



DEPARTMENT:	Reading No.	2
COMMUNITY DEVELOPMENT	Public Hearing	Yes
	Disclosure Required	No
	Item No.	10

SUBJECT

Ordinance No. 2016-21, Land Development Regulations (LDR-2016-04) Transportation Impact Fee Moratorium Extension

BACKGROUND/CONSIDERATION

This is the second reading of an ordinance amending sections of Appendix D, Chapters 3 and 10, City Code relating to the proposed time-certain moratorium on the payment of transportation impact fees, mobility improvements deposits and payment-in-lieu of providing mobility improvements.

On March 8, 2016, City Council directed staff to prepare an ordinance to keep the impact fee moratorium in place for an additional 120 days (April 1, 2016 through July 31, 2016).

The following specific sections of Code are proposed to be amended: Appendix D, Chapter 3, Article X, Sec. 3.102 and 3.103, and Chapter 10, Article I, Section 10.03. The proposed modifications to City Code will continue to provide an economic incentive for commercial/industrial entities contemplating a business location within the City of Melbourne.

On April 7, 2016, the Planning and Zoning Board voted unanimously to recommend approval of the proposed amendments.

FISCAL IMPACT (IF APPLICABLE)

Total Transportation Impact Fee revenue lost since enactment of the ordinance equals \$2,899,973.

REQUESTED ACTION

Recommend approval of Ordinance No. 2016-21, extending the moratorium through July 31, 2016.

MEMORANDUM



*Community Development
Department*

TO: Michael A. McNees, City Manager

THRU: Cindy Dittmer, AICP, Community Development Director

FROM: Cheryl A. Dean, AICP, Planning Manager

RE: Finding of Consistency (FOC-2016-05) and Land Development Regulations (LDR-2016-04) Transportation Impact Fee Moratorium Extension

DATE: March 31, 2016

Proposed Action

Request is to amend sections of Appendix D, Land Development Regulations, Chapters 3 and 10, City Code relating to a proposed time-certain moratorium on the payment of Transportation Impact Fees, Mobility Improvements Deposits and payment-in-lieu of providing mobility improvements.

Location

The proposed ordinance revisions will apply to all properties within the City.

History

On March 25, 2014, City Council approved a one year moratorium on the collection of transportation impact fees/mobility fees effective April 1, 2014 through March 31, 2015.

On March 10, 2015, City Council approved a motion to keep the impact fee moratorium in place for an additional 12 months, from April 1, 2015 through March 31, 2016. On March 8, 2016, City Council approved the motion to provide a 120 day extension of the moratorium through July 31, 2016.

Proposed Ordinance

The ordinance extends the time frame for the moratorium through July 31, 2016. The Code language regarding the requirements to qualify within the moratorium period remains the same.

As before, to be subject to this moratorium and to be exempt from the requirement of providing mobility improvements, paying transportation impact fees, or paying mobility fee in lieu of providing mobility improvements, a property owner, contractor, developer, or

applicant during the effective period of the moratorium must submit a “complete building permit application” for construction of an expanded, new, or redeveloped commercial or industrial use. In addition, the applicant must also submit either: (i) a complete construction plan approval application; (ii) written verification from the City Engineer that a construction plan for the development project is under review by the City Engineer; or (iii) written verification from the City Engineer that approval of the construction plan has occurred and is unexpired and active. To insure that “shell” applications are not submitted the Ordinance provides a lengthy and very specific definition of what is included in the required submittal of a “complete building permit application” and a “complete construction plan approval application”.

The current City Code language provides that if a building permit is issued during the moratorium and the permit remains active through extensions of active status granted by the Building Official after the expiration of the moratorium, the moratorium would continue to apply to the development permitted by the building permit. If a complete building permit application *and* either a complete construction plan approval application, verification that a construction plan for the development project is under review by the City Engineer, or verification that approval of the construction plan has occurred and is unexpired and active, are submitted during the moratorium and the applications are actively maintained and pursued to approval in good faith, but a building permit is not issued until after the expiration of the moratorium to the property owner, contractor, developer, or other applicant, the moratorium would be applicable to the development described in the complete building permit application and the complete construction plan approval application.

Additionally, if a property owner, contractor, developer, or other applicant fails to submit a complete building permit application *and* submit either a complete construction plan application, verification from the City Engineer that a construction plan for the development project is under review by the city engineer, or verification from the City Engineer that approval of the construction plan has occurred and is unexpired and active, all during the effective dates of the moratorium, then the development project will not be subject to the moratorium, and all requirements of the code for payment of transportation impact fees, mobility fees, or provision of mobility improvements must be satisfied by the development project.

