

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Development Services Department/Planning Division

AGENDA DATE: November 7, 2006

CONTACT PERSON/PHONE: Rudy Valdez (4635)

DISTRICT(S) AFFECTED: ALL

SUBJECT:

Discussion and action on the "Subdivision Ordinance Diagnostics and Regulatory Action Report" to be presented by Dunkin, Sefko and Associates (Subdivision Consultants for the City of El Paso). (All Districts) Development Services-Planning, Rudy Valdez, 541-4635]

BACKGROUND / DISCUSSION:

Dunkin, Sefko and Associates, Subdivision consultants hired by the City of El Paso will be giving the Mayor and City Council an update on their ongoing work regarding the City's Subdivision Ordinance rewrite.

PRIOR COUNCIL ACTION: No prior Council actions.

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION: No Action

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

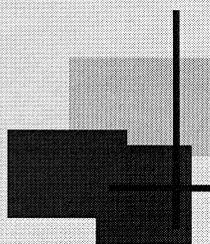
APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

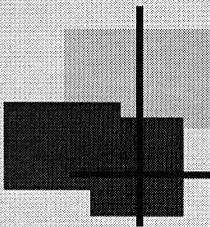
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CITY OF EL PASO, TEXAS



City Council Workshop

SUBDIVISION ORDINANCE: DIAGNOSTICS AND REGULATORY ACTION REPORT



Consultants

Dan Sefko, AICP and Craig Farmer, FAICP

*Dunkin, Sefko and Associates, Urban Planning Consultants
Dallas, Texas*

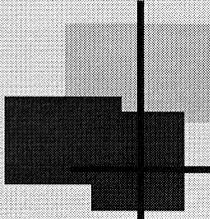
Kim Mickelson, AICP

*Mickelson & Palumbo, Consulting Municipal Attorneys
Houston, Texas*

Robert Gonzalez, PE

*Quantum Engineering Consultants, Inc.
El Paso, Texas*

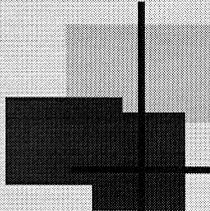
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Purpose of Diagnostic Report

- Consultants Provide Recommendations
 - Rewriting Subdivision Regulations
 - Improving the Platting Process
 - Consolidating Development Regulations
- Commission and Council Feedback
 - Identify Agreed upon Changes
 - Provide Other Concerns and/or Direction
 - Identify Additional Issues
- Authorize Consultants to Proceed

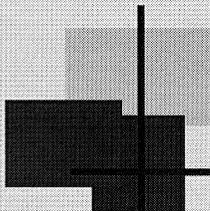
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Planning and Development Process

- ↓ Comprehensive Planning
- ↓ Annexation, Extraterritorial Jurisdiction
- ↓ Zoning
- ↓ Platting
- ↓ Site Planning
- ↓ Building Codes
- ↓ Completed Building

