



DEVELOPMENT ADVISORY – Number: 13

April 2, 2010

I. Proffer Management

Most stakeholders in the development community understand the role proffers serve in the development process. Proffers are often the mechanism to ensure projects are timely, consistent with adjoining properties, and do not adversely affect public facilities. Proffers are also utilized by developers to address citizen concerns.

Less visible to the development community are the processes the City utilizes to review, track, and enforce the proffers after adoption. Based partially on events that occurred in the beginning of 2009, the City performed a detailed review of how we manage proffers from initial offering to final execution. This review indicated that improvements were needed in all aspects of the City's proffer management processes.

While this may appear to be an internal City practice, some facets of the proffer tracking process have a direct effect on the development community. Please review the following development related impacts on the City proffer management process.

1. The City will review proposed proffers during the rezoning process to determine whether the proffered requirements will be manageable with current resources. Applicants offering proffers should draft clear, specific, and measurable proffer requirements. Proposed proffers should have appropriate completion times. Frequently, citizens have claimed that some proffers are hollow unenforceable promises, disparaging this aspect of the development process. It discredits both City staff and the development community when there is non-compliance with project proffers. The City feels that we can better work with applicants to ensure proposed proffers adequately address issues and ensure appropriate execution and enforceability.
2. Timing triggers for the execution of proffers need to be concurrent with other typical development milestones such as; plan approval, plat recordation and building permit issuance. Non-standard timing elements present enforcement challenges that ultimately could discredit the developer, staff, and the development community as a whole. Therefore, timing will be carefully considered in the review of proposed proffers.

3. Proffers that run with the land perpetually are in essence zoning ordinances that are only applicable to specific properties. This type enforcement is particularly complicated. The public often has higher expectations of proffer enforcement. If proffers are not enforced through typical development milestones, it will likely occur on a citizen complaint basis. Therefore, the City will carefully consider the value of perpetual proffers in the future.
4. In some instances, such as with cash proffers offered under the Proffer Policy, the City recommends that the proffer follow model language prepared by the City Attorney's Office. This helps address standard legal issues associated with the subject matter of the proffer.

II. Minimizing Review Time

The City has made multiple changes in the past year to improve the quality of customer service in the development process. There have been improvements as a result of these changes, in most cases, but there are still areas where the process can function better. The development community's contribution to a timely process is essential. The Preliminary Process (Rezoning and Use-Permits) is extremely time sensitive to accommodate the schedules for proffer acceptance, staff reports, and advertisements for Planning Commission and City Council meetings. If staff does not get timely submittals of plans, proffers, and stipulations; projects can be significantly delayed and citizens inconvenienced. In the past, City staff has routinely expedited projects with added risk of inadequate review. However, it is the City's policy that advertisements for public hearings cannot be submitted without final proffers/ stipulations. As an example, we recently received the first draft of proffers for a major development on the deadline to receive final proffers. The project ultimately had to be continued because there was insufficient time to review and make recommended changes to the proffers. City staff will do what we can to expedite projects, but applicants must assist by providing timely information. For any given project, we cannot advance projects without adequate consideration. It would be a disservice to citizens, City Council, and Planning Commission to expedite a development at the expense of proper evaluation.

Therefore, the City is taking this opportunity to reiterate the importance of finalizing all aspects of an application in a timely manner, to avoid delays in the development process.

III. New Curb Ramps

[Development Advisory Number 2](#) announced pending revisions to the City's standard handicap ramps. Although the ramp standards currently in the PFM are cut and pasted from VDOT standards, they have little application in the City due to the assumed 12' of right-of-way behind the curb, and we do not typically abut the sidewalk against the curb. In order to be in conformance with VDOT and ADA/ADAAG criteria, and to accommodate ramps within the 9.5' behind the curb, new curb ramp standards are proposed.

The details illustrate the typical scenarios (diagonal, parallel and with entrance).