The following specific sections of Code are proposed to be amended:

- Amendment to **City Code, Appendix D, Chapter 3, Article X, Sec. 3.102 and 3.103**, providing for a moratorium on the requirement of providing mobility improvements and the levy and assessment of fees-in-lieu-of providing mobility improvements, all from April 1, 2014 to July 31, 2016 for certain industrial and commercial properties;
- To amend **City Code, Appendix D, Chapter 10, Article I, Section 10.03**, providing for a moratorium on the levy and assessment of transportation impact fees from April 1, 2014 to July 31, 2016 for certain industrial and commercial properties; providing for conditions and standards of implementation.

On April 7, 2016, the Planning and Zoning Board will meet to consider this ordinance. A blue memo noting their action will be provided to City Council.

Recommendation

Recommend approval of the ordinance extending the moratorium through July 31, 2016.

MEMORANDUM



City of Melbourne
Community Development
Department

TO: Mayor and Council

FROM: Don Laird, Acting Chairman
Planning and Zoning Board

RE: **Finding of Consistency (FOC-2016-05) and Land Development Regulations (LDR-2016-04) Transportation Impact Fee Moratorium Extension**

DATE: April 4, 2016

APPLICANT: City of Melbourne

REPRESENTATIVE: City of Melbourne

The Planning and Zoning Board, at its regular scheduled meeting of April 7, 2016, reviewed the above referenced request for a Finding of Consistency and an amendment to the Land Development Regulations.

Following review and discussion, the Planning and Zoning Board voted unanimously to recommend approval of FOC-2016-05 and LDR-2016-04, amending sections of Appendix D, Land Development Regulations, Chapters 3 and 10, City Code relating to a proposed time-certain moratorium on the payment of Transportation Impact Fees, Mobility Improvements Deposits and payment-in-lieu of providing mobility improvements, based upon the following findings:

Findings

1. The proposed modifications in City Code to extend the moratorium sunset date provide an economic incentive for commercial/industrial entities contemplating a business location within the City of Melbourne.
2. The extension of the moratorium sunset date will continue to encourage redevelopment in activity centers and community redevelopment areas by exempting commercial and industrial development projects from the provision of mobility improvements.
3. The extension of the moratorium sunset date will encourage development in industrial and commercial land use designations throughout the City by exempting commercial and industrial development projects from the provision of mobility improvements and impact fees.
4. The extension of the moratorium sunset date is consistent with Comprehensive Plan, Objective 1.2 of the Future Land Use Element, because the moratorium

program implemented by this Ordinance may assist in economic development and “maximizing economic development opportunities”.

5. The extension of the moratorium sunset date is consistent with Comprehensive Plan, Objective 1.19 and Policy 1.19.2 of the Future Land Use Element, because the additional moratorium time will cut development expenses, which may encourage redevelopment of areas exhibiting decline.
6. The extension of the moratorium sunset date will promote the public health, safety, economic order, and welfare of the community and the region by assisting in expanding development opportunities, fostering the creation of new jobs, and assisting in the general economic recovery of the community and the region.

Respectfully Submitted,



for

Don Laird, Acting Chairman
Planning and Zoning Board

ORDINANCE NO. 2016-21

AN ORDINANCE OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING APPENDIX D, LAND DEVELOPMENT CODE; EXTENDING THE MORATORIUM ON THE COLLECTION OF TRANSPORTATION IMPACT FEES, THE REQUIREMENT OF PROVIDING MOBILITY IMPROVEMENTS, AND THE COLLECTION OF MOBILITY FEES PAID IN LIEU OF PROVIDING MOBILITY IMPROVEMENTS FOR FOUR ADDITIONAL MONTHS; MAKING FINDINGS; AMENDING SECTION 3.102, PROCEDURE; AMENDING SECTION 3.103, PAYMENT IN LIEU OF CONSTRUCTION OF MOBILITY IMPROVEMENTS; AMENDING SECTION 10.03, TIME OF PAYMENT; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE. (FOC-2016-05/LDR-2016-04)

WHEREAS, in 2014, in an effort to spur economic recovery and aid in attracting more development and redevelopment, expanding the economy, and creating new jobs, the City Council imposed a one-year moratorium on the collection of transportation impact fees, the requirement of providing mobility improvements, and the collection of mobility fees paid in lieu of providing mobility improvements; and

WHEREAS, the moratorium implemented by Ordinance No. 2014-14 only applied to certain commercial and industrial development/redevelopment for the period April 1, 2014 until March 31, 2015; and

WHEREAS, in April 2015, the City Council voted in favor of extending the moratorium for one additional year through March 31, 2016 (Ordinance No. 2015-13); and

WHEREAS, at its March 8, 2016 meeting, the City Council reviewed the effect of the moratorium and considered public comments on same; and

WHEREAS, the City Council voted in favor of extending the moratorium for four additional months through July 31, 2016; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, originally reviewed the language in this ordinance at its April 2, 2015 meeting and found the same to be consistent with certain policies and objectives in the City of Melbourne Comprehensive Plan and, when the Comprehensive Plan is taken as a whole, the City Council finds this ordinance to be consistent with the Comprehensive Plan; and

WHEREAS, the City Council determines that this ordinance is in promotion of the public health, safety, welfare, and economic order of the community and the region.

