

CHAPTER 9.05**SUBDIVISION-PRELIMINARY PLAT****SECTIONS:**

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9.05.010 GENERAL PROVISIONS.

(a) The purpose of this chapter is to provide procedures and consistent criteria for the efficient and timely review and approval of a division of land into five (5) or more lots, parcels or tracts.

(b) Any person seeking to divide or re-divide land situated in unincorporated Benton County into five (5) or more lots, for the purpose of sale, lease, or transfer of ownership, unless exempted

from the provisions of this title in BCC 9.02.050, shall submit an application for the approval of a subdivision to the Planning Administrator with the application requirements in BCC 9.05.030. [Ord. 612 (2018) § 32]

9.05.020 PRE-APPLICATION MEETING.

Any person(s) proposing to subdivide a parcel of land pursuant to this chapter may request from the Benton County Planning Department a pre-application meeting. The purpose of the pre-application meeting is to enable the applicant to obtain the input of the affected county departments as to applicable standards and provisions of this chapter and other state and county regulations and how they relate to the proposed subdivision. [Ord. 612 (2018) § 33]

9.05.030 APPLICATION REQUIREMENTS.

(a) Every application for preliminary plat consideration shall include the following:

- (1) A complete preliminary plat application in the form provided by the Planning Department.
- (2) Copies of preliminary plat map:
 - (i) Forty (40) copies of a preliminary plat map prepared in accordance with the provisions of BCC 9.07.070; and
 - (ii) One (1) reduced copy of the preliminary plat map on eight and one-half (8 1/2) inch by eleven (11) inch or eleven (11) inch by seventeen (17) inch paper; and
 - (iii) An electronic copy of the preliminary plat map.
- (3) A non-refundable fee as established by resolution of the Board of Benton County Commissioners.

(4) A title certificate from a title company that is not over two (2) months old showing the names and addresses of anyone with an ownership interest in the land being subdivided and showing all easements on the property proposed for division.

(5) Written verification from the Benton-Franklin Health District that the applicant has provided all necessary information to enable the health district to review and make recommendations on the proposed site.

(6) A completed environmental checklist as referenced in WAC 197-11 as now existing or hereafter amended, the State Environmental Policy Act (S.E.P.A.) Rules.

(7) A preliminary hydrology report with information required by the Benton County Road Department. Hydraulic calculations shall be based on the Stormwater Manual for Eastern Washington (04-10-076) as now existing and hereafter amended, using a minimum of a 25 year return frequency storm event.

(8) For properties within one-hundred and fifty (150) feet of a hazardous product transmission pipeline as reflected by the County's Geographic Information Systems, written documentation that the owner/operator of the pipeline has been contacted by the applicant, is aware of the project specifics, and has or does not have concerns that need to be considered in the project review.

(9) All additional materials required in writing by the Planning Department.

(b) The Planning Administrator shall not review any preliminary plat nor establish a hearing before the Planning Commission until all of the above elements are submitted and a complete application, consistent with BCC 9.02.080, has been determined for the application.

[Ord. 612 (2018) § 34]

9.05.040 PUBLIC HEARING.

(a) Upon receipt of a complete application, the Planning Administrator shall establish a file number for the subdivision. The Planning Commission shall conduct an open record hearing on the preliminary plat proposal for the purpose of taking testimony, hearing evidence, considering the facts relevant to the proposal, and evaluating the proposal for consistency with the Benton County Code and Comprehensive Plan.

(b) Notice of the Planning Commission hearing shall be given as follows:

(1) Publication of one or more legal notices at least ten (10) days prior to the hearing in a paper of general circulation in the County.

(2) By sending copies of the notice by U. S. mail not less than ten (10) days prior to the date of the hearing to all landowners of parcels within the boundaries of the plat, as identified on the title certificate, and to all adjacent landowners of properties within three hundred (300) feet of the exterior boundaries of the proposed subdivision, as identified by the records of the County Assessor.

(3) If the owner of the real property that is proposed to be subdivided owns another parcel or parcels adjacent to the parcel(s) at issue, notification shall be mailed to landowners of property located within three hundred (300) feet of any portion of such adjacent parcels as well.

(4) If the property proposed for subdivision is located within an Urban Growth Area for a city, that city shall be notified.

