

Following presentation of a Concept Plan to the staff, ~~and if necessary planning commission,~~ to meet and discuss the proposed project in the conceptual stage and to give the applicant an opportunity to ask questions of the staff and receive direction on project layout, the staff will inform the applicant that an application for Preliminary Plan may be submitted and a plan may be prepared.

The staff may also discuss the procedure for approval of a subdivision plat and the specifications and requirements as to general layout of streets and for reservations of land, street improvements, drainage, water, sewerage, fire protection, mitigation of environmental impacts as determined, and similar matters, as well as the availability of existing services. Concurrent review of Planned Residential Development requirements, if applicable may also be discussed at this time.

There is no approval of a Concept Plan required or given. After reviewing and discussing the Concept Plan, staff report and other reports as submitted by invited agencies and officials, the staff ~~or planning commission~~ will advise the applicant of the specific changes or additions, if any, it will require in the layout, and the character and extent of required improvements and reservations which it will require as a prerequisite to the approval of the Preliminary Plan. The ~~land use authority or designee~~ ~~planning commission~~ may require additional changes as a result of further study of the subdivision in final form. Although approval is not required, the ~~staff planning commission~~ shall not review any Preliminary Plan prior to the applicant's submission and staff review of a Concept Plan.

These Preliminary Plan requirements are minimum in nature and other information may be required ~~by the staff planning commission, city council, or~~ as the need dictates.

12.46.030 Preliminary Layout Approval

At the discretion of the ~~land use authority or designee~~ ~~city council~~, typically for a large development with several phases and involving dozens of acres, an applicant may be granted Preliminary Layout approval prior to the submission of full construction drawings and engineering profiles. Because the city council is not obligated to consider or grant Preliminary Layout approval, the city council will determine what information must be submitted by the applicant and what project vesting, if any, will occur. These arrangements will be included in a Development Agreement between the City and the applicant in accordance with PCC 12.50.020.

In the agreement, the approval of the city council will be clarified. Issues such as density, development obligations and the effect of future information will be included. For instance, if the city council is inclined to provide Preliminary Layout approval without complete construction drawings and

engineering profiles and following the preparation of these documents it is discovered that fewer parcels can be created due to unforeseen circumstances, the city council is not obligated to allow the applicant to transfer or relocate density to other areas of the development to address the engineering constraints.

Denial of the request by an applicant for Preliminary Layout approval shall not result in a constitutional takings claim. If an applicant is not satisfied with the terms established by the city council in a Development Agreement, the applicant is eligible to satisfy the regulations of this Chapter for approval of a Preliminary Plan. Furthermore, denial of a request for Preliminary Layout approval shall not prejudice a request for Preliminary Plan approval in accordance with the regulations of this Title.

In order to offset the costs associated with the review of a Preliminary Layout, the applicant shall be required to submit fees in an amount equal to Preliminary Plan review in accordance with the adopted fee schedule. Because the information must be reviewed again by staff when complete construction drawings and engineering profiles are submitted, the applicant shall be subject to payment of an additional Preliminary Plan review fee as well as Final Plat review fees.

12.46.050 Construction Plans

- A. **Construction Plans.** Construction plans following the requirements outlined in the Development Guidelines shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one (1) inch equals fifty (50) feet, and map sheets shall be the same size as the Preliminary Plan. The Development Guidelines are minimum requirements and other information may be required as the need dictates.
- B. **Format.** The Construction Plans shall be prepared on a similar medium and be the same size as the Preliminary Plan. The applicant will provide a digital ~~three (3)~~ complete copy~~ies~~ of the Construction Plans, ~~to the City. The applicant shall also provide two (2) additional copies of~~ the electrical layout, and ~~one (1) additional copy of~~ the fire hydrant layout. The Construction Plans should provide signature blocks for and be signed by the applicant's engineer and surveyor, architect, and/or any other licensed professional responsible for design of the project. After Final Project approval, the Construction Plans will be reviewed and stamped "Approved for Construction" by the City Engineer. Major design changes after approval has been obtained must be revised, stamped, and re-submitted for approval.
- C. **Submission And Presentation.** The Construction Plans shall be presented to the Development Review Committee prior to the ~~scheduled meeting of the planning commission for~~ review of the Preliminary Plan. Preliminary Plans will be reviewed on a first come, first serve basis. ~~Depending on the workload, preliminary~~ Preliminary plans shall be reviewed in accordance with the timeframe referenced in Utah Code 10-9a-604.2. ~~may take several weeks to review. The planning commission may hold work sessions to review any recommendations or reports.~~

12.46.070 Reserved Planning Commission Recommendation Of Preliminary And Construction Plans

~~After the planning commission has reviewed the Preliminary Plan, staff report, and any recommendations together with any testimony or exhibits submitted at the public hearing, the applicant shall be advised of any required conditions, changes or additions to gain a positive recommendation of the Preliminary Plan. Before the planning commission recommends approval of a Preliminary Plan showing land for public use proposed to be dedicated to the City, the planning commission shall obtain preliminary approval of the park or land reservation from the city council. If the project involves a conservation easement, the planning commission must receive approval or comments from an approved Land Trust involved in the transaction.~~