- [CURB RAMP – Diagonal Application – CR-1A](#)
- [CURB RAMP – Parallel Application – CR-1B](#)
- [CURB RAMP – Detectable Warning Detail – CR-1C](#)
- [Commercial Entrance for Curbed Streets – CG-10](#)

The primary changes include a platform area, wider ramp in lieu of wings, and sloping that allow the curb ramp to remain in the standard right-of-way. Additionally, there will only be one type CG-10-Commercial Entrance. These standards will apply to new plans submitted 30 days from date of this Advisory. **We encourage your input; please contact Tom Crawford at tcrawford@cityofchesapeake.net with any comments.**

IV. PFM Update

To date, the City has not received significant comments on the draft PFM posted for review with Development Advisory Number 12. Therefore, the final version of the PFM will be posted on May 1, 2010 and will become effective July 1, 2010 for any plans submitted after this date.

V. Electronic Submissions

Embedded in Development Advisory Number 12, in Chapter II of the proposed draft PFM, was a new requirement for electronic submissions:

“An electronic submission on CD is required in either AutoCAD or Microstation format along with PDF (Adobe Acrobat) files. Ensure Public Utilities items are provided on separate layers (See the Development, Land Use & Construction website for further electronic requirements and example AutoCAD template). The as-built coordinate data for all sanitary sewer manholes is to be provided and manholes redrawn to actual coordinate data. Submit CD immediately following the Utility Final Inspection.”

Additionally, some electronic submission requirements were distributed addressing layer management and other recommendations. We have already received feedback expressing concerns. These include firms that prepare CRDs, but were not responsible for the original design and do not use AutoCAD to prepare CRDs. Whatever the format decided upon, the primary goal is to use the data to update the GIS stormwater and utility layers and make available on-line.

The electronic submission requirements will be fine-tuned once all input is received. Consultants and firms should submit comments to Lawrence Hiebert at lhiebert@cityofchesapeake.net.

VI. Residential Site Plan Review - Lot Grading

There has been two recent developments in the City's administration of residential site plan review that warrants community notification.

1. Site Plan Review For Non-Curb and Gutter Streets

There are many infill lots throughout the City that are located in subdivisions without curb and gutter. Most of these lots do not have approved lot grading plans, and they rely on roadside drainage/ditches. The City has determined that it will be necessary for Development and Permits – Engineering to review these site plans prior to issuance of a building permit, to insure adequate provisions are made for lot grading and culvert/entrance improvements. This review will not require any additional efforts or steps by the builder/engineer. The site plan will still be submitted with the building plans when application is made for a building permit. While the Code Compliance Division is reviewing the building plans, Zoning will send the site plan to Engineering for review and approval. In the event there are revisions or additional information needed on the site plan; the engineer will be notified within approximately 5 days by Zoning. This process has been underway for 7 months with little effect on the process. We have determined that this review is needed in these situations to insure existing communities are not adversely impacted by the development of infill lots.

2. Site Plans For Building Permits

The Zoning Ordinance (§18-500, 18-601) requires residential site plans for building permit issuance and provides the standards for these plans. Section 18-601 B.g. requires a note stating “lot grading shown herein is in accordance with the latest approved subdivision construction plans”. This statement can only be made in an unedited form if there is an approved subdivision construction plan that provides a lot grading design. It has been our recent experience that surveyors and engineers make this statement when an approved subdivision lot grading plan does not exist as well as when the surveyor or engineer alters the intent of the original approved plan. **Accurate use of this statement is critical to an expedited review. If continued inaccuracies are found, a more detailed review procedure will be required to resolve the situation.**

If it is necessary to provide a new lot grading design or modify the approved plan, we suggest the following modified note be provided on the site plan;

Survey/Engineering Firm ***has provided alternative lot grading that does not match the approved subdivision lot grading plan.***

With the added modification, Engineering will provide a quick review, concurrent with the building plan review. We do not anticipate the builder/applicant will see any changes in the building permit issuance process. Please help us maintain a streamlined review process by providing the appropriate notes on the site plan.