

ORDINANCE NO. 21-05-06-03

AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING VARIOUS SECTIONS WITHIN CHAPTER 10 OF THE LAGO VISTA CODE OF ORDINANCES IN ORDER FOR THE SUBDIVISION REGULATIONS TO COMPLY WITH TEXAS HOUSE BILL 3167 THAT REQUIRES ALL JURISDICTIONS TO ACT ON COMPLETE PLAT APPLICATIONS WITHIN 30 CALENDAR DAYS OR DEEM THEM APPROVED; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City of Lago Vista, Texas is a Home Rule City; and

WHEREAS, the City Council of the City of Lago Vista has previously established requirements and procedures relating to the approval of subdivision plats within Chapter 10 of the Code of Ordinances; and

WHEREAS, the staff and members of the Planning and Zoning Commission had become aware of needed changes to those procedural requirements dictated by Texas House Bill 3167 of 2019 to avoid the potential of applications being deemed automatically approved without the opportunity for any consideration; and

WHEREAS, the Planning and Zoning Commission was initially hesitant to make those changes, the staff acknowledged that with the voluntary cooperation of the current limited number of developers of new subdivisions within our jurisdiction, that automatic approvals might be avoided and these needed changes effectively delayed;

WHEREAS, the recent steady increase in growth and activity within our jurisdiction and the potential for new and unfamiliar developers who might file a subdivision plat application, the staff feels that these needed changes can no longer be effectively delayed;

WHEREAS, these needed changes will eliminate the procedural impediments that might result in a subdivision application being deemed automatically approved without the opportunity for any consideration by the Planning and Zoning Commission; and

WHEREAS, the proposed changes will yield results that are consistent with the intent of Texas House Bill 3167 of 2019; and

WHEREAS, the Planning and Zoning Commission of the City of Lago Vista has undertaken a review of those regulations and subsequently conducted a public hearing concerning those regulations at their regular meeting of April 8, 2021; and

WHEREAS, the Planning and Zoning Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend those requirements contained within various sections of Chapter 10 of the Lago Vista Code of Ordinances as described below; and

WHEREAS, the City Council at its public hearing to consider this ordinance amendment held on May 6, 2021, reviewed the recommendation, and found the changes to be warranted.

WHEREAS, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:

SECTION 1. FINDINGS OF FACT. All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

SECTION 2. AMENDMENT. The City Council of the City of Lago Vista, Texas, does hereby amend various sections of Chapter 10 of the Lago Vista Code of Ordinances as shown in Exhibit "A."

SECTION 3. REPEALER. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

SECTION 4. SEVERABILITY CLAUSE. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

SECTION 6. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

AND, IT IS SO ORDERED.

PASSED AND APPROVED this 6th day of May 2021.



Ed Tidwell
Ed Tidwell, Mayor

ATTEST:

Sandra Barton

Sandra Barton, City Secretary

On a motion by Councilmember Sullivan, seconded by Councilmember Williams, the above and foregoing ordinance was passed and approved.

EXHIBIT “A”

CHAPTER 10

SUBDIVISION REGULATION

Section 1 General

1.12 Definitions

For the purpose of this Ordinance, certain terms and words are hereby defined; terms not defined herein shall be construed in accordance with customary usage in municipal planning and engineering practices.

Development review committee (DRC): The DRC is comprised of staff members representing the various departments and divisions involved in the review and approval process (administration, planning, engineering, building inspection, public works, fire prevention, parks and health). The DRC is responsible for review of development and building plans, subdivision plats and zoning applications. It offers reports and recommendations to both Commission and Council pertaining to applications and proposals requiring actions by these bodies.

Section 2 Processing of Proposed Subdivisions and Development

2.13.5 Processing Procedures

(a) City Council.

- (1) **Final Action.** The Council shall hear and take final action on the following subdivision procedures: Concept Plan.
- (2) **Appeal.** The Council shall hear an appeal from the Commission on the following subdivision procedures in accordance with this Chapter:
 - (A) Major Plat - Preliminary Plat;
 - (B) Major Plat - Final Plat;
 - (C) Major Plat - Replat;
 - (D) Vacating Plat;

- (E) Minor Plat;
- (F) Amending Plat;
- (G) Lot Consolidation.

