

ADMINISTRATIVE DETERMINATION 2006-05

“Added parent parcels”: the R-1 density loophole

Added parent parcels” (APPs)

The R-1 zone requires density of 4 to 5 units per net acre at the conclusion of any short or long plat (“subdivision”). How many lots a subdivider gets depends on the net acres (total acres less critical areas, critical area buffers, future street ROWs, and stormwater facilities) within the subdivision. The parcels that make up the subdivision are called “parent parcels.”

If parent parcels are added with no intent to further subdivide or redefine them, we could call these “added parent parcels” (APPs). The APPs will appear within the heavy line delineating the plat but they will not have been changed. A large APP(s) would allow the subdivider to achieve a greater number of lots by allowing a sort of density credit transfer. An APP *may* benefit the subdivider if larger than one fifth acre net. An APP *will definitely* benefit the subdivider if over two fifths of an acre net (at least one additional lot).

APPs could come in two types: 1) those not large enough to be short platted and 2) those large enough. Orchard Grove 2 serves as an example for #1.

Type #1: APPs not large enough to be short platted

In Orchard Grove 2, the subdivider persuaded the owners of 5 additional parcels to add them to the plat. The sizes were as follows: .28, .25, .3, .29, and .38 acres. For this discussion we assume that the gross equals the net. Since at least .4 acres is needed to subdivide, none of these parcels was subdividable. But since each was over .2 acres, each conferred a density credit. The owners lost nothing and gained whatever compensation the subdivider offered. Since the area of each parcel in excess of .2 acres conveys density credit, we are interested in:

Total net acreage of the 5 APPs minus (.2 times 5).

The answer to the above equation is .5 acres. Depending on how close Orchard Grove 2 was to getting one more lot before the APPs, the extra .5 acre probably gave them another two or three lots.

In the case of Orchard Grove 2, the APP owners couldn’t short plat anyway, so it doesn’t appear necessary to record the fact that their density credit has been used up.

Type #2: APPs large enough to be short platted

If the City were to allow APPs over .4 acre, to avoid a density loophole it would have to disallow later subdivision of the APPs even though they may be large enough in and of themselves.

P&CD would have to log the fact that their “density credit” has been transferred.

P&CD may have difficulty remembering such things over long periods of time. Also, the owners of the APPs may not understand that they would be giving up future subdivision of their parcels;

they may receive payment but not understand the quid pro quo. A possible solution to both concerns would be to require that the owners of the APPs file an appropriately worded deed restriction.

Determination

In short or long plats, Type #1 APPs (not large enough to be short platted) shall not be allowed. Type #2 APPs are allowed only if the APP owners file an appropriately worded deed restriction.

_____/sig/
Robert D. Leedy, Director

Date _____ 3/6/07 _____