(5) The notice shall also be given to all cities located within one (1) mile of the proposed subdivision.

(6) If the location of a proposed subdivision is within one mile of the right-of-way of a state highway or within two (2)

miles of the boundary of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation.

(7) By U.S. mail to any other interested party or agency as determined by the Planning Administrator.

(c) All hearing notices shall include a description of the location of the proposed subdivision, which may be in the form of a legal description, a vicinity map or a written description other than a legal description. Failure to send notice to a person specified above in BCC 9.05.040(b) or failure of a person to receive the notice shall not invalidate any proceedings in connection with the application.

[Ord. 612 (2018) § 35]

9.05.050 REVIEW BY OTHER AGENCIES.

(a) The Planning Administrator shall use his or her best efforts to forward copies of the preliminary plat to other departments, municipalities, utility companies, owners or operators of a hazardous product transmission line located within one hundred and fifty (150) feet of any part of the plat, and public agencies determined by the Planning Administrator to have an interest in the subdivision. These agencies include, but are not limited to, the following:

- (1) Benton County Engineer;
- (2) Benton-Franklin Health District;
- (3) Benton County Fire Marshal;
- (4) Applicable fire district;
- (5) Applicable irrigation district;
- (6) Applicable utility provider(s);

(7) The legislative authority of any city adjacent to or within one mile of the proposed preliminary plat;

(8) The State Department of Transportation, if the proposed short plat is adjacent to the right-of-way of any highway or within two miles of the boundary of a state or municipal airport;

(9) The State Department of Ecology, or its successor, if the proposed preliminary plat lies within a flood control zone designated pursuant to Chapter 86.16 RCW as now existing or hereafter amended; and

(10) Other involved parties, County Departments, or agencies as necessary for review.

(b) In transmitting the proposed preliminary plat to the parties referenced above, the Planning Administrator shall solicit their comments and recommendations, and note the date by which comments and recommendations must be received by the Planning Administrator in order to be considered.

(c) Applicable comments are to be received by the Planning Department within 15 days. These comments shall be incorporated into the formal findings which will form the basis of the Planning Administrator's recommendation on the preliminary plat. Failure to report within (15) days from the date of transmittal shall be interpreted to indicate that the proposed subdivision will not adversely affect the agency or utility involved.

[Ord. 612 (2018) § 36]

9.05.060 PRELIMINARY PLAT.

The preliminary plat shall be drawn on a standard size sheet of paper twenty-four (24) inches by thirty-six (36) inches to a scale not to exceed one hundred (100) feet to the inch (unless specifically approved by the Planning Administrator) and shall include the following information:

(a) General

(1) Proposed name of the subdivision. (Names proposed shall not closely resemble those of existing subdivisions and given names or initials shall not be used with surnames in a plat name.)

(2) A legal description of the property showing location of boundary lines in relation to section, quarter-section, quarter-quarter section lines and any adjacent corporate limits, describing the property clearly and precisely.

(3) Names, addresses and telephone numbers of the developer and engineer or surveyor.

(4) Name, address and telephone of an individual designated by the applicant to act as a contact person for all information and correspondence relating to the preliminary plat.

(5) Date, scale and north arrow.

(6) Contour lines, not to exceed ten (10) foot intervals to adequately show the topography of the land to be subdivided referenced to the North American Vertical Datum of 1988 (NAVD 88). Those areas within the land to be subdivided having a slope of fifteen (15) percent or greater shall be indicated on the preliminary plat.

(7) A vicinity sketch, at a legible scale, showing the relation of the proposed plat to existing schools, parks, shopping centers, and so forth shall accompany the preliminary plat application.

(8) Tabular Summary showing the following information:

Land Use Summary
Gross acreage
Net lot acreage
Total number of lots

Average lot size
 Minimum lot size
 Average density
 Present zoning
 Type of water service
 Type of sewerage
 Area of public roads

(9) Indication on face of plat that it is a preliminary plat.

(b) Existing Development

(1) The location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided.

(2) Names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision.

(3) The location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided.

(4) The location of any existing walks, curbs, gutters, culverts, buried conduits and subsurface drains on or within 100 feet of the parcel(s) to be subdivided.

(5) Approximate width, location and purpose of all existing easements on or within 100 feet of the parcel(s) to be subdivided.

