



Legislation Details (With Text)

**File #:** 22104      **Version:** 1      **Name:** Land division  
**Type:** Ordinance      **Status:** Passed  
**File created:** 4/12/2011      **In control:** PLAN COMMISSION  
**On agenda:** 5/17/2011      **Final action:** 5/17/2011  
**Enactment date:** 6/1/2011      **Enactment #:** ORD-11-00074

**Title:** Amending Secs. 16.23(3)(a)2.b., 16.23(3)(c), 16.23(5)(d), 16.23(6)(b)1., 16.23(6)(c), 16.23(9)(c)2. and 16.23(9)(c)3. of the Madison General Ordinances to remove land use as a factor when considering approval of a land division in the City’s extra-territorial plat approval jurisdiction and to change land division approval requirements.

**Sponsors:** Lauren Cnare

**Indexes:**

**Code sections:**

**Attachments:**

| Date      | Ver. | Action By                        | Action                                               | Result |
|-----------|------|----------------------------------|------------------------------------------------------|--------|
| 5/17/2011 | 1    | COMMON COUNCIL                   | Adopt                                                | Pass   |
| 5/2/2011  | 1    | PLAN COMMISSION                  | RECOMMEND TO COUNCIL TO ADOPT<br>- REPORT OF OFFICER | Pass   |
| 4/19/2011 | 1    | COMMON COUNCIL                   | Referred for Public Hearing                          |        |
| 4/12/2011 | 1    | Attorney's Office/Approval Group | Referred for Introduction                            |        |

**Fiscal Note**

No noteworthy fiscal impact is anticipated.

**Title**

Amending Secs. 16.23(3)(a)2.b., 16.23(3)(c), 16.23(5)(d), 16.23(6)(b)1., 16.23(6)(c), 16.23(9)(c)2. and 16.23(9)(c)3. of the Madison General Ordinances to remove land use as a factor when considering approval of a land division in the City’s extra-territorial plat approval jurisdiction and to change land division approval requirements.

**Body**

DRAFTER'S ANALYSIS: This amendment is necessitated by state legislation that prohibits approval of land division areas subject to extra-territorial plat approval jurisdiction to be based on land use and changed certain plat approval provisions. Also included is a change to Sec. 16.23(5)(d)4. to reflect current City procedures.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subparagraph b. of Paragraph 2. of Subdivision (a) entitled “Subdivisions” of Subsection (3) entitled “General Requirements” of Section 16.23 entitled “Land Subdivision Regulations” of the Madison General Ordinances is amended to read as follows:

“b. All applicable ordinances of the appropriate jurisdictions in effect when the preliminary plat is submitted, or if no preliminary plat is submitted, when the final plat is submitted, unless the applicant and the City agree that the applicable ordinances are those in effect at the time the plat is approved.”

2. Subdivision (c) entitled “Land Divisions or Subdivisions in Extraterritorial Plat Approval Jurisdiction” of Subsection (3) entitled “General Requirements” of Section 16.23 entitled “Land Subdivision Regulations” of the Madison General Ordinances is amended to read as follows:

“(c) Land Divisions or Subdivisions in Extraterritorial Plat Approval Jurisdiction. The Plan Commission may recommend or approve the subdividing of lands in the extraterritorial plat approval jurisdiction based on

the applicable criteria enumerated hereinafter. The Plan Commission shall not consider any subdivision or land division which did not have prior approval by the approving authorities for both the Town(s) and Dane County. The Plan Commission may require any conditions in the approval of a subdivision or land division, including the use of any restrictive covenant.