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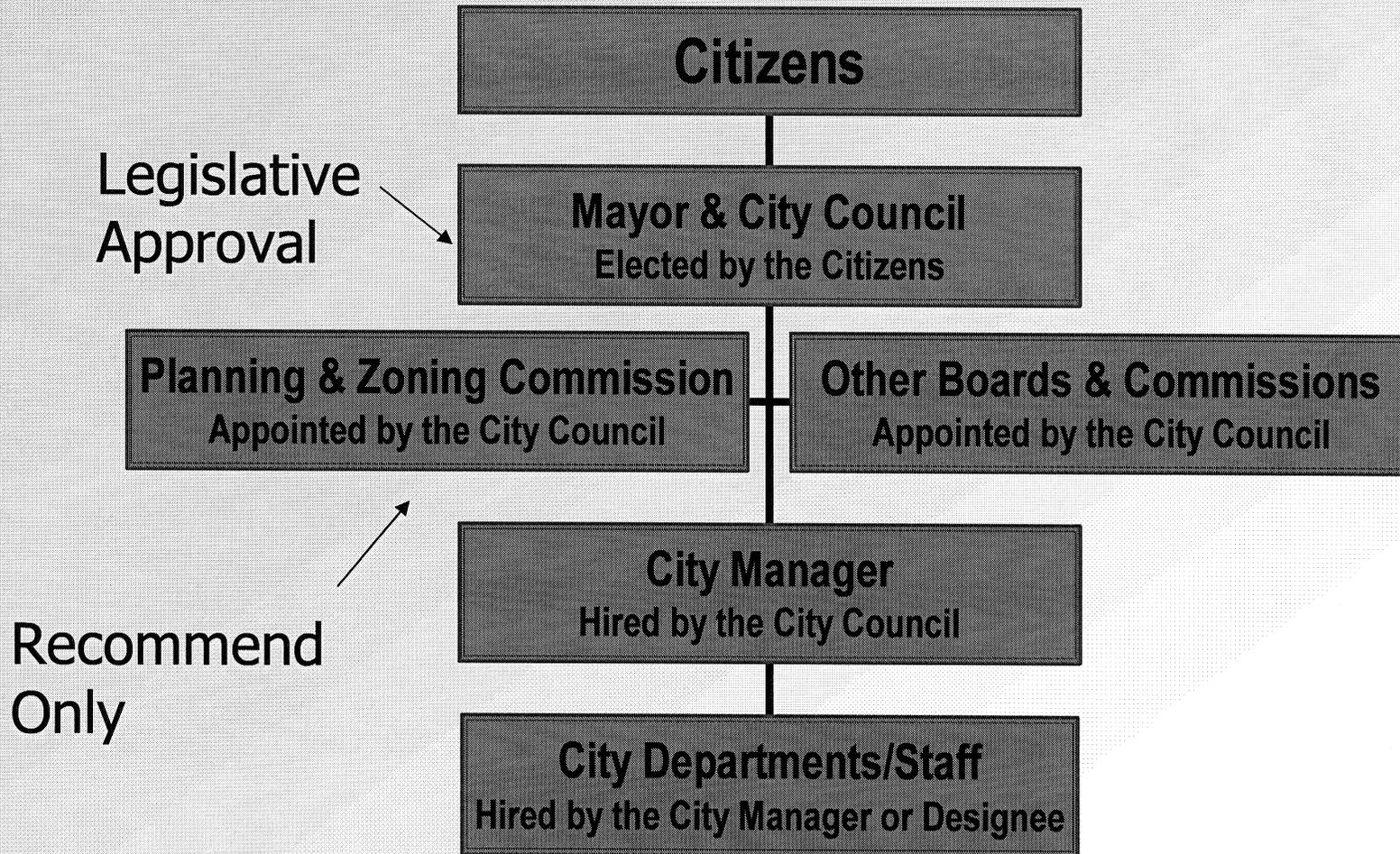
Zoning vs. Subdivision

- ↓ Comprehensive Planning – Future land uses, transportation network and infrastructure
- ↓ Annexation – Bring land into City
- ↓ Zoning – Divide City into districts, define land uses and dimensions of parcels
- ↓ Platting – Create buildable lots, dedicate public streets and build public infrastructure
- ↓ Site Planning – Lay out structures on lots
- ↓ Building Codes – Design building(s)
- ↓ Complete building(s)



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Participants in the Zoning Process