(6) Delineation of the location and approximate boundaries of any natural features such as rivers, streams, drainageways, one hundred (100) year floodplain and floodways as shown on official FEMA maps, slopes in excess of fifteen

(15) percent, and wetlands within or adjacent to the land to be subdivided.

(7) Existing uses of parcel(s) to be subdivided, including the location and use of all existing structures and wells and which such structures and wells will remain on the property after platting.

(c) Proposed Development

(1) Location, width and names of proposed streets, alleys, pedestrian ways, and all necessary easements, including but not limited to easements for all utilities, watercourses, drainage ways, channels, or streams that traverse the subdivision with a width determined by the County Engineer for all easements for watercourses, drainage ways, channels or streams.

(2) Indication of any portion or portions of the plat for which successive or separate final plats are to be filed.

(3) Layout, number, and approximate dimensions of lots and blocks, the size of each lot in acres and square feet, and any structural setback requirements identified in Title 15 BCC. Lot sizes shall be in compliance with the size prescribed by the applicable zoning code.

(4) Location and size of all parks, playgrounds, church sites, or other special uses of land considered for dedication, or reservation by deed or covenant, for special use or for the use of all property owners within the subdivision and any conditions of such dedication or reservation.

(5) Indication of any lots of which a use other than residential is proposed by the developer.

(d) Supplemental Information

(1) Two (2) copies of proposed street grades may be required

by the County Engineer where, in his or her opinion, conditions warrant them.

(2) Preliminary grading plan.

[Ord. 612 (2018) § 37]

9.05.070 OPEN RECORD HEARING.

(a) The open record hearing on the proposed subdivision shall be held before the Planning Commission. The Planning Commission shall consider all relevant information, including but not limited to:

(1) The report of the Planning Department.

(2) Any written comments or concerns expressed by other reviewing agencies.

(3) Oral and written testimony from persons present at the hearing.

(b) If the Planning Commission finds that additional information is needed, the Planning Commission may continue the hearing for up to thirty-five (35) days or such longer period as agreed to by the applicant and direct that the additional information be gathered.

[Ord. 612 (2018) § 38]

9.05.080 CONSIDERATION OF PRELIMINARY SUBDIVISION.

After conducting the open record hearing and considering all information presented, the Planning Commission shall consider a recommendation to the Board of County Commissioners regarding whether the preliminary plat subdivision be approved, approved with conditions, or denied as proposed. Prior to making any recommendation for approval, the Planning Commission shall make the following written findings:

(a) That the proposed subdivision conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;

(b) That the County Engineer, or designee, has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

(c) That the proposed subdivision meets the requirements of this chapter;

(d) That the public interest will be served by the proposed division and dedication;

(e) That appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

(f) That the Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,

(g) If any portion of the proposed subdivision is located within an irrigation district, that the applicant has complied with RCW 58.17.310 as it now exists or is hereafter amended.

[Ord. 612 (2018) § 39]

9.05.090 DISAPPROVAL DUE TO FLOOD, INUNDATION, OR WETLAND CONDITION.

(a) Pursuant to RCW 58.17.120 as it now exists or is hereafter amended, the Planning Commission shall consider the physical characteristics of a proposed subdivision site and may recommend disapproval of the proposed subdivision because of flood, inundation or wetland conditions.

(b) If consistent with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC, as amended, construction of protective improvements may be required as a condition of approval and such improvements shall be noted on the final plat.

(c) No preliminary plat shall be approved that includes land situated in a flood control zone as provided in Chapter 86.16 RCW, as it now exists or is hereafter amended, without the prior written consent of the Washington State Department of Ecology.
[Ord. 612 (2018) § 40]

9.05.100 PLANNING COMMISSION RECOMMENDATION FOR A PRELIMINARY SUBDIVISION.

The Planning Commission's written record, including its findings, conclusions and recommendation, if any, shall be submitted to the Benton County Board of Commissioners no later than fourteen (14) days from the date of the execution of the written recommendation by the Chairman or Chairman Pro Tem of the Planning Commission. The Planning Administrator shall forward the Planning Commission's recommendation to the Board of County Commissioners for the Board to consider the application.
[Ord. 612 (2018) § 41]

9.05.110 PRELIMINARY PLAT APPROVAL.

(a) Upon the Board of County Commissioners receipt of the Planning Commission's written record and recommendation, if any, the Planning Administrator shall set a date for a closed record appeal for the Board to consider the application. Following its closed record appeal, the Board of County Commissioners may adopt, modify or reject the recommendation of the Planning Commission. The decision of the Board of County Commissioners to approve, conditionally approve or deny the preliminary plat shall be based on the written record prepared by the Planning Commission. The decision of the Board of County Commissioners shall be in writing and effective upon its adoption.