1. ~~Criteria for Agricultural Land Division. The Plan Commission may grant approval of a land division subdividing portions of agricultural lands provided the Commission shall determine that the proposed land division will assist and assure the continuation of the agricultural use.~~
2. ~~Criteria for Nonagricultural Subdivision or Land Division. In the case of nonagricultural lands, t~~T~~he Plan Commission may recommend approval of a subdivision to the Common Council or may grant approval of a land division provided that the Plan Commission shall determine that the proposed subdivision or land division complies with each of the following four criteria:~~
  - a~~1~~. ~~The proposed subdivision or land division shall be compatible with adjacent land uses development patterns and shall maintain the general land use~~development ~~pattern of the area in question.~~
  - b. ~~The proposed subdivision or land division shall result in a development pattern which is compatible with surrounding developments and land uses. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.~~
  - e~~2~~. ~~The proposed subdivision or land division and the resulting development shall not demonstrably adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations. The Plan Commission may consider annexation agreements with the property owner in order to comply with this requirement. The Plan Commission may also consider whether the City and Town(s) have reached an agreement on necessary public improvements and public services facilities required to serve the development.~~
  - d. ~~The proposed subdivision or land division shall comply with one of the following:~~
    - i. ~~The proposed subdivision or land division shall represent infilling of vacant land. Infilling is defined as a subdivision or land division which will accommodate the development of vacant land located such that surrounding existing land uses render the land impractical for any but similar uses.~~
    - ii. ~~The proposed subdivision or land division shall provide permanent open space lands for use by the general public in conformance with the adopted Parks and Open Space Plan for Dane County, Wisconsin, the City of Madison adopted Parks and Open Space Plan or the City's other adopted Master Plan elements, including the Peripheral Area Development Plan. The permanent open space lands shall be accessible and open for use by the general public. The open space lands shall be exclusive from, and in addition to, lands required for dedication to comply with applicable public parks and open space dedication requirements and shall be provided at a ratio of two acres of permanent open space lands for every one acre of developed lands, including street rights of way. For the purpose of this provision, wetlands, flood plain lands, steep slopes, or other lands which are not developable because of sensitive environmental features shall not be counted as permanent open space lands in calculating the ratio of permanent open space lands provided versus developed lands. Steep slopes shall include lands which have grades of twenty percent (20%) or more."~~

3. Subdivision (d) entitled "Final Plat Procedure" of Subsection (5) entitled "Detailed Procedure For Dividing Land Within The City Limits" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"(d) Final Plat Procedure.

1. Sixteen (16) reproductions of the final plat (plus a sufficient number to be submitted to state agencies as required under the provisions of Wis. Stat. § 236.12. if the subdivider follows that procedure), an interim report of title satisfying the Office of Real Estate Services of the Department of Planning and Community and Economic Development requirements, along with a written application for approval on forms provided by the Plan Commission shall be submitted

to the Secretary of the Plan Commission within ~~thirty-six (36)~~ thirty-six (36) months of the approval of the preliminary plat and at least fourteen (14) days prior to the meeting of the Plan Commission at which action is desired. ~~However, if approval of the preliminary plat must be obtained from another approving authority subsequent to the preliminary plat approval by the Plan Commission, the final plat shall be submitted within thirty-six (36) months of such approval. The Plan Commission may, however, waive compliance with the six (6) months~~ extend the time limit in either case.

2. A professional engineer, planner, or another person charged with the responsibility to review plats shall provide the Plan Commission with a recommendation on approval of the final plat based on a determination whether the final plat conforms substantially to the approved preliminary plat. Such determination and recommendation shall be part of the record and need not be submitted in writing.
23. The Secretary of the Plan Commission shall forthwith forward the ten (10) copies of the plat to the Plan Commission and shall within two (2) days of the submission forward such copies of the plat to the Director of Local and Regional Planning (if the subdivider follows that procedure) as may be required by Wis. Stat. § 236.12. The Plan Commission shall examine the final plat as to its conformance with the preliminary plat, the requirements set forth in this ordinance, and with any other ordinances, administrative rules and regulations, and plans which may affect it; and shall recommend approval, conditional approval or rejection of the plat. The final plat may, ~~if permitted by the Plan Commission,~~ constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time. In the event that the final plat constitutes only a portion of the approved preliminary plat, the interim Report of Title need only include those lands included in the final plat. The City Clerk shall forward the interim Report of Title and one copy of the final plat to the Office of Real Estate Services of the Department of Planning and Community and Economic Development.
34. The Plan Commission shall transmit the plat, together with the recommendations of the commission to the Mayor and Common Council, within sixty (60) days of its submission to the City Clerk, for necessary action. The Council shall approve or reject the final plat within sixty (60) days of its submission to the City Clerk, unless the time is extended by agreement with the subdivider. Reasons for rejection shall be forwarded to the subdivider in writing. If the Common Council fails to act within sixty (60) days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the City Clerk.
45. After the final plat has been approved by the Common Council and petitions and a contract and bond insuring the installation of improvements filed in accordance with Subsection (9) hereof, the subdivider shall submit the final plat, an interim Report of Title, satisfying the Office of Real Estate Services of the Department of Planning and Community and Economic Development requirements, to the City Clerk, along with a check in the amount of twelve dollars (\$12) to cover the cost of having six (6) copies of the recorded plat made by the Dane County Surveyor for City files. The interim Report of Title need only include those lands included in the final plat. If the final plat complies with the conditions of approval and is submitted within the required time of the date of approval by the Common Council pursuant to Wis. Stat. § 236.25(2)(b), ~~and when the Office of Real Estate Services in consultation with the City Attorney has determined the certificates are acceptable and in proper form, the City Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording within thirty (30) days of the date of the last approval.~~ If the plat is not recorded in accordance with the time requirements of said statute, reapproval by the Common Council may be required before the final plat is recorded and an additional interim Report of Title may be required at the time the final plat is resubmitted for approval. ~~Copies of the recorded plat shall be distributed by the City Clerk to the following City agencies: two (2) to the Plan Commission and one each to the Engineering Division, Department of Transportation, Water Utility, and Assessor's office for their files."~~

