



## MEMORANDUM

**FROM:** Roger Clark, AICP, Planning and Zoning Director (Zoning Administrator)

**DEPT:** Planning and Zoning

**TO:** Planning Commission

**DATE:** August 10, 2023

**SUBJECT:** Appeal of Zoning Determination for the Cielo Replat

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On July 25<sup>th</sup>, a zoning determination was issued based on a request from the Boone Law Firm on behalf of their client regarding the process for the approval of a final plat through a replat of the Cielo subdivision, a portion of the Milano PUD. The applicant submitted the application for appeal of the determination per Code Section 1.16 on July 26<sup>th</sup> requesting Planning Commission review of the determination. An appeal stays all proceedings in furtherance of the action appealed. You will notice they originally provided an appeal of the zoning determination on July 18<sup>th</sup> based on a discussion with staff that indicated the determination outcome. Staff is forwarding this application to Planning Commission for consideration and determination.

Code Section 1.15.7 provides the opportunity for an applicant to request a written interpretation of the Land Development Code to be provided by the Zoning Administrator. The request has been fulfilled and a determination of the City's requirements regarding the alteration of a preliminary plat and ultimate recording of an associated final plat has been provided. The appellant has also provided their interpretation of the City's code.

Code Section 1.1.2.L.4. includes the Planning Commission's "**General Duties and Responsibilities**", one of which is the "**Commission Has Powers of Zoning Administrator on Appeals; Reversing Decision of Zoning Administrator.**" Below is this code section:

*In exercising the powers mentioned in this section, the Commission may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator appealed and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken. In matters of review, the concurring votes of a majority of the Commission shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the petitioner on any matter upon which it is required to pass under this chapter. Appeals to the Commission concerning interpretation or administration of this chapter or for variance under this chapter may be taken by any person aggrieved or by any officer, agency or board of the City affected by any decision of the Zoning Administrator.*

Included in the agenda packet is the determination issued by the Zoning Administrator along with the applicant's submittal. Planning Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision of the determination of the Zoning Administrator.