(b) The Board of County Commissioners' decision to approve, conditionally approve or deny the preliminary plat shall be made within ninety (90) days of the County's receipt of the complete preliminary plat application, except as follows:

(1) If an Environmental Impact Statement is required, the ninety (90) day period shall not include the time spent preparing and circulating the statement;

(2) If the plat is located in a flood control zone as provided in Chapter 86.16 RCW as now existing or hereafter amended, the ninety (90) days shall be extended if necessary until the project receives written approval from the Department of Ecology; or

(3) If the applicant consents in writing to an extension of such ninety (90) day period.

A copy of the resolution, along with the findings and conclusions, indicating the action of the Board of County Commissioners shall promptly be sent to the Planning Department, the County Engineer, the County Assessor, the Benton-Franklin Health District, the applicant, the applicant's surveyor, to any person who submitted substantive comments on the application and to any person who, prior to the rendering of the decision, requested notice of the decision.

(c) The Board of County Commissioners, if it approves the preliminary plat, authorizes the applicant to proceed with the preparation of the final plat in accordance with all the requirements of this chapter and any conditions of preliminary plat approval imposed by the Board of County Commissioners.

(d) Preliminary plats approved on or before December 31, 2007 shall be effective for ten years from the date of approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the ten (10) year period unless:

(1) A final plat for all phases has been submitted, reviewed and signed by the Chairman of the Planning Commission and all required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or

irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; or

(2) A written application for time extension has been submitted to the Planning Administrator at least thirty (30) days prior to the expiration of the ten (10) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the ten (10) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

(e) Except as otherwise provided in subsection (f) below, preliminary plats approved on or after January 1, 2015 shall be effective for five (5) years from the date of approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the five (5) year period unless:

(1) A final plat for all phases has been submitted, reviewed and signed by the Chairman of the Planning Commission and all required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; or

(2) A written application for time extension has been submitted to the Planning Administrator at least thirty (30) days prior to the expiration of the five (5) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the five (5) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

(f) Preliminary plats that were approved between January 1, 2008 and December 31, 2014 shall be effective for seven (7) years from the date of such approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the seven (7) year period unless:

(1) A final plat for all phases has been submitted, reviewed and signed by the Chairman of the Planning Commission and all required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; or

(2) A written application for time extension has been submitted to the Planning Administrator at least thirty (30) days prior to the expiration of the seven (7) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the seven (7) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

[Ord. 612 (2018) § 42]

9.05.120 PHASING.

(a) Any subdivision may be developed in phases or increments. Phasing of short subdivisions is not permitted. A master phasing plan shall be submitted with the preliminary plat for approval by the Planning Administrator. The phasing plan may be approved provided:

(1) The phasing plan includes all land identified within the legal notice; and

(2) The sequence of phased development is identified by a map; and

(3) Each phase has reasonable public or private infrastructure to support the number of dwelling units contained in that phase; and

(4) Each phase constitutes an independent planning unit with facilities, adequate circulation, and any requirements established for the entire subdivision; and provided that any unfinalized portion meets the minimum lot size of the underlying zone for the proposed use; and

(5) The County Engineer approves the necessary documents so that all road improvement requirements are assured for that phase.

(b) A phasing plan may be amended following preliminary approval. Said plan may be approved administratively provided the above criteria are met.

[Ord. 612 (2018) § 43]

9.05.130 LARGE DEVELOPMENTS.

When a developer or group of developers have in their control an area of land which they wish to plat, they may prepare a preliminary plat of the entire area of the development. Once the total preliminary plat is approved, the project may be final platted and developed in two or more phases provided that:

(1) Each phase is final platted in accordance with the provisions of Chapter 9.07 BCC Final Plat and the provisions of preliminary plat approval; and

(2) Each final plat is developed to allow for the systematic and logical extension of roads and utilities; and

(3) No final plat for any phase may be submitted after the preliminary plat for the entire area of the development has expired pursuant to BCC 9.05.110.