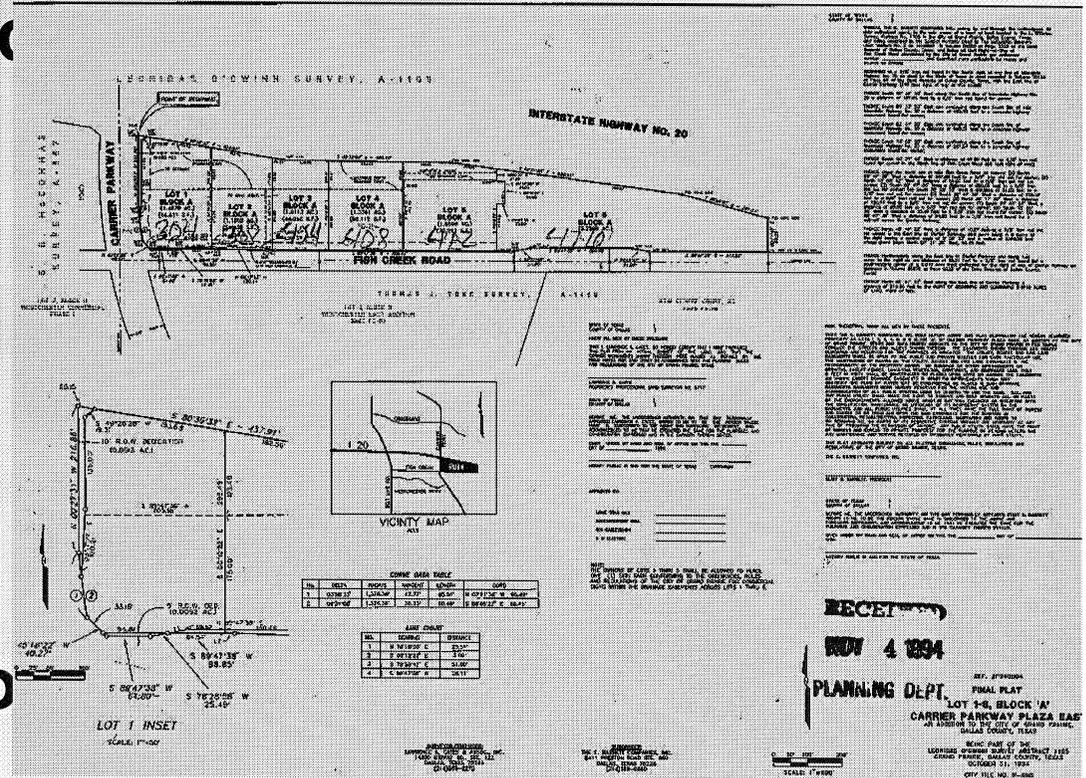
Zoning and Rezoning Duties

- **LEGISLATIVE** process - actual ordinance amendment - Council cannot delegate authority
- P&Z Commission **must** give recommendation after public hearing - never final approval
- *Mayhew v. Town of Sunnyvale* - Immunity is given to local **LEGISLATORS** deciding discretionary zoning matters
- Rezoning can be denied, already zoned something (careful of “anti-trust”)



Subdivision Platting

- Process to divide land into lots
- Recording plat creates legal description
- Ensures City-approved buildable lots
- Checks compliance with zoning