4. Paragraph 1. of Subdivision (b) entitled "Preliminary Plat Procedure" of Subsection (6) entitled "Detailed Procedure For Dividing Land Within The Extraterritorial Plat Approval Jurisdiction Of The City" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"1. As specified in Subsection (5)(b)1, 2, 3, 4 and 5 hereof."

5. Paragraph 1. of Subdivision (c) entitled "Final Plat Procedure" of Subsection (6) entitled "Detailed Procedure For Dividing Land Within The Extraterritorial Plat Approval Jurisdiction Of The City" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"1. Twelve (12) reproductions of the final plat (plus a sufficient number to be submitted to state agencies as required under the provisions of Wis. Stat. § 236.12, if the subdivider follows this procedure), along with a written application for approval on forms provided by the Plan Commission shall be submitted to the City Clerk within ~~thirty-six~~ (36) months of the approval of the preliminary plat and at least fourteen (14) days prior to the meeting of the Plan Commission at which action is desired. However, if approval must be obtained from another approving authority subsequent to the preliminary plat approval by the Plan Commission, the final plat shall be submitted within ~~thirty-six~~ (36) months of such approval. The Plan Commission may, however, ~~waive compliance with the six (6) month~~ extend the time limit in either case. Where more than one approval is required, the letter of application shall indicate to which approving authority the plat is being first submitted in order to facilitate compliance with Wis. Stat. § 236.12(5). All of the requirements relating to improvements specified by the Town Board, the Metropolitan Sewerage Commission or the City of Madison in matters over which they have jurisdiction shall be met before filing of the final plat."

6. Paragraph 2. entitled "Surety" of Subdivision (c) entitled "Contract for Public Improvements for Subdivisions" of Subsection (9) entitled "Required Improvements for Subdivisions" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"2. Surety. The subdivider shall file with said contract, subject to the approval of the City Attorney, a bond, a certificate of insurance, an irrevocable letter of credit, a certified check, or an official check in the amount equal to the estimate of the cost prepared by the City Engineer as surety to guarantee that the improvements will be completed by the subdivider or her/his contractors as provided by the contract for subdivision improvements If the improvements will be installed in phases, the amount of the surety shall be limited to the phase being constructed."

7. Paragraph 3. entitled "Construction Phases and Time of Completion" of Subdivision (c) entitled "Contract for Public Improvements for Subdivisions" of Subsection (9) entitled "Required Improvements for Subdivisions" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"3. Construction Phases and Time of Completion. All subdivision improvements shall be completed within eighteen (18) months from the date of recording of the subdivision. However, the subdivider and the City may agree that the subdivider may install the improvements in construction phases, provided that: the phases are specified in the contract for subdivision improvement; ~~the developer submits a surety in the amount of the estimate of the City Engineer sufficient for the construction of all construction, or, the developer records deed restrictions approved by the City Attorney which specify that the lots which are included in future construction phases of the subdivision will not be transferred or sold unless the City's approval is obtained and the subdivider provides a surety equal to the estimate of cost prepared by the City Engineer for the construction in progress;~~ the subdivider minimizes grading and other disturbance of land included in future construction phases in order to prevent erosion; the erosion control plan submitted and approved addresses the individual phases of construction; and, the construction phases proposed by the subdivider reflect the needs of the City and adjacent property owners for street and other improvements to serve lands adjacent to and within the subdivision."