[Ord. 612 (2018) § 44]

9.05.140 AMENDMENTS TO PRELIMINARY PLATS.

An approved preliminary plat may be amended prior to submission of a final plat in accordance with the following criteria and limitations. Such a request for amendment shall be submitted on a form provided by the Planning Administrator. The Planning Administrator shall determine whether to process a proposed amendment as a minor or major amendment.

(a) Minor Amendments. Minor amendments may only address changes to an approved preliminary plat that the Planning Administrator determines fall within the scope of the original approval and do not have the likely potential to increase impacts to governmental agencies or surrounding properties.

(1) General Requirements. Any additions or expansions proposed through minor amendments that exceed the requirements of this section shall be reviewed as a major amendment and shall be subject to current development regulations.

(2) Planning Commission Review. A copy of all applications and any pre-decision Department recommendation that exists shall be routed to the Planning Commission. The Planning Commission may provide comments to the Planning Administrator regarding the preliminary plat amendment proposal.

(3) Required Written Findings and Determinations. The Planning Administrator's written decision on a minor plat amendment shall include findings and conclusions, based on the record, to support the decision. A proposed minor plat amendment shall not be approved unless the Planning Administrator makes written findings that:

(i) The proposal does not result in a change of use of any proposed lot from what was identified in the original approval;

(ii) There are no proposed changes to conditions of approval;

(iii) Proposed changes to the proposal will not modify the intent of the original decision or result in increased storm water, traffic, open space, noise or any other type of impacts to the surrounding property owners;

(iv) The perimeter boundary of the original site is not being increased;

(v) The change does not increase the number of residential lots, residential units, or residential density;

(vi) The proposed change does not increase the number of dwelling units on any lot created by the plat;

(vii) The proposal does not reduce the designated buffers or open space set forth in the preliminary plat;

(viii) Access points identified on the preliminary plat are not reduced, increased or significantly altered;

(ix) The amendment will not negatively impact the future owners of the lots, tracts or parcels created by the subdivision;

(x) The proposal does not reduce required setbacks;

(xi) The proposal does not alter the location or grade of any public roadways; and,

(xii) The proposal does not alter the course of any drainage way or drainage easement.

(4) Approvals. After reviewing comments, if any, of the Planning Commission, the Planning Administrator has the authority to approve or deny any proposed minor amendment and may impose additional or altered conditions and requirements

as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable County codes and state laws.

(b) Major Amendments. Any proposed amendment to an approved preliminary plat that is not considered minor by the Planning Administrator shall constitute a major amendment. The following are required for all proposed amendments that are not considered minor amendments by the Planning Administrator or that the Planning Administrator elects to have considered under the criteria and limitations for major amendments.

(1) Open Record Hearing Required. The Department shall set a date for an open record hearing before the Planning Commission after all requests for additional information under BCC 9.05.030(a)(9) have been satisfied and, if applicable, either a determination or a mitigated determination of non-significance, or an environmental impact statement, if required, has been issued pursuant to the State Environmental Policy Act (SEPA). The open record hearing shall follow the procedures set forth in BCC 9.05.040 and BCC 9.05.070.

(2) Other Land Use Actions. Any amendment that requires a discretionary permit other than those granted in conjunction with the original preliminary plat approval shall require the approval of such permit before or with the decision on the proposed major plat amendment.

(3) Written Findings and Determinations. The Planning Commission shall consider making a written recommendation and the Board of County Commissioners shall make the final decision on a proposed major amendment following the same procedure and the same criteria as for the initial decision to approve, conditionally approve or deny the preliminary plat. Additionally, the proposed preliminary plat, as amended by the proposed major change, shall not be approved unless the Board of Commissioners can and does make the written findings required for the approval of all preliminary plats.

(4) Approvals. The Board of County Commissioners has the authority to approve or deny any proposed major amendment and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable County codes and state laws.

[Ord. 612 (2018) § 45]

9.05.150 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 612 (2018) § 84]

9.05.160 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.

[Ord. 612 (2018) § 85]