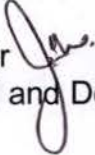




Interoffice Memorandum

May 11, 2016

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Community, Environmental and Development
Services Department

**CONTACT PERSON: Whitney E. Evers, Assistant County Attorney
County Attorney's Office
407 836-7320**

SUBJECT: May 24, 2016 – Public Hearing
Updates to the Orange County Land Development and Use
Ordinance Codified at Article III, Chapter 30, Orange County
Code

In an effort to respond to requests from the development community regarding construction of certain projects prior to a plat being recorded, staff is proposing an Ordinance to amend Section 30-83 ("Plats; approval; vacation") of the Orange County Code (the "Ordinance"). The proposed Ordinance would allow the construction of up to five model homes when a specific list of criteria has been met. Additionally, while the Ordinance would continue to require that single-family projects obtain a plat prior to vertical construction, unless otherwise allowed by the Development Review Committee ("DRC"), the proposed amendments would allow the DRC to consider requests to allow vertical construction of commercial, industrial, hotel, office, or multi-family projects (or projects consisting of three or fewer platted lots) when a list of specified criteria are met.

On April 21, 2016, the Local Planning Agency made a finding of consistency with the comprehensive plan and recommended approval of the proposed ordinance. While they acknowledged the accommodation being made for large projects that meet the criteria, several members expressed concern about the potential of a developer starting a project, but for a variety of reasons, abandoning it prior to completion thus creating an eyesore and burden on the County.

Two resolutions have been placed on the consent agenda to be considered with this public hearing. Consistent with the proposed changes in the Ordinance, the first resolution would repeal a 1995 resolution dealing with model home permits and the

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second would approve a form hold harmless and indemnification agreement and authorize the Director of the Community, Environmental, and Development Services Department, or his or her designee, to execute the agreements.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and recommend approval of an Ordinance Affecting the Use of Land in Orange County, Florida Relating to the Issuance of Vertical Permits Prior to Platting; Amending the Orange County Land Development and Use Ordinance Codified at Article III, Chapter 30, of the Orange County Code; and Providing for an Effective Date.

JVW/WE:rep

Attachment: Draft Ordinance

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ORDINANCE NO. 2016-__

AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA RELATING TO THE ISSUANCE OF VERTICAL PERMITS PRIOR TO PLATTING; AMENDING THE ORANGE COUNTY LAND DEVELOPMENT AND USE ORDINANCE CODIFIED AT ARTICLE III, CHAPTER 30, OF THE ORANGE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendments to Section 30-83 ("Plats; approval; vacation"). Section 30-83 ("Plats; approval; vacation") is amended to read as follows, with any new wording being indicated by underlines and any deleted wording being shown by strike-throughs:

Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.

(a) A plat shall be approved and recorded in the manner provided in sections 34-48, ~~and section 34-133~~, and, to the extent that it is not inconsistent with sections 34-48 and 34-133, part I, chapter 177, Florida Statutes.

(b) With the exception of developments and model homes authorized by subsections 30-83(c) and (d), respectively, ~~Vertical~~ construction shall not be permitted to commence at a development requiring a plat unless and until the plat has been approved and recorded. However, for single-family development, where it is anticipated or expected or determined that the plat for a particular development cannot be approved and recorded through no fault of the developer's before vertical construction is ready to commence, the development review committee may approve vertical construction in advance of platting pursuant to terms and conditions that are acceptable to the DRC, provided that in no event may a temporary or permanent certificate of occupancy be issued for such vertical construction before the plat is approved and recorded.

(c) For developments having an expected construction duration of six months or more and consisting of commercial, industrial, hotel, office, or multi-family uses, or other non-single family developments which, when platted, will contain three lots or less, the DRC may approve a request to

38 allow vertical construction in advance of plat approval, provided all of the
40 following conditions are met:

42 (1) The PSP, or DP, as applicable, for such project
44 has received final approval;

46 (2) A plat has been submitted for review and
48 approval pursuant to the applicable PSP or DP and has been deemed
50 sufficient for initial review by the County; and

52 (3) The project landowner has executed and
54 delivered to the County, and the County has approved, an
56 indemnification and hold harmless agreement, in form and substance
58 acceptable to the County, acknowledging:

60 (A) the issuance of building permits prior to
62 recordation of the plat;

64 (B) the continuing obligation of the owner to record
66 the project plat;

68 (C) the owner's understanding that under no
70 circumstances will the County issue a temporary
72 or permanent certificate of occupancy until the
74 plat is approved and recorded; and

76 (D) the owner's indemnification of the County from
78 any damages, costs, or claims arising from the
issuance of building permits prior to approval
and recordation of the plat.

(d) Model homes may be permitted on not more than twenty
percent (20%) of the lots in a single family residential development with an
approved preliminary subdivision plan, or phase thereof, but in no event may
the number of model homes exceed five. The model homes shall be situated
on contiguous lots or clustered within a readily identified area. Not more than
one model home may be used as a sales office/center, subject to the
requirements of subsection 38-79(5).

(1) An applicant/developer requesting a model home
permit shall submit a complete and sufficient model home application,

80 with the applicable application fee, to the Zoning Division Manager,
82 and include the following documents:

84 (A) three copies of the site plan for the lot proposed
for the model home, depicting the proposed
86 structure, footprint, setbacks, and proposed
easements for the model home being requested;

88 (B) three copies of the subdivision plan (or plat)
90 indicating where the model home(s) will be
located; and

92 (C) an executed notarized statement by the
94 applicant/developer showing that it understands,
96 agrees to, and shall comply with all applicable
permitting restrictions, requirements and
98 conditions, including those set forth in this
section 30-83.

100 (2) The following permitting restrictions,
requirements, and conditions shall apply for a model home permit:

102 (A) the applicant/developer shall utilize a
104 preliminary final plat with street names
approved by the Zoning Division for issuance of
a permanent street address (fee required);

106 (B) permitting is at the risk and expense of the
108 applicant/developer, including if any changes
are made with respect to the final recorded plat;

110 (C) no certificate of occupancy shall be issued until
112 an amended building permit (additional fee
114 required) for a final permanent address is
issued;

116 (D) all construction and permitting is at the
118 applicant/developer's own risk and expense;

120 (E) curb and stabilized road base shall have been
installed to the satisfaction of the Public Works
122 Department;

- 124 (F) drainage infrastructure shall have been
completed for the development to the
satisfaction of the Public Works Department;
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- 128 (G) a fully functional, readily accessible, County-
approved fire hydrant shall be in place within
130 five hundred (500) feet of the lot line of the
proposed model home;
- 132 (H) the water and wastewater systems serving the
proposed model home shall have been partially
134 or fully cleared for service by the Florida
Department of Environmental Protection;
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- 138 (I) a risk affidavit and indemnification and hold
harmless agreement satisfactory to the Risk
140 Management Division shall have been executed
and provided;
- 142 (J) temporary or permanent street signs and a street
address number for each proposed model home
144 shall be in place to facilitate emergency
146 response, as determined by the Orange County
Fire Marshal; and
- 148 (K) applicant shall have complied with any and all
150 other Orange County Code provisions, including
Zoning regulations.

152 (3) A certificate of occupancy shall not be issued for
154 a model home until a certificate of completion for infrastructure has
been issued for the subdivision, or phase thereof. However, a
156 temporary certificate of occupancy (TCO) may be issued by the
Division of Building Safety prior to issuance of a certification of
158 completion, provided the following restrictions, requirements, and
conditions are met:

- 160 (A) The Public Works Department shall have
162 verified completion of installation of an asphalt
164 surface from the nearest public right-of-way to
the lot line of the proposed model home(s);

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- 168 (B) The Public Works Department shall have
170 verified completion of installation of the
drainage infrastructure and its functionality, and
172 all inspections shall have been satisfactorily
174 completed;
- 176 (C) All required traffic control signs and devices
shall be in place from the nearest public road
right-of-way to the lot line of the proposed
178 model home(s), as determined by the Public
180 Works Department;
- 182 (D) All permits issued by the Division of Building
Safety for the model home(s) have received
184 approved final inspections;
- 186 (E) A permanent, fully functional public restroom is
located in an easily accessible place within the
188 proposed model home(s);
- 190 (F) Sufficient and clear access for emergency
vehicles shall be available, as determined by the
192 Orange County Fire Marshal; and
- 194 (G) The applicant shall have complied with any and
all other applicable Orange County Code
provisions, including platting.

196 A TCO shall be effective for a period not to exceed ninety (90) days.
An extension of no more than thirty (30) days may be granted upon good cause
198 shown and acceptable to the County.

200 An appeal of a determination related to a model home application or
permit shall be filed in writing within fourteen (14) days of the determination,
202 accompanied by the applicable appeal fee. The appeal shall be heard by the
Development Review Committee.

204 (e) The board of county commissioners may order the
206 vacation and reversion to acreage of all or any part of a plat or subdivision in
208 the manner and subject to the restrictions provided by law; provided that no
reversion can occur where the subdivision street and drainage improvements
have been completed.