~~The planning commission shall not recommend approval of any Preliminary Plan until all review fees have been paid in full according to the adopted fee schedule. A recommendation of approval of the Preliminary Plan by the planning commission is in no way meant to be final approval. Until the Final Plat of a subdivision has been approved by the city council, the planning commission and staff may continue to review the subdivision for compliance with this Title. After the planning commission has recommended approval, conditional approval, or disapproval of the Preliminary Plan and Construction Plans, their recommendation shall be forwarded to the city council.~~

12.46.080 ~~Council~~ Approval Of Preliminary Plan And Construction Plans

The recommendation for approval, approval with conditions or denial of a Preliminary Plan and Construction Plans shall be reviewed by the ~~land use authority or designee~~ **city council**. The ~~land use authority or designee~~ **city council** may approve, amend and approve, approve with conditions, ~~remand the application back to staff and/or the planning commission for further discussion,~~ or deny approval of the Preliminary Plan and Construction Plans. ~~The city council may review the minutes of the planning commission public hearing, if necessary, in order to become informed about any public comment. If approved or approved with conditions, the city council approves, or approves with conditions, the recommendation of the planning commission,~~ the applicant may prepare a Final Plat containing all the requirements found herein and any requirements of the ~~land use authority or designee~~ **city council**, ~~planning commission, or staff.~~

12.48.010 Requirements

Following the approval of the Preliminary Plan, the applicant may proceed in the approval process by filing an application for a Final Plat. The Final Plat shall be prepared by a registered land surveyor or engineer licensed by the State of Utah and certified on the plat. The Final Plat shall be prepared in india ink on tracing cloth or reproducible Mylar at the same scale and contain the same information as the Preliminary Plan, except for any conditions, changes or additions indicated in the approval of the Preliminary Plan. The Preliminary Plan may be used as the Final Plat if it satisfies these requirements and is revised in accordance with the Preliminary Plan approval. These are minimum requirements and other information may be required by ~~the city council, planning commission, or~~ staff as the need dictates.

12.48.020 Revisions

All revision dates must be shown as well as notation of any self-imposed restrictions. If any revision is included on the Final Plat that was not present on the Preliminary Plan or is a requirement of approval, the change must be forwarded to the **land use authority or designee** ~~city council~~ for consideration of amendment.

12.48.030 Features To Be Shown On Final Plat

The following list of features is intended to be as complete as possible. However, the applicant is responsible to include all features required by this Title, ~~the planning commission, city council~~ or staff on the Final Plat whether included in this list or not. Failure to show any feature required by this Title, ~~the planning commission, city council~~ or staff may result in denial of the plat.

The Final Plat shall comply in all respects with the Preliminary Plan, as approved. The Final Plat shall be submitted to the Development Services Director ~~at least four (4) weeks prior to the regular meeting of the city council at which the project will be addressed.~~

Following submission of a complete Final Plat application and payment of applicable review fees, staff shall review the plat for consistency with the provisions of this Chapter. The Final Plat shall, at a minimum, indicate the following:

- A. All the requirements of the Preliminary Plan as approved or amended and approved. If approved by the city engineer, or required by the county recorder, certain details placed on the Preliminary Plat for review purposes may be eliminated from the Final Plat.
- B. Any explanatory notes, special considerations, or other unique requirements applicable to the proposed development.
- C. Indication of the use of all lots or parcels.
- D. The number of culinary and irrigation water shares transferred into the name of Payson City for the proposed development. The Final Plat will not be recorded until sufficient water for the proposed project has been transferred into the name of Payson City.
- E. All monuments erected, corners, and other points established in the field in their proper places. The monuments shall be made of brass and the legend shall indicate the diameter, length, and weight of the monuments.
- F. A summary statement of the proposed subdivision including total project acreage, total area of each lot or parcel, the total number of units, acreage of open space, sizes and lengths of utility piping, and lane miles of road.
- G. Owners dedication and consent to record as required by applicable State law.
- H. Signature blocks for endorsement by the mayor, ~~planning commission chair~~, city attorney, city engineer, city recorder, fire chief and county recorder.

- I. Signature blocks for endorsement by any private utility provider, special district, or other entity having statutory authority acknowledging their interest in the development and agreement with the information included on the plat.

12.48.040 City Council Approval Of Final Plat

Following the preparation of a Final Plat, Staff shall review ~~the city council shall~~ review the plat ~~at a regular meeting. The city council shall review the Final Plat~~ to ensure that all conditions of the staff, planning commission, and/or city council have been satisfied, for compliance with the Preliminary Plan approval and conditions, if any, and all other requirements of the land use and development ordinances. After review of the Final Plat ~~and consideration of any testimony or exhibits presented at the public hearing of the Preliminary Plan,~~ the city council the land use authority or designee shall approve, amend and approve, approve with conditions, ~~remand the item back to staff and/or the planning commission for further discussion,~~ or deny approval of the Final Plat.

The land use authority or designee ~~city council~~ shall not approve any Final Plat until all review fees have been paid in full according to the adopted fee schedule.

12.50.090 Acceptance Of Dedication Offers

Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be under the direction of Staff ~~the city council~~. The recommendation for approval by the land use authority or designee ~~the planning commission and approval by the city council~~ of a Preliminary Plan shall not be deemed to constitute or imply the acceptance by the city council of any street, easement, or park shown on the Preliminary Plan.