(b) Planning and Zoning Commission.

- (1) Final Action. The Commission shall hear and take final action on the following subdivision procedures:
 - (A) Major Plat - Preliminary Plat;
 - (B) Major Plat - Final Plat;
 - (C) Major Plat - Replat;
 - (D) Vacating Plat.
- (2) Review and Recommendation. The Commission shall hear and take final action on the following subdivision procedures: a Concept Plan.
- (3) Appeal. The Commission shall hear an appeal from the Administrator on the following subdivision procedures in accordance with this Chapter:
 - (A) Minor Plat;
 - (B) Amending Plat;
 - (C) Lot Consolidation.

(c) Administrator (Final Action). The Administrator shall hear and take final action on the following subdivision procedures:

- (1) Minor Plat;
- (2) Amending Plat;
- (3) Lot Consolidation;
- (4) Subdivision Construction Plans including modifications.

2.15 Concept Plan

(a) Purpose. The purpose of the Concept Plan (Plan) is to demonstrate conformance with the Comprehensive Plan, compatibility of the proposed development with this and other applicable City ordinances, and the coordination of improvements within and among individually platted parcels, sections, or phases of a development, prior to the consideration of a Preliminary Plat.

- (1) A Plan shall be required for all subdivisions of land that propose to subdivide the land into at least twenty (20) lots, except for subdivisions eligible for the Minor Plats procedure or the Amending Plats procedure, Lot Consolidations, subdivisions that do not require Construction Plans, and any property zoned Planned Development District (PDD).
- (2) It shall not be necessary to submit a Plan on any land more than once, unless the concept changes or approval of the Plan has expired, as set forth in subsection 2.15(i) below.

(b) Format. The Concept Plan application and package to be submitted plat shall be on paper and/or in digital form as determined by the Administrator. When required, drawings shall be prepared on 22 x 34-inch sheets and 11 x 17-inch reductions at a scale of one (1) inch equals one (1) hundred feet (1" = 100') or one (1) inch equals two (2) hundred feet (1" = 200') with all dimensions measured accurately to the nearest foot.

(c) Content. The Plan shall contain or have attached thereto:

- (1) Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, surveyor, land planner, etc.).
- (2) Proposed name of the development; date revised and/or prepared; north indicator; scale.
- (3) Location map. Use of the latest USGS 7.5 minute quadrangle map is required.
- (4) A layout of the entire tract and its relationship to adjacent property, existing development and recorded plats.
- (5) The owner's name, deed or plat reference and property lines of property within two hundred (200) feet of the development boundaries, as determined by current tax rolls.
- (6) Topographic contours at five (5) foot intervals, or less, unless otherwise approved by the City Engineer.
- (7) Proposed major categories of land use by acreage showing compatibility of land use with the Master Plan.
- (8) Proposed number of residential and nonresidential lots, tracts or parcels together with the estimated:
 - (A) Number of LUEs required for each category of lots;
 - (B) Traffic volume to be generated by all proposed development and a Traffic Impact Analysis for projected average daily trips of 200 or more; and
 - (C) Anticipated water & wastewater flows, pressures, etc. that is necessary to gauge potential use.
- (9) Proposed and existing arterial and collector streets required by the Comprehensive Plan and additional such streets as necessary to serve the general area.
- (10) Location of sites for parks, schools and other public uses, and all areas of common ownership.

- (11) Significant drainage features and structures including any regulatory one hundred (100) year floodplains.
- (12) Significant existing features on, or within two hundred (200) feet of, the property boundary, such as railroads, roads, buildings, utilities and drainage structures.
- (13) Approximate boundaries, development density, and anticipated timing of proposed phases of development.
- (14) Identification of known exceptional topographical, cultural, historical, archaeological, hydrological and other physical conditions of the property to be developed, or existing within two hundred (200) feet of the property boundary.
- (15) Location of City limit lines and/or outer border of the City's extraterritorial jurisdiction, as depicted on the City's most recent base map, if either such line traverses the development or is contiguous to the development's boundary.
- (16) A proposed phasing plan for the development of future sections.
- (17) A park plan in conformance with this Ordinance including all land proposed for dedication, all proposed park facilities, and calculations or other information indicating compliance with park requirements.
- (18) Any information required by the most recent City Concept Plan application/checklist.