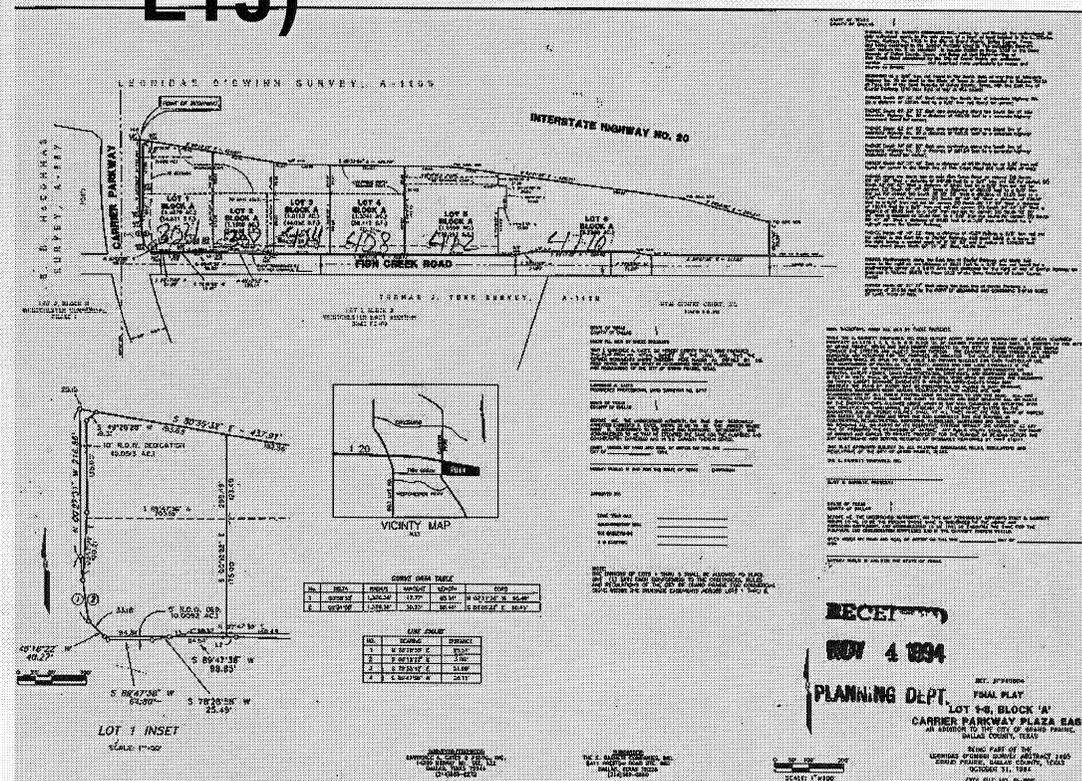




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Subdivision Platting

- Also a tool to plan (especially in the ETJ)
- Streets and rights-of-way
- Infrastructure
- Lot size
- Dimensions
- Floodplain
- Drainage
- Access



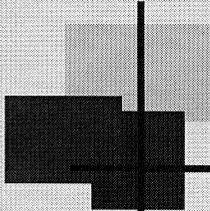
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Subdivision Platting Duties

- **Administrative (non-legislative) Function**
- TECHNICAL REVIEW against ordinances and standards – must approve if ordinance met – **no public hearing, no notice**
- Council can delegate plat approval authority/liability to P&Z Commission (staff-minor plats)
- A specific ordinance (subdivision, etc.) governs
- City and individual liable if improperly denied
- Key question – “Does this meet our requirements?”
- If denied, list reasons



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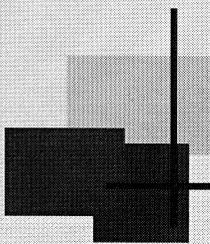
Extraterritorial Jurisdiction (ETJ)

- What is the **ETJ**?
 - The ETJ is the contiguous unincorporated land within a radius, based on population, extending out from the City limits and that is not within another city's ETJ (1/2 mile, up to 5 miles)
- The purpose of the ETJ:
 - Allows a city to plan for growth in the area outside its boundaries
 - Provides land for municipal expansion
 - Subdivision ordinance enforcement helps to ensure that development (not buildings/use) and infrastructure meets City standards



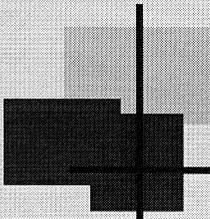
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New Legal Issues



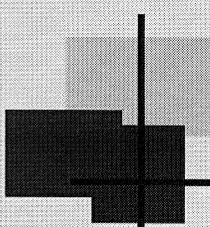
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SUBDIVISION ORDINANCE: DIAGNOSTICS AND REGULATORY ACTION REPORT



Development Exactions

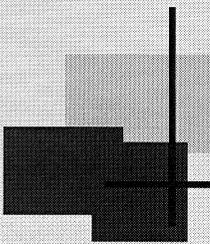
- HB 1835
 - Codifies *Nollan/Dolan* and *Flower Mound* cases
 - If city requires developer to pay portion of infrastructure costs as condition of plat approval, developer's portion of cost must be roughly proportionate to impact of proposed development as estimated by city's engineer



“Vesting” statutes

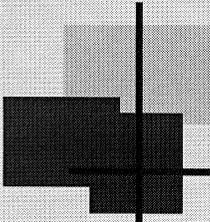
- Actually a “right to complete” statute
- Triggered by utility, permit or plat application (by mail!) (even a concept plan may trigger)
- Can’t change landscaping, platting or even “land use classification” rules
- “Land use classification” is zoning
- Two years from permit date, and five years from permit date once project is started if “no progress”

Non-Specific Platting Issues



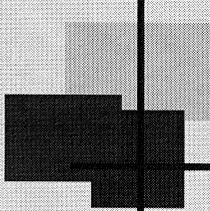
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DIAGNOSTICS AND REGULATORY ACTION
REPORT**



