



Legislation Text

File #: ID-114-17, **Version:** 1

Department of Community Development

Reference: Residential Growth Pacing Repeal

To: Mayor Richard N. McLean and Members of City Council

Through: Clint Blackhurst, Acting City Manager

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Date Prepared: February 7, 2017

PURPOSE

To amend the Land Use and Development Code in order to remove Article 17-60, Residential Growth Pacing System, from the Brighton Municipal Code.

BACKGROUND

The Residential Growth Pacing Ordinance (Ordinance 1620 as amended), typically referred to as "Pacing," has been in place since the spring of 2000. At that time, Brighton had experienced rapid residential growth, there was unrest among some in the community who had indicated an intent to initiate a restriction on development, and the City Council decided to implement its own regulating ordinance. The purpose of the ordinance was to: 1) promote orderly growth and provide for harmonious development; 2) facilitate adequate provision of utilities and public facilities such as transportation, water, sewer, drainage, parks and open space, schools, libraries, and other public facilities; 3) promote a more balanced community where there is space to live, recreate and work; and 4) ensure that the community character was not eroded.

Part of the required processes in the ordinance is a requirement that the City Council, on an annual basis at the end of each year, establish the number of units to be allocated in the following year. In December of 2004, the City Council suspended setting that number for 2005 and has continued to suspend that requirement of the ordinance each year thereafter, based on its findings that there are adequate infrastructure and services available in Brighton, and based on the lessening demand for new housing. Changes in the development environment, and updates to the Land Use Code and land use review procedures has left the pacing Ordinance with little impact and, in some circumstances, inequitable applicability even upon the recent housing market recovery.

With the suspension of the pacing allocation for over ten years occurring during both high and low housing markets, staff has recommended that the City Council reconsider the need for retaining this additional regulation. Based on the recommendation and review of this pacing Ordinance at the City Council Study Session meeting held on November 8, 2016 staff brought the suspension of pacing allocations for 2017 before the City Council on December 6th, 2016, with the intent of pursuing the repeal of the ordinance in 2017 (as directed by City Council). Because the Residential Growth Pacing regulations are located within Chapter 17, the Land Use and Development Code, two public hearings must be held to consider the repeal; first before the Planning Commission and second with the City Council.

ANALYSIS OF THE PACING ORDINANCE

Over the last decade, staff has observed a trend to address new infrastructure construction of each subdivision through development agreements. Additional staff in the Utilities, Parks, Community Development, and Streets Departments allow for review to determine the requirements necessary to serve each new residential unit. In addition to the construction of infrastructure, impact fees are also collected to help provide services to new residential units. However, the timeframe between the collection of those fees and when service is needed can create a problem if not properly planned. For example, if the growth is significantly higher than previous trends (over 1,000 permits, each year, for several subsequent years), the City's existing facilities may not be able to provide the needed services and advanced planning would be needed to modify existing facilities. To address this matter, staff has been coordinating to create excess water and sewer treatment options through the water and sewer master planning process, and will continue to perform an annual review of current and future needs should concerns arise. In summary, new tools such as updated master plans, additional staff for analysis and future planning, as well as DRC plan review has created an internal staff system which allows staff to address growth without the need of the pacing system. Therefore, slowing the rate of growth (by enacting pacing) would actually result in the collection of fewer impact fees and, therefore, less infrastructure being installed by developers.

Secondly, there is the problem of equity of the application of the existing Ordinance, and its effectiveness should it remain in effect. Analysis included in the City Council Study Session Packet (attached) clearly indicates that the majority of subdivisions under construction and several of the future subdivisions, have requested and been granted an exemption from the pacing requirements. A vast majority of the exemptions either pre-date the ordinance or have been granted to larger subdivisions through the annexation and/or development agreement process. With only a small number of subdivisions subject to the pacing requirements, the use of the pacing ordinance would only provide control over about 10% of the residential development within the City.

Lastly, staff strives to write regulations which create a community that our resident's desire, with a balance between the costs of those regulations and a reasonable need to remain competitive with our surrounding area. The staff recognizes that pacing often creates apprehension for developers and builders interested in Brighton. Many builders base their expected revenues from projected market demand, which is difficult when regulations exist that might limit the number of permits they can obtain. Because enacting pacing could limit the cash flow needed to repay construction loans, it requires a developer to take a certain amount of financial risk. When weighing the effectiveness of the pacing ordinance, it seems that the limited protection it offers (as described in the previous paragraph), is out of balance with its intended purpose. Additionally, it places more risk on some developments when compared with competing subdivisions that are exempt from the ordinance requirements.

PLANNING COMMISSION

Staff presented these findings at a public hearing before the Planning Commission on January 10, 2017. After hearing staff analysis and inviting public testimony, the Planning Commission made a unanimous approval to recommend that the City Council repeal the pacing ordinance. A copy of that recommendation has been attached.

STAFF'S FINDINGS

Based on staff's above analysis, and the feedback received from both the City Council and Planning Commission, staff finds that current staff abilities, procedures, and planning tools exist which no longer justify the continuation of this regulation. Therefore, staff has drafted an Ordinance for the City Council's consideration which will repeal the residential pacing restriction in its entirety.

OPTIONS FOR THE COUNCIL'S CONSIDERATION

1. Approve the Draft Ordinance to repeal Residential Growth Pacing regulations as provided;
2. Approve the Draft Ordinance to repeal Residential Growth Pacing with specific changes; or
3. Request staff to Draft an Ordinance to keep the Pacing regulations in place.

ATTACHMENTS

- Ordinance (draft)
- Planning Commission Resolution 17-01