(d) Procedure.

- (1) Legible prints or digital files shall be submitted to the City along with the completed application forms, payment of all applicable fees, all information required by the most recent application/checklist and any attendant documents needed to supplement the information provided on the Plan.
- (2) The Administrator shall complete a sufficiency review of all information submitted within twenty-one (21) calendar days of the submittal by the applicant. The sufficiency review only determines whether all required components of the application have been received and not whether that application is complete or that those components are correct.

(3) Completion of Sufficiency Review.

- (A) If deemed compliant by the Administrator the application shall be forwarded for review by the Development Review Committee, hereinafter referred to as the DRC. This satisfies the sufficiency requirement.
- (B) If deemed noncompliant by the Administrator, the applicant will be notified in writing of the reasons for noncompliance. The applicant shall have one (1) opportunity to submit information to address the noncompliance within sixty (60) calendar days following the noncompliance determination. Failure to meet the deadline or address all noncompliance shall cause the application to be considered denied.

(4) Submittal Review.

- (A) The DRC shall review the first submittal within fifteen (15) calendar days of the compliant sufficiency review and submit comments to the applicant in writing by the end of this timeframe.
- (B) The applicant shall address all individual comments from the DRC by copying each open comment(s) and providing response(s) to each open comment on official letterhead. This shall also include revised documentation showing the comment has been addressed by the applicant. The applicant shall have sixty (60) calendar days from the end of the DRC review to resubmit to the Department. Failure to address all comments within this timeframe shall cause the application to be considered denied.
- (C) The second and third submittals, if needed, shall be reviewed by the DRC within fifteen (15) calendar days of the applicant's submittal to the City. Responses to the DRC for this submittal shall be subject to the same deadline and consequences as the first submittal.
- (D) Upon the satisfaction of all DRC comments or subsequent to the third submittal by the applicant, the Plan will be automatically scheduled for public hearings as denoted in subsection (f) below.

(e) Review. The DRC shall review the plan for consistency with the Comprehensive Plan, other adopted plans, City codes, policies and plans and then release comments and concerns to the applicant. After comments and concerns from the DRC have been satisfied City staff shall prepare a report analyzing the Plan submittal, and recommending action on the Concept Plan, including any conditions.

2.16 Preliminary Plat

- (a) Requirements.
 - (1) Concept Plans, in accordance with Section 2.15, must be approved by Council before any Preliminary Plats can be filed with the City unless otherwise exempted by the Section.
 - (2) The Administrator shall complete a sufficiency review of all information submitted within twenty-one (21) calendar days of the submittal by the applicant. The sufficiency review only determines whether all required components of the application have been received and not whether that application is complete or that those components are correct.
 - (3) Completion of Sufficiency Review.
 - (A) If deemed compliant by the Administrator, the application shall be forwarded for review by the DRC. This satisfies the sufficiency requirement.
 - (B) If deemed noncompliant by the Administrator, the applicant will be notified in writing of the reasons for noncompliance. The applicant shall have one (1) opportunity to submit information to address the noncompliance within sixty (60) calendar days following the noncompliance determination. Failure to meet the deadline or address all noncompliance shall cause the application to be considered denied.
 - (4) Submittal Review.

- (A) The DRC shall review the first submittal within fifteen (15) calendar days of the compliant sufficiency review and submit comments to the applicant in writing by the end of this timeframe.
- (B) The applicant shall address all individual comments from the DRC by copying each open comment(s) and providing response(s) to each open comment on official letterhead. This shall also include revised documentation showing the comment has been addressed by the applicant. The applicant shall have sixty (60) calendar days from the end of the DRC review to resubmit to the Department. Failure to address all comments within this timeframe shall cause the application to be considered denied.
- (C) The second submittal, if needed, shall be reviewed by the DRC within fifteen (15) calendar days of the applicant's submittal to the City. Responses to the DRC for this submittal shall be subject to the same deadline and consequences as the first submittal.
- (D) Upon the satisfaction of all DRC comments or subsequent to the third submittal by the applicant, the Plat will be automatically scheduled for consideration by the Planning and Zoning Commission as denoted in subsection (b) below. It is at this point that the application shall be considered complete.

