

**CITY COUNCIL  
STAFF REPORT**

**UDC Text Amendment per the Annual Review Process**

**CASE NUMBER:** PLN-16-00011; Subdivision Plat Waiver Process

**PREPARED BY:** Susana Montana

**MEETING DATES:** January 9, 2017 – City Council 1<sup>st</sup> Read  
January 18, 2017 – Public Service Committee 1<sup>st</sup> Read  
January 23, 2017 – City Council 2<sup>nd</sup> Read  
February 7, 2017 – Public Service Committee  
February 13, 2017 – City Council 3<sup>rd</sup> Read for Adoption

**PROPOSED PROJECT:** Subdivision Plat Waiver UDC Amendment

**APPLICANT:** Mr. Kelly Hafner

---

**EXECUTIVE SUMMARY**

Within the City's Unified Development Code (UDC) is a provision for an Annual Review of any of the regulations or standards within the code. This process is intended to keep the regulations current, responsive to market forces, and able to meet the purposes of the regulations throughout changing community preferences and values.

This year Mr. Kelly Hafner, on behalf of his client Habitat for Humanity of Cheyenne, requested a review of the UDC requirements for a surveyed map, called a plat map, for minor divisions of land. Mr. Hafner seeks such a waiver to save his client the costs of having a property surveyed and a plat map created and stamped as accurate by a certified surveyor which could cost up to \$2,000.

His proposed amendment would add a provision to Article 2 of the UDC that would exempt lot splits, replats and lot line adjustments that create up to three new lots. This would be consistent with State of Wyoming Statutes which requires surveyed plat maps to be recorded for divisions of land creating three or more lots (WY Title 34, Chapter 12, Section 34-12-102).

Staff opines that the benefits of recording a surveyed plat with the signature and stamp of a certified surveyor is a warranty or guarantee that the lot a buyer is purchasing is buildable, has legal access from a public right-of-way, and all legal easements are shown on the plat map. These are assurances that a financial institution typically seeks and the current UDC plat map requirement provides those assurances. The current UDC process for Administrative Plats,

Section 2.1.1., allows for lot line adjustments for up to 4 lots and simple subdivisions for up to 3 new lots. The Administrative Plat requires a sign to be posted on the property to alert the public of an impending action but requires no public hearing. The plat can be approved administratively after review by City agencies. The Administrative Plat submittal does require a surveyed plat map stamped by a licensed surveyor.

Staff recommended denial of the Applicant's request for a waiver from plat map requirements in favor of keeping the current Section 2.1.1. Administrative Plat process.

However, since the time of the first waiver request submittal by the Applicant, staff has met several times with Mr. Hafner and Ms. Wright of Habitat for Humanity of Cheyenne and both parties have discussed and accepted a compromise waiver amendment. This revised waiver proposal would grant an exemption from the plat mat requirement for minor land divisions such as lot line adjustments. Staff supports this compromise amendment should the Governing Body seek a land division process for lot line adjustments without the recording of a plat mat. The minor land division would be accomplished by a warranty deed or affidavit recorded with the County Clerk. Such an amendment is shown in Attachment C.

**Planning Commission Action.** On January 3, 2017, the Planning Commission voted (5 to 0) to recommend adoption of the amendment to the Governing Body.

**BACKGROUND.** On November 25, 2016, Mr. Kelly Hafner submitted an application for a text amendment to the City’s Unified Development Code (UDC) as part of the UDC Section 1.1.7 Annual Review process. The request was to amend the UDC to allow for waivers or exceptions from the platting process for minor divisions of land such as lot splits creating new lots or for lot line adjustments.

This process would differ from the current Administrative Plat process in that no survey work or surveyor-stamped drawing of the property and lots (plat map) would be required. Per the Applicant’s submittal (see Attachment A):

*“A formal administrative waiver or subdivision exception process should be added to the City Code (in accordance with State Statutes regarding subdivisions) that allows for an applicant to request for a waiver should they pursue a division of a parcel of land by other means than the creation of a new subdivision plat.”*

*“Platted lands in residential or mixed use zoned areas (at the time of the division of land) that do not require any dedication of lands or rights-of-way to the public and meet the requirements of the current Wyoming State Statutes are exempt from the platting or replatting requirements as outlined within this section.”*

In this scenario, all replats of land creating two new lots could be granted an exemption or waiver from submitting a subdivision application meeting the requirements of an Administrative Plat. No survey or plat map would be required. The City’s Administrative Plat process currently accommodates a “simple subdivision” involving the division of land resulting in no more than 3 lots per Section 2.1.1. b.4. However, a plat map stamped as accurate by a certified surveyor is required for this application.

