



PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT

MEETING DATE: July 19, 2016
AGENDA ITEM: F. 1.
CASE: TA2016-06001
ORDINANCE NO.: 8931-16
REQUEST: Review and recommendation to the City Council, of an amendment to the Code of Ordinances and the Community Development Code.
INITIATED BY: City of Clearwater, Planning and Development Department

BACKGROUND:

The Planning and Development Department has regularly reviewed the Community Development Code (CDC) as it applies to certain proposed development. City staff maintains a list of existing CDC provisions that should be amended in order to better reflect City development patterns, improve internal processes, and improve consistency with the Comprehensive Plan, Countywide Rules, and Florida Statutes.

In addition to staff providing input toward improving the CDC based upon experiences in its application, the Engineering Department recently contracted with an outside consultant on what changes would need to be made to the CDC in order to begin implementing low impact development techniques.

ANALYSIS:

Proposed Ordinance No. 8931-16 amends several sections of the CDC. The following is a brief analysis of each aspect of the proposed ordinance.

1. Code of Ordinances [pages 2 -3 of Ordinance]

The proposed amendment will update the definition of “Department” to mean the “Engineering Department,” as well as adding definitions for illicit connection and pollutant to the Stormwater Systems section of the Code of Ordinances. These changes will result in the Code more closely mirroring the US Environmental Protection Agency’s model ordinance for Illicit discharge. These changes, along with the term “pollutants” to the illicit discharges section, city codes will have more enforceability as well. These changes have been proposed by the Engineering Department.

2. **Museums** [pages 4, and 8-12 of Ordinance]

While not specifically denoted in the definition for such, museums would currently be considered a part of the indoor recreation/entertainment use. However, it has been found that this interpretation would not allow for a museum to be established in the Institutional (I) District, where the intent and purpose of the I District is to “establish areas where public and private organizations can establish and operate institutions with a public interest in support of the quality of life of the citizens of the City of Clearwater.” As a result, staff is proposing the creation of the museum use within the Tourist (T), Downtown (D) and I Districts with appropriate development standards and flexibility criteria.

3. **Outdoor Retail Sales, Display and/or Storage** [pages 4, 6, 7, 13 and 14 of Ordinance]

The proposed amendment will remove the use outdoor retail sales, display and/or storage from the Commercial (C) District and Outdoor storage from the Industrial, Research and Technology (IRT) District. These are being removed in conjunction with the revisions to the accessory uses/structures provisions as this is necessary to eliminate conflicts and inconsistencies as outdoor retail sales, display and/or storage will be treated as an accessory use moving forward.

4. **Accessory Uses/Structures** [pages 14-20 of Ordinance]

The proposed amendment will replace the current Accessory Uses/Structures Division in its entirety. The new version will retain several of the existing standards and exemptions of the current version; however it will utilize an updated framework to make the Division easier to utilize. In addition, some standards within the Division will be changed and new standards added, including:

- *Accessory structures.* Currently, accessory structures are allowed up to a cumulative maximum of 10% of the gross floor area of the principle structure (it is possible for this maximum to be increased to 25 % through a Level One – Flexible Standard Development application). The proposed amendment removes the application requirement to exceed the 10% threshold and, instead, allows the 25% maximum by right. The 10% threshold has been consistently found to be overly limiting to smaller properties, and on countless occasions it has been found to be supportable to exceed this threshold based upon pre-existing neighborhood conditions. As such, the elimination of the 10% threshold is appropriate. This change still results in any/all accessory structures being incidental to the principal structure.
- *Garden centers.* Under the current code provisions, a garden center would require a specific approval as “outdoor retail sales, display and/or storage.” This amendment will eliminate that requirement and allow such uses to exist as they truly are – as the accessory outdoor retail sales of plant material, garden tools, fertilizers, potting soil, mulch, rock and other garden supplies. The standards proposed will ensure adequate and acceptable methods of screening inventory, while also providing quality aesthetics. It is noted that existing garden centers such as those found at Home Depot, Lowes, and Wal-Mart will not be made non-conforming as a result of these changes.

5. **Erosion and Sedimentation** [pages 20-21 and 26 of Ordinance]

The proposed amendment clarifies several erosion and sedimentation related issues and updates some terminology. The clarifications being made are consistent with standard engineering practices, and are as follows:

- Adds language establishing that the responsibility to ensure sedimentation controls perform adequately is with the contractor;
- Adds language allowing for water crossings to be either restored to pre-construction condition or what was detailed in the development/building approval; and,
- Modifies language reducing the distance for backfill and restoration lagging from 400 feet to 100 feet.

6. **Waterfront Sight Visibility Triangles** *[pages 21-22 of Ordinance]*

The proposed amendment shall clarify that an at-grade structure, such as a swimming pool or deck, is permissible to encroach into the required waterfront sight visibility triangle. The existing exception allowing only for the encroachment of non-opaque fences not exceeding 48 inches in height will remain.

7. **Outdoor Cafés** *[page 22 of Ordinance]*

The proposed amendment adds museums to the list of uses that may have an outdoor café. A museum would previously have been permitted to have an outdoor café as it was categorized as indoor recreation/entertainment; however with it now becoming its own standalone use category this portion of the amendment is necessary to retain this existing permission.

8. **Landscaping** *[pages 23-26 of Ordinance]*

The proposed amendment will result in improved functionality of stormwater retention areas and the overall development aesthetic by allowing for more substantial planting of stormwater retention areas consistent with low impact development techniques.

The amendment also proposes the reorganization of the interior landscaping provisions. The majority of the existing language is being retained and is only being reorganized in order to accommodate new language concerning central landscape islands and provisions for low impact development (bioswales). The amendment will neither require the provision of a central landscape island, nor the utilization of low impact development techniques. It will simply provide standards for when these elements are proposed. Additionally, an exception shall be included for the installation of curbing when low impact development techniques are being implemented.

9. **Grass Parking** *[page 26 of Ordinance]*

The proposed amendment will allow for excess parking spaces to be surfaced with reinforced grass or another permeable surface in-lieu of being paved. This is an effort to reduce the amount of impervious surface on properties while still obtaining the required number of off-street parking spaces in a paved condition. The amendment also expands upon the reasons that either the City Manager or Community Development Coordinator may permit grass parking to include the reduction of stormwater impacts.

10. **Subdivision Design Standards** *[pages 27-28 of Ordinance]*

The proposed amendment will remove a provision allowing for the construction of partial streets, as well as modify the required dimensions for dead-ends and cul-de-sacs as these are

no longer desired forms of development. The Engineering Department has worked with the Fire and Solid Waste Departments to codify the physical limitations of their equipment. Changing the cul-de-sac and hammerhead turnaround limits enables the city to maintain access for residential safety and welfare for new development or redevelopment.

In addition to the above, the proposed amendment will also modify the stormwater drainage and retention requirements of the subdivision design standards to implement low impact development provisions that are consistent with similar changes being implemented within the landscaping sections of the Code.

11. Hearing Officer Appeals *[page 28 of Ordinance]*

The proposed amendment will clarify that the Community Development Board (CDB), and by proxy the Board attorney, may provide oral argument before a hearing office as part of an appeal. This change will alleviate concern over the Board attorney representing a neutral decision maker at a hearing and then representing one of the parties to the application at an appeal hearing.

12. Comprehensive Sign Program *[page 28 of Ordinance]*

The proposed amendment will correct three erroneous references internal to the CDC.

13. Definitions *[page 29 of Ordinance]*

- Bioswale – establishes a definition for what