(b) Public Meeting. The Commission shall consider the preliminary plat in a public meeting scheduled within thirty (30) calendar days of the date in which the application is considered complete. No less than seventy-two (72) hours prior to the public meeting, some form of special notice shall be published on the City website and at least one sign shall be posted on the property. All signs shall be located along the right-of-way of the public street with the highest functional classification according to the current City Thoroughfare Plan. Additional signs shall be placed at 300-foot intervals along this same frontage up to a maximum of three (3) signs for any application.

(c) Appeals. An appeals application must be filed with the Department within ten (10) business days from the date of approval or denial by the Commission. The appeal will be heard by the City Council following a Public Hearing noticed in accordance with Section 2.15(f) above. The appeal will be heard by the Council within thirty (30) calendar days of filing.

(d) Package. The preliminary plat application and package to be submitted with the preliminary plat shall be on paper and/or in digital form as determined by the Administrator and shall include the following in the number of copies as determined by the Administrator.

- (1) Application. The form of the application shall be provided by the Administrator.
- (2) Drawings. The preliminary plat drawings, when required by the Administrator, shall be prepared on 22 x 34-inch sheets and 11 x 17-inch reductions and shall be submitted to the city with an application for subdivision plat processing.
 - (A) Scale. The plat drawings(s) shall be drawn at a minimum scale of one hundred (100) feet to an inch or at a scale determined by the Administrator that provides legible review by the Commission.
 - (B) When more than one sheet is necessary to accommodate the entire area of the plat plus other associated information, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

(C) Vicinity data. On the plat drawing sheet or index sheet there shall be a vicinity map to indicate the general location of the subdivision. The plat and vicinity map shall graphically indicate the physical relationship (distance) of the corner of the subdivision to a physical point, acceptable to the City Engineer as a visible reference and datum marker, and to property ownership patterns in the vicinity.

2.18 Final Plat

(a) Requirements.

- (1) Preliminary plats, in accordance with Section 2.16, must be approved by Commission before any final plats can be filed with the City unless otherwise exempted by the Section.
- (2) The Administrator shall complete a sufficiency review of all information submitted within twenty-one (21) calendar days of the submittal by the applicant. The sufficiency review only determines whether all required components of the application have been received and not whether that application is complete or that those components are correct.

(3) Completion of Sufficiency Review.

- (A) If deemed compliant by the Administrator, the application shall be forwarded for review by the DRC. This satisfies the sufficiency requirement.
- (B) If deemed noncompliant by the Administrator, the applicant will be notified in writing of the reasons for noncompliance. The applicant shall have one (1) opportunity to submit information to address the noncompliance within sixty (60) calendar days following the noncompliance determination. Failure to meet the deadline or address all noncompliance shall cause the application to be considered denied.

(4) Submittal Review.

- (A) The DRC shall review the first submittal within fifteen (15) calendar days of the compliant sufficiency review and submit comments to the applicant in writing by the end of this timeframe.
- (B) The applicant shall address all individual comments from the DRC by copying each open comment(s) and providing response(s) to each open comment on official letterhead. This shall also include revised documentation showing the comment has been addressed by the applicant. The applicant shall have sixty (60) calendar days from the end of the DRC review to resubmit to the Department. Failure to address all comments within this timeframe shall cause the application to be considered denied.
- (C) The second submittal, if needed, shall be reviewed by the DRC within fifteen (15) calendar days of the applicant's submittal to the City. Responses to the DRC for this submittal shall be subject to the same deadline and consequences as the first submittal.
- (D) Upon the satisfaction of all DRC comments or subsequent to the third submittal by the applicant, the Plat will be automatically scheduled for consideration by the Planning and Zoning Commission as denoted in subsection (b) below. It is at this point that the application shall be considered complete.