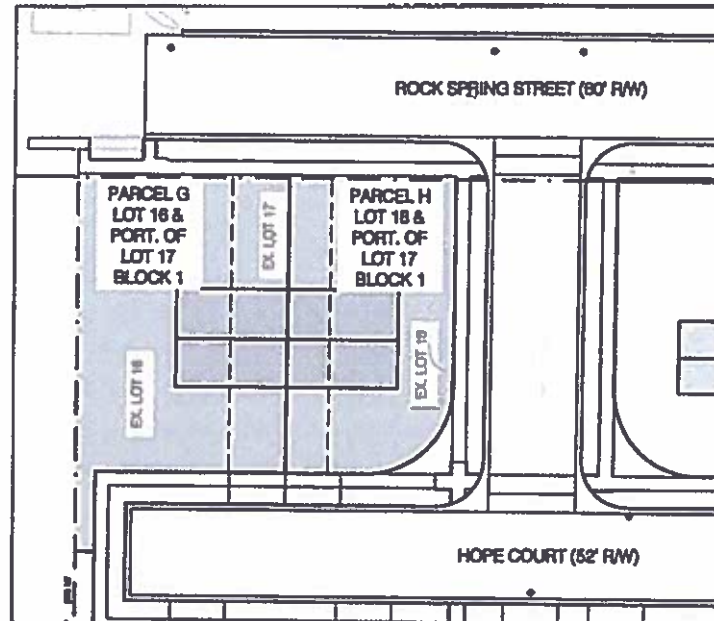
The Administrative Plat process also allows for lot line adjustments affecting no more than 4 lots as well as easement adjustments or revised final plats involving minor lot line changes due to adverse field conditions such as terrain that would not support a utility, road or another plat feature.

The Applicant goes on to state:

*“It is recommended the waiver request be reviewed by the City Surveyor, Planning Department, and a final determination made by the City Engineer and the Development Director.”*

The Applicant suggested that the genesis for his request was the desire by one of his clients, Habitat for Humanity of Cheyenne (Habitat), to avoid the expense of paying for survey work, plat map production, and Administrative Plat application fees for minor adjustments to lot lines for properties they seek to develop in a way that does not conform to the Site’s current lot configuration. Examples are shown below.





Since May of 2016, staff has met with the Applicant and Ms. Kate Wright, Director of the Habitat for Humanity of Cheyenne organization, to identify the types of divisions of land they would like exemptions for. In their view, an exemption or waiver should not require a stamped Certificate of Surveyor for the legal description or lot map which would save thousands of dollars for the Applicant. This is the genesis and purpose of the Applicant's amendment request.

## STAFF EVALUATION

### UDC SECTION 2.4.1 TEXT AMENDMENT REVIEW CRITERIA

Section 2.4.2.d identifies review criteria for proposed text amendments to the UDC. The following evaluation identifies those 3 review criteria and describes how the proposed amendments address each.

1. *The amendment is in accordance with general goals and policies of the Comprehensive Plan, or is necessary to address an emerging issue not anticipated in the Comprehensive Plan and is not inconsistent with the plan.*

*"PlanCheyenne's Community Foundation Number 2—Creating Livable Hometown Neighborhoods-- addresses ways to protect and strengthen existing neighborhoods in the Cheyenne Area and promotes development of future neighborhoods that are livable, walkable, and that have access to urban utilities and other community services"* [PlanCheyenne page 43].

The UDC's existing Administrative Plat process positively addresses this principle and further states: *"Administrative plat procedures are intended to provide expedited review and approval for minor adjustments to legal boundaries, easements and title of property for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the City's long-range comprehensive development plan."*

The Applicant's proposed amendment to the UDC to allow a waiver from the subdivision process for minor amendments (less than 3 lots) would not be consistent with the UDC Amendment Review Criteria Number 1. If waivers are allowed for lot splits of all previously platted lots, the existing subject neighborhood could be overburdened by traffic and noise that cumulatively and incrementally such increased density may bring. This would not address the PlanCheyenne Community Foundation Number 2.