BE IT ENACTED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. That Section 3.102, Appendix D of the City Code of Melbourne, Florida, is hereby amended to read as follows:

Sec. 3.102. Procedure.

* * * *

(e) *Moratorium for commercial and industrial uses.*

(1)(A) In order to establish an incentive for new development that will provide new jobs within the city, beginning on April 1, 2014 and ending ~~March 31, 2016~~ July 31, 2016, the city council hereby establishes and imposes a two-year ~~(730 days = two years)~~ and four month moratorium on the requirement that mobility improvements be provided by a project developer pursuant to this article on any commercial and industrial use development project which would otherwise be subject to the requirement to provide mobility improvements pursuant to this article. To be subject to this moratorium and to be exempt from the requirement of providing mobility improvements pursuant to this article for a specific type of development on a particular parcel of real property, a property owner, contractor, developer, or applicant must during the effective period of the moratorium submit a complete building permit application for construction of an expanded, new, or redeveloped commercial or industrial use as classified pursuant to this section (e)(1)(B) and submit either: (i) a complete construction plan approval application; (ii) written verification from the city engineer that a construction plan for the development project is under review by the city engineer; or (iii) written verification from the city engineer that approval of the construction plan has occurred and is unexpired and active.

* * * *

SECTION 2. That Section 3.103, Appendix D of the City Code of Melbourne, Florida, is

hereby amended to read as follows:

Sec. 3.103. Payment in lieu of construction of mobility improvements.

* * * *

(d) *Moratorium for commercial and industrial uses.*

(1)(A) In order to establish an incentive for new development that will provide new jobs within the city, beginning on April 1, 2014 and ending ~~March 31, 2016~~ July 31, 2016, the city council hereby establishes and imposes a two-year ~~(730 days = two years)~~ and four month moratorium on the levy and assessment of mobility fees in lieu of providing mobility improvements pursuant to this article on any commercial and industrial use development project which would otherwise be subject to the requirement to provide mobility improvements or payment of mobility fees in lieu of providing the required mobility improvements pursuant to this article. To be subject to this moratorium and to be exempt from the requirement of paying a mobility fee in lieu of providing mobility improvements for a specific type of development on a particular parcel of real property, a property owner, contractor, developer, or applicant must during the effective period of the moratorium submit a complete building permit application for construction of an expanded, new, or redeveloped commercial or industrial use as classified pursuant to this section (d)(1)(B) and submit either: (i) a complete construction plan approval application; (ii) written verification from the city engineer that a construction plan for the development project is under review by the city engineer; or (iii) written verification from the city engineer that approval of the construction plan has occurred and is unexpired or active.

* * * *

SECTION 3. That Section 10.03, Appendix D of the City Code of Melbourne, Florida, is

hereby amended to read as follows:

Sec. 10.03. Time of payment.

* * * *

(e) *Moratorium for commercial and industrial uses.*

(1)(A) In order to establish an incentive for new development that will provide new jobs within the city, beginning on April 1, 2014 and ending ~~March 31, 2016~~ July 31, 2016, the city council hereby establishes and imposes a two-year ~~(730 days = two years)~~ and four month moratorium on the levy and assessment of transportation impact fees pursuant to this transportation impact fee code on any commercial and

industrial use development project which would otherwise be subject to the collection of a transportation impact fee pursuant to section 10.03 of this code. To be subject to this moratorium and to be exempt from the levy and assessment of a transportation impact fee for a specific type of development on a particular parcel of real property, a property owner, contractor, developer, or applicant must during the effective period of the moratorium submit a complete building permit application for construction of an expanded, new, or redeveloped commercial or industrial use as classified pursuant to this section (e)(1)(B) and submit either: (i) a complete construction plan approval application; (ii) written verification from the city engineer that a construction plan for the development project is under review by the city engineer; or (iii) written verification from the city engineer that approval of the construction plan has occurred and is unexpired and active.

SECTION 4. Severability/Interpretation.

(a) That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, illegal or otherwise void by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, illegality, or other declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

(b) That in interpreting this ordinance, underlined words indicate additions to existing text and ~~stricken words~~ indicate deletions from existing text. Asterisks (* * * *) indicate an omission from the ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.

SECTION 5. Effective Date. That this ordinance shall become effective immediately upon its adoption in accordance with the Charter of the City of Melbourne.

SECTION 6. Adoption Schedule. That this ordinance was passed on first reading at a regular meeting of the City Council on the 12th day of April, 2016 and adopted on second/final reading at a regular meeting of the City Council on the _____ day of _____, 2016.

BY: _____
Kathleen H. Meehan, Mayor

ATTEST:

Cathleen A. Wysor, City Clerk

Ordinance No. 2016-21