(5) Public Meeting. The Commission shall consider the final plat in a public meeting scheduled within thirty (30) calendar days of the date in which the application is considered complete. No less than seventy-two (72) hours prior to the public meeting, some form of special notice shall be published on the City website and at least one sign shall be posted on the property. All signs shall be located along the right-of-way of the public street with the highest functional classification according to the current City Thoroughfare Plan. Additional signs shall be placed at 300-foot intervals along this same frontage up to a maximum of three (3) signs for any application.

(6) Appeals. An appeals application must be filed with the Department within ten (10) business days from the date of approval or denial by the Commission. The appeal will be heard by the City Council following a Public Hearing noticed in accordance with Section 2.15(f) above. The appeal will be heard by the Council within thirty (30) calendar days of filing.

2.21 Vacating Plats And Instruments

- (a) The owner(s) of a tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat; provided that the Commission or Council, on appeal may establish requirements as may be reasonable to protect the public interest and insure compliance with this Chapter.
- (b) If lots in a plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of the lots in the plat with approval obtained in the manner prescribed for the original plat.
- (c) No plat shall be vacated except upon the approval of the Commission and the recording of the approved instruments vacating such plat in the office of the county clerk of Travis County.
- (d) On the execution and recording of the vacating instrument, the vacated plat, or vacated portion thereof, has no effect; provided that when necessary to protect the public welfare or preserve the benefits or integrity of any street, utility, park or other public improvement plan that has moved forward in reliance on such plat, the Commission may require that any right-of-way or easement shown on such plat be dedicated to the City by separate instrument. Such dedication shall occur prior to recordation of the vacating plat or instrument.
- (e) In the event of any conflict between the terms and provisions of this section and § 212.013, Tex. Loc. Gov't. Code, the terms and provisions of § 212.013 shall govern to the extent of such conflict.
- (f) Process.
 - (1) The Administrator shall complete a sufficiency review of all information submitted within twenty-one (21) calendar days of the submittal by the applicant. The sufficiency review only determines whether all required components of the application have been received and not whether that application is complete or that those components are correct.
 - (2) Completion of Sufficiency Review.

- (A) If deemed compliant by the Administrator, the application shall be forwarded for review by the DRC. This satisfies the sufficiency requirement.
- (B) If deemed noncompliant by the Administrator, the applicant will be notified in writing of the reasons for noncompliance. The applicant shall have one (1) opportunity to submit information to address the noncompliance within sixty (60) calendar days following the noncompliance determination. Failure to meet the deadline or address all noncompliance shall cause the application to be considered denied.

(3) Submittal Review.

- (A) The DRC shall review the first submittal within fifteen (15) calendar days of the compliant sufficiency review and submit comments to the applicant in writing by the end of this timeframe.
- (B) The applicant shall address all individual comments from the DRC by copying each open comment(s) and providing response(s) to each open comment on official letterhead. This shall also include revised documentation showing the comment has been addressed by the applicant. The applicant shall have sixty (60) calendar days from the end of the DRC review to resubmit to the Department. Failure to address all comments within this timeframe shall cause the application to be considered denied.
- (C) The second submittal, if needed, shall be reviewed by the DRC within fifteen (15) calendar days of the applicant's submittal to the City. Responses to the DRC for this submittal shall be subject to the same deadline and consequences as the first submittal.
- (D) Upon the satisfaction of all DRC comments or subsequent to the third submittal by the applicant, the Plat will be automatically scheduled for consideration by the Planning and Zoning Commission as denoted in subsection (b) below. It is at this point that the application shall be considered complete.

(4) Public Meeting. The Commission shall consider the vacating plat in a public meeting scheduled within thirty (30) calendar days of the date in which the application is considered complete. No less than seventy-two (72) hours prior to the public meeting, some form of special notice shall be published on the City website and at least one sign shall be posted on the property. All signs shall be located along the right-of-way of the public street with the highest functional classification according to the current City Thoroughfare Plan. Additional signs shall be placed at 300-foot intervals along this same frontage up to a maximum of three (3) signs for any application.

(g) Appeals. An appeals application must be filed with the Department within ten (10) business days from the date of approval or denial by the Commission. The appeal will be heard by the City Council following a Public Hearing noticed in accordance with Section 2.15(f) above. The appeal will be heard by the Council within thirty (30) calendar days of filing.

2.22 Replatting

(a) Replatting.

- (1) The replatting of any existing subdivision, or any part thereof, shall follow the procedural and approval requirements provided herein for a Final Plat, except as provided in Subsection (b). below. The applicable subdivision standards are those in effect at the time the application for replat is requested and, in the event of any conflict between this Section and §§ 212.014, 212.0145 and 212.015, Tex. Loc. Gov't. Code, the terms and provisions of the Local Government Code shall govern to the extent of the conflict.
- (2) The Administrator shall complete a sufficiency review of all information submitted within twenty-one (21) calendar days of the submittal by the applicant. The sufficiency review only determines whether all required components of the application have been received and not whether that application is complete or that those components are correct.
- (3) Completion of Sufficiency Review.
 - (A) If deemed compliant by the Administrator, the application shall be forwarded for review by the DRC. This satisfies the sufficiency requirement.
 - (B) If deemed noncompliant by the Administrator, the applicant will be notified in writing of the reasons for noncompliance. The applicant shall have one (1) opportunity to submit information to address the noncompliance within sixty (60) calendar days following the noncompliance determination. Failure to meet the deadline or address all noncompliance shall cause the application to be considered denied.
- (4) Submittal Review.
 - (A) The DRC shall review the first submittal within fifteen (15) calendar days of the compliant sufficiency review and submit comments to the applicant in writing by the end of this timeframe.
 - (B) The applicant shall address all individual comments from the DRC by copying each open comment(s) and providing response(s) to each open comment on official letterhead. This shall also include revised documentation showing the comment has been addressed by the applicant. The applicant shall have sixty (60) calendar days from the end of the DRC review to resubmit to the Department. Failure to address all comments within this timeframe shall cause the application to be considered denied.
 - (C) The second submittal, if needed, shall be reviewed by the DRC within fifteen (15) calendar days of the applicant's submittal to the City. Responses to the DRC for this submittal shall be subject to the same deadline and consequences as the first submittal.
 - (D) Upon the satisfaction of all DRC comments or subsequent to the third submittal by the applicant, the Plat will be automatically scheduled for consideration by the Planning and Zoning Commission as denoted in subsection (b) below. It is at this point that the application shall be considered complete.
- (5) Public Meeting. The Commission shall consider the vacating plat in a public meeting scheduled within thirty (30) calendar days of the date in which the application is considered complete. No less than seventy-two (72) hours prior to the public meeting, some form of special notice shall be published on the City website and at least one sign shall be posted on the property. All signs shall be located along the right-of-way of the public street with the highest functional classification according to the current City Thoroughfare Plan. Additional

signs shall be placed at 300-foot intervals along this same frontage up to a maximum of three (3) signs for any application.

(6) Appeals. An appeals application must be filed with the Department within ten (10) business days from the date of approval or denial by the Commission. The appeal will be heard by the City Council following a Public Hearing noticed in accordance with Section 2.15(f) above. The appeal will be heard by the Council within thirty (30) calendar days of filing.

(b) Replatting Without Vacating.

(1) A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- Is signed and acknowledged by only the owners of the property being replatted;
- Is approved by the Commission after a public meeting at which parties in interest and citizens have an opportunity to be heard by the Commission; and
- Does not attempt to amend or remove any covenants or restrictions.

(2) Residential Replat. In addition to compliance with subsection (b)(1), a public hearing, noticed in accordance with subsection (b)(3) below is required if:

- During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
- Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

(3) Notice of a public hearing required under subsection (b)(2) shall be given before the fifteenth (15th) day prior to the hearing by the Commission through:

- Publication in an official newspaper or a newspaper of general circulation in the County in which the municipality is located; and
- By written notice, forwarded by the City to the owners of lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

(4) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths (3/4) of the members present of the Commission. For a legal protest, written instruments signed by the owners of at least twenty (20) percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200) feet from that area, but within the original subdivision, must be filed with the City, prior to the close of the public hearing.

- (A) In computing the percentage of land area under subsection (b)(4), the area of streets and alleys shall be included.
- (B) Compliance with subsections (4) and (5) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex-family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

(c) Recording. In accordance with Section 2.19(a) of this Chapter.