*2. The amendment is consistent with the Wyoming Statutes, and specifically the Municipal Planning and Zoning Statutes.*

The State of Wyoming Statutes, Title 34, Chapter 12, and Section 102 describe the rules and regulations for the division of land. It states that any owner of land seeking to subdivide his/her land into three or more parts shall cause a plat of such subdivision to be made. The Section goes on to state that the subdivision plat must comply with local subdivision regulations.

The City's UDC Subdivision regulations do not stipulate the content of a division of land map or plat application. Rather, the City's Subdivision Application Form has a check list describing the required content of the application and plat map. This check list is shown as Attachment B. These required contents of a plat are typical standards used by most jurisdictions in the US.

The Applicant for this subdivision waiver amendment to the UDC seeks to follow the State statute about requiring a plat map for divisions of land into 3 or more parts. He also seeks a local provision to allow the division of a platted lot into two lots to be exempt from the City's subdivision process and subject to a waiver that would not require a survey or plat map of the properties in question. The Applicant would submit an application to the City for review by the City Engineer, Surveyor and Planning & Development Director, although he does not state what those officials would be looking for or signing off on. The application may be as simple as a property legal description and a scaled drawing of the new lot configuration.

#### Divisions of Land That Would Qualify for the Applicant's Proposed Exemption or Waiver

Some of the types of minor divisions of land both Ms. Wright and Mr. Hafner suggested should qualify for a waiver or exemption are:

1. Moving lot lines to create an additional lot within a previously-filed subdivision;
2. Moving lot lines to decrease the number of lots ("lot combos");



3. Moving lot lines to accommodate existing development that crosses a lot boundary; and
4. Moving lot lines to better accommodate a specific type of residential development such as attached duplex homes or townhomes.

Under the first example listed above, “moving lot lines to create one or two more lots within a previously-filed subdivision”, if done in successive applications, could result, over time, in a doubling or tripling of the density of an existing neighborhood. The limit of the number of lots that could be divided through this exemption would be the zoning designation density limit. For example, in an MR-2, Medium-density residential zone neighborhood, such as Saddle Ridge, a 10,000-square foot (sf) single-family lot could be divided into three duplex or townhouse lots of 3,000 sf each. With the proposed exemption, this could take place on a vacant lot within a fully developed neighborhood. This may adversely change the character of the neighborhood. Often when homeowners purchase a home within a neighborhood, there is an expectation that a vacant lot near their home would be developed in a similar manner and density as their own and neighboring lots.

Therefore, even if the zoning district density would allow such an increase in density, staff feels such a change in density should go through the existing Expedited plat (preliminary and final plat) public notice and public hearing re-platting process to inform neighboring property owners of this proposed change in the character of the neighborhood.

The second and third examples are minor lot line adjustments that are currently accomplished through the City’s Administrative Plat process. There is a \$125 application fee. A survey of the new lot(s) with a plat map showing the new lot lines and legal description of the new subdivision is required with the application.

The Administrative Plat process is reviewed by the City Surveyor, City Mapping, Development Department, utility companies, and the County Clerk, County Assessor and County Attorney. The reason for this review is (1) to ensure that the new lot lines and new plat legal description and survey meet State, County and City standards; (2) to provide any prospective buyer of any lot within the plat with the full and legal description; (3) to show all legal easements on the lot upon which the owner may not build structures; and (4) to ensure that the buyer is purchasing a buildable lot under the current zoning designation.

The most important reason for the survey work is to make sure the new lot lines are correct, the bearings and lot corner closure notes are correct, and that it represents a legal lot. The survey would show any easements that must be carried forward to the new lot such as utility, drainage or access easements granted to the subject lot or adjacent lots. There may be restrictions on lots that must be carried forward on the lot as General Notes, such as preventing direct access to a collector or arterial street, floodplain status or unique setbacks. All of this is important information for the prospective buyer of a lot and is information that should be carried forward to the new lot by way of a plat map with General Notes.

The fourth example noted above, “Moving lot lines to better accommodate a specific type of residential development such as attached duplex homes or townhomes”, can be accomplished with the current Administrative Plat process as a lot line adjustment affecting no more than 4 lots (UDC 2.1.1.b.3).