New Techniques

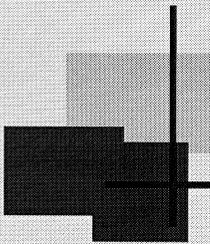
- Diagnostic Issue / Observation
 - Concern about:
 - Form-based codes
 - New Urbanism, mixed-use, pedestrian-oriented
 - Sustainable growth
 - Most of these are zoning issues (PDs)
- Regulatory Action / Recommendation
 - Make sure Subdivision Code of Ordinances provides for, or at least does not impede, newer techniques



Other Non-Specific Platting Issues

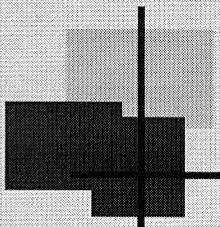
- Outdated, inflexible ordinance
- Quality of life is important
- Infill and redevelopment incentives
- Housing affordability
- Out-of-date zoning standards
- Developer/neighborhood lobbyists
- Facilitate the creation of quality neighborhoods

Subdivision Regulations



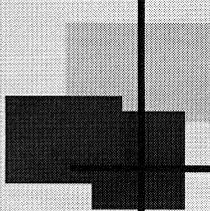
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Subdivision Regulations

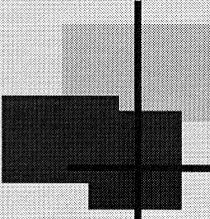
- Use “concept” or master plans to better plan neighborhoods or “villages”
- More authority for “design” changes
- Use “development plat” for exempt land
- Use “conveyance plat” for open space, etc.
- Simplify minor subdivision plats
- Require engineering drawings with plat
- Time limits for plats, preliminary plats



Subdivision Review

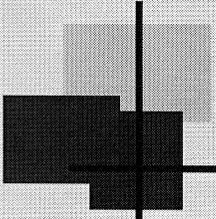
- Reorganize time lines (45 days)
- Rework pre-application requirements
- Reject incomplete applications w/in 10 days
- Develop 30-day waiver form
- Replace DCC with internal DRC
- Review comments with the applicant
- Create Subdivision Review Committee to recommend to P&Z

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Subdivision Design

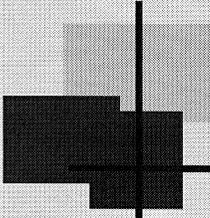
- Relate streets & sidewalks to density and traffic (e.g., 27' width serving 25 units/600')
- Excessive block lengths – 1500' plus
- Thoroughfare Plan kept current and available
- Traffic calming, intersection design
- Arroyo protection and park credits - CPC
- Allow clustering to offset density loss
- Allow alternative subdivision designs



Concrete vs. Asphalt Streets

- Diagnostic Issue / Observation
 - Concrete streets last longer, but cost more
 - Asphalt less expensive, but needs much more maintenance (crack seals, rippling, etc.)
 - El Paso has soils that allow asphalt
 - Heavy traffic and loads wear out asphalt
- Regulatory Action / Recommendation - CPC
 - Concrete streets on major thoroughfares
 - Concrete intersections on certain streets
 - Need better inspection of construction

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Drainage Requirements

- Diagnostic Issue / Observation
 - Flooding and drainage is a huge issue
 - Difficult to exceed 100-year protection
- Regulatory Action / Recommendation
 - Reconstitute the Drainage Committee with public and private engineers represented
 - Look at actual precipitation data - CPC
 - Reanalyze design storm frequencies
 - Reevaluate drainage charts and criteria

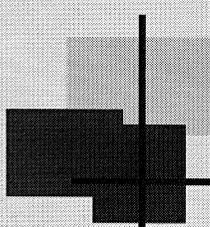
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Sidewalks

- Diagnostic Issue / Observation
 - Concerns about inconsistent sidewalk requirements
 - Rural standards
 - Alternative parkways – CPC had concerns



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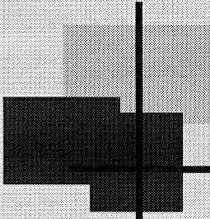
Retention / Detention Ponds

- Diagnostic Issue / Observation
 - Drainage Committee needs to review issues
- Regulatory Action / Recommendation
 - Plat offsite drainage facilities
 - Expand maintenance options - HMAs, PIDs
 - Regional detention/retention facilities
 - Impervious coverage limits in plat ordinance
 - CPC likes concept of linking parks and ponds

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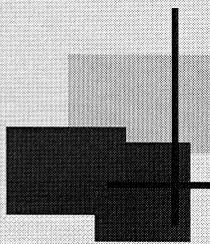


Construction Guarantees/Surety

- Diagnostic Issue / Observation
 - Lots are sold & permits issued prior to improvements
 - Only guarantee is signed agreement up to 2 years
 - Up to 4 years before improvements mandated
- Regulatory Action / Recommendation
 - Create a “construction” plat alternative to complete improvements prior to recording
 - Require a letter of credit, etc. for plats that need to be recorded prior to completion of all required improvements
 - Continue to allow 25% early release of single-family permits if all critical improvements complete in that area – no finals until complete

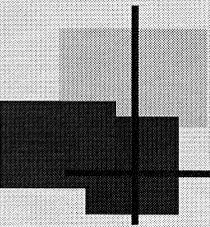
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Other City Plan
Commission Issues



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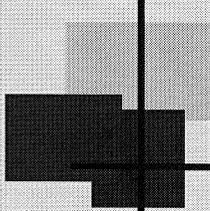
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Zoning vs. Platting

- Diagnostic Issue / Observation
 - The current Subdivision Ordinance needs to better relate zoning procedures to platting
- Regulatory Action / Recommendation
 - Consultants recommend requiring any necessary rezoning to be completed prior to filing of subdivision plats
 - CPC recommends continuing to allow plats and zoning cases to be submitted concurrently

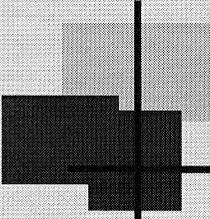
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Parkland Dedication or Fees in Lieu

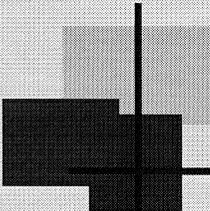
- Diagnostic Issue / Observation
 - Good concept, many cities use it
 - Separate consultant revising plan
 - Developers concerned about fee increase without their input
 - Decide whether to require in ETJ - CPC
- Regulatory Action / Recommendation
 - Hold meetings with all interested parties
 - Survey comparable cities
 - Adjust fees accordingly – CPC – enough?

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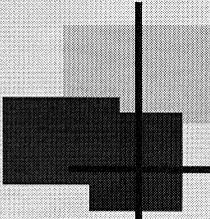
Exceptions to Requirements

- Diagnostic Issue / Observation
 - Commission has broad authority to grant exceptions – “deem inapplicable”
 - Commission can commit Council to future expense
 - Road widening
 - Utility extensions
 - Oversizing
 - Construction standards
 - Legal concerns about granting exceptions to minimum standards for health and safety



Exceptions to Requirements

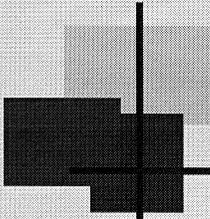
- Regulatory Action / Recommendation
 - Rewrite ordinance to require minimum desirable standards and results
 - Commission enforces ordinance as written
 - Clearly delineate role of Commission in granting limited exceptions with criteria
 - CPC did not agree, only Council should approve:
 - Substantive exceptions
 - Those requiring future City expenditures



Extraterritorial Jurisdiction (ETJ)

- Diagnostic Issue / Observation
 - Different subdivision regulations in ETJ outside City – lot grading, parks, hydrants
 - Less cost encourages development outside City, and penalizes City developers
- Regulatory Action / Recommendation
 - Work with County to make sure requirements are a “level playing field”
 - If facilities inadequate, development is probably premature for that area
 - CPC – Inspect County construction

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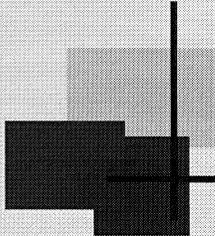


Other Commission Issues

- Publish technical standards on website
- Look at allowing streets or lots to front on parks
- Obtain better inspection of improvements
- Takes 6 months to review plat, subdivision – need checklists
- Subdivision approval and acceptance – sidewalks become homeowners' responsibility

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