The Administrative Plat process requires a surveyed plat map with a legal description, a posting of a sign on the property to advise neighboring property owners of a change in the lot size or configuration, the plat is sent to applicable City agencies for review and comment, and within 15 days, the application will be acted on by the Director.

*3. The amendment promotes the general health, safety and public welfare.*

A waiver provision for a minor land division involving a one-time lot line adjustment of just two abutting lots would positively address this Review Criterion and staff offers a text amendment that would address this criterion. That text amendment, described in Attachment C to this report, would limit the waiver to one-time lot line adjustments. This would insure that the lot is a legal, buildable lot.

---

## **STAFF CONCLUSION**

Staff believes that the current Administrative Plat process of UDC 2.1.1 is the most efficient and streamlined process to ensure that a prospective buyer of a lot in the City is buying a legal and buildable lot.

The greatest expense of this process is for the survey work and stamped certification of the plat map which could cost \$1,600 to \$2,000 for the Applicant. A waiver or exemption that does not include surveying of the lot and a stamped plat map would eliminate this expense. However, staff believes it would be at the cost of eliminating the security to a prospective buyer that s/he is buying a legal and buildable lot.

Therefore, staff recommends denial of the request for exemption or waiver of minor land divisions, per the Applicant’s request, in favor of keeping the current Administrative Plat process.

However, as noted earlier, a compromise amendment has been crafted by staff to satisfy the Applicant’s request for a waiver for lot line adjustments affecting no more than two lots. Should the Commission wish to support this compromise amendment, staff has prepared such an amendment shown in Attachment C. Staff believes such an amendment should meet the following criteria to assure that the resulting lot is legal and buildable.

1. The division of land should qualify as a lot line adjustment affecting no more than two lots and involving only increasing and reducing the size of contiguous lots;
2. The waiver process would be used only once for any created lot; and
3. The division of land meets the review criteria of UDC 2.1.1.d. for Administrative Plats.



To assure that these criteria are met, staff recommends the following application process.

Suggested Subdivision Waiver Application Process.

After a mandatory pre-application meeting, the Applicant would submit the following application for review by the Development Director or his/her designee. It would be the prerogative of the Director to send the application to relevant City Agencies for review. The proposed division of land application would include:

- a. A dimensioned plot plan, to scale, of the land showing existing structures, if any (an "as built" plot plan);
- b. A dimensioned plot plan showing the proposed lot lines with the current lot lines shown in shadow lines ("ghosted") and showing all existing and proposed easements, if any;
- b. Contact information for the current owner(s) and the Applicant and the Agent for the Applicant, if different; and
- c. The application should be signed by all property owners of the subject land area, as currently recorded in the County Assessor's Office.

The Director would have the authority to waive or add submittal requirements in cases where it is determined that the standard submittal information is not needed or if additional information is necessary to accomplish the objectives of this Code.

It is anticipated that the review of this application would take place within the same 7 to 15 day-review period of the Administrative Plat. Once the Director and City Engineer have approved and signed the land division document, the material may be recorded with the County Clerk.

**Staff Recommendation**

Staff recommends denial of the request for exemption or waiver of minor land divisions, per the Applicant's request, in favor of keeping the current Administrative Plat process.

However, staff suggested to the Commission that the text found in Attachment C would provide an effective and workable compromise waiver process. Should this amendment be adopted by the Governing Body, staff would produce a Division of Land application form and check list. It is anticipated that such a minor land division waiver application could be submitted to the City from 12 to 20 times a year. If the amendment is adopted, the Development Department Director would decide if an application fee is warranted.

**On December 5, 2016, the Commission voted to recommend the compromise amendment shown in Attachment C to the Governing Body for adoption.**

---

Attachment A: Mr. Kelly Hafner’s UDC Amendment Request Form Seeking A Subdivision Waiver or Exemption Process.

Attachment B: Current City Administrative Plat Subdivision Application Check List.

Attachment C: Staff suggested compromise UDC amendment text providing a subdivision plat waiver process for minor land division applications.

Amending Article 2 of the Cheyenne Unified Development Code

Proposed Amendment-Initial Draft 11-17-15

Attachment A

2.1.5 Exceptions: <Added Section>

a. Intent. It is recognized that lot line or boundary adjustments of platted lots in residential areas is a common occurrence. Such occurrences include 'splitting' for final duplex residential ownership, final townhome residential ownership, single family ownership, adjustments for zoning setbacks, and other divisions solely between individual property owners. The intent of this exemption is to reduce the burden to the public for filing a new subdivision plat (or replat) for local divisions of land which would have otherwise been allowed under Wyoming State Statutes. Subdivision of land under this section may not exempt other sections of the code including, but not limited to, impact studies and improvements to the surrounding infrastructure.

b. Applicability. Platted lands in residential or mixed use zoned areas (at the time of the division of land) that do not require any dedication of lands or rights-of-way to the public and meet the requirements of the current Wyoming State Statutes are exempt from the platting or replatting requirements as outlined within this section. No action through the City development process may be required subject to review from the Director, City Engineer, and City Surveyor. The Director shall develop a checklist and requirements for narrative submittal along with a conceptual plan for a waiver for replatting the development. A Plot Plan or Site Plan will be sufficient for previously development lots. A sketch plan or similar may be required for division of more than four lots, at the discretion of the Director. The subdivider is solely responsible to verify the final division(s) of land is compatible with all applicable zoning requirements.



## DEVELOPMENT SERVICES – ADMINISTRATIVE PLAT 2.1.1

Attachment B

Unified Development Code (UDC) Article 2, Applications, Procedures and Criteria provide the steps for applying the Unified Development Code standards to specific development applications. It includes the technical steps in the development review process and criteria for evaluating development applications. It is useful to anyone who may become involved in development review, including City staff, public officials, potential applicants and citizens.

Applicable process and procedures are located in UDC 2.1.1

1. Pre-application meeting date held. \_\_\_\_\_
2. Master Application Form (original signature)
3. Applicable Fees (see fee schedule)
4. Admin. Plat Map – Two (2) hard copies folded to a size not greater than 10" x 13" and one (1) digital copy or Development Dropbox (<https://filedrop.cheyennecity.biz/filedrop/~ZXqExS>).
5. Administrative Plat Map Checklist
6. Submit one hard copy and one digital copy or Development Dropbox of the following:

The following submittals are required

- *Transportation Worksheet or Traffic Study. Requirements for a traffic study are describe in Article 3 of the UDC.*
- *Drainage Worksheet or Drainage Study. Requirements for a drainage study are described in Article 3 and Appendix H of the UDC.*
- *A brief narrative of the adjustment which may be included on the plat as a note.*
- *Other as determined by Development Director after pre-application meeting (may include Alta surveys, plot plans, existing conditions, narratives or other additional information)*
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

Signature of Development Office representative to confirm initiation of the Admin Plat Process

\_\_\_\_\_ Date \_\_\_\_\_

Attachments: YES or NO

Project Name and Description: (Completed by Staff).

(Rev.: 010715, SLL)



## DEVELOPMENT SERVICES – ADMIN. PLAT CHECKLIST 2.1.3

Unified Development Code (UDC) Article 2, Applications, Procedures and Criteria provide the steps for applying the Unified Development Code standards to specific development applications. It includes the technical steps in the development review process and criteria for evaluating development applications. It is useful to anyone who may become involved in development review, including City staff, public officials, potential applicants and citizens.

1. Subdivision name in lower right hand corner, including the tract or parcel of which the subdivision is a part, as well as the Section, Township and Range from the sixth principal meridian, County and State.
2. Space shall be provided to record filing by County Clerk's Office.
3. Dedication and acknowledgment statements executed by all owners of legal and equitable interests in the property being subdivided, including deeds and contracts for deeds.
4. Dates of preparation, written scale, graphic scale and north arrow designating true north. The top of the sheet should be north, if practicable.
5. Location of land, other than roads, intended to be dedicated for public use or for the use of all property owners in the proposed subdivision. Such land shall be identified by a lot and block number.
6. Certification by a Wyoming Land Surveyor to the effect that the plat represents a survey made by him/her or under his/her direct supervision and that all information shown is correct to the best of his/her knowledge.
7. Provide a signature line for the Planning & Development Director and the City Engineer. Also provide an acknowledgement statement for each. See example below.

### APPROVALS

Approved by the Planning and Development Director this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Planning and Development Director, City of Cheyenne, Wyoming

Approved by the City Engineer this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
City Engineer, City of Cheyenne, Wyoming

### ACKNOWLEDGEMENT

STATE OF WYOMING    )  
  ) SS  
COUNTY OF LARAMIE    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ and \_\_\_\_\_ on behalf of the City of Cheyenne, Wyoming.

\_\_\_\_\_  
Notary Public, Laramie County, Wyoming

My Commission Expires \_\_\_\_\_

8. For subdivision/development in the City or within one (1) mile of City Limits a survey tie(s) by bearing/azimuth and the distance to two (2) of the City of Cheyenne's Horizontal Control Network monuments shall be accurately described on the Admin. Plat.
9. Any differences between bearings/azimuths and/or distances of adjoining record surveys or subdivisions/developments shall be shown on the Admin. Plat.



## **DEVELOPMENT SERVICES – ADMIN. PLAT CHECKLIST 2.1.3**

10. The basis of Bearing/Azimuth on which the survey is based shall be noted on the Admin. Plat.
11. Vacation statement of interior lot lines, if applicable. An executed "Petition to Vacate" signed by all affected owners is required as part of the application packet.
12. Layout shall include the following:
  - a. Boundary lines with accurate distances and bearings (azimuths) and the exact location of all existing or recorded streets intersecting the boundary of the subdivision.
  - b. Where applicable, curve data showing the radius, central angles, arc length chord bearing/azimuth and distance and any notation of non-tangent curves. The location of points of curvatures and intersections shall be shown.
  - c. Location and size of existing and proposed utility, drainage, access or other easements.
  - d. The right-of-way lines, widths and names of all proposed streets or roads within and adjacent to the proposed subdivision.
  - e. The area of each lot in square feet and/or acres.
  - f. The location and amount of land to be dedicated for public facilities, such as parks, if such dedications have been agreed upon by the City. These approved areas shall be assigned a lot and block number.
13. A vicinity map, indicating the location of the subdivision with respect to a larger recognizable area.
14. Any recorded easements or restrictions applicable to the subdivision shall be noted by reference to Register's book and page number. The City will not be involved in the enforcement of deed restriction or covenant instruments.
15. The names of abutting subdivisions or an indication that abutting property is unplatted.
16. Size; 36" x 24" (1½" margin left hand, short side; ½" margin all others)

Rev.: 022714, JGB



Note that this amendment is a NEW subsection To UDC Section 2.1.1 and the additions are noted by underlined text.

## 2.1.1 Administrative Plats

### 2.1.5 Limited Lot Line Adjustment Plat Waiver

a. *Applicability.* The limited lot line adjustment waiver process is applicable for projects affecting no more than two (2) lots and the application meets the following qualifying criteria:

- (a) The adjustment qualifies as a 2.1.1.b.3 Lot Line adjustment; and
- (b) The adjustment does not impact a public right-of-way; and
- (c) This provision is used only once for any lot.

b. After a mandatory pre-application meeting, the Applicant for a qualifying limited lot line adjustment plat waiver shall submit the following material for review by the Development Director or his/her designee. It is the prerogative of the Director to send the application to relevant City Agencies for review. The proposed application would include:

- (i) A dimensioned plot plan, to scale, of the land showing existing structures, if any (an "as built" plot plan); and
- (ii) A dimensioned plot plan showing the proposed lot lines with the current lot lines shown in shadow lines ("ghosted") and showing all existing and proposed easements, if any; and
- (iii) Contact information for the current owner(s) and the Applicant and the Agent for the Applicant, if different; and
- (iv) The application shall be signed by all property owners of the subject land area, as currently recorded in the County Assessor's Office.

The Director shall have the authority to waive or add submittal requirements in cases where it is determined that the standard submittal information is not needed or if additional information is necessary to accomplish the objectives of this Code.

c. *Recording.* Following approval of a limited lot line adjustment waiver, the Director and the City Engineer shall sign the appropriate submittal document(s). The applicant shall then record the document(s) in the office of the County Clerk and be responsible for any associated fees. The applicant shall provide a copy of the recorded document(s) to the Director prior to issuance of any building permit(s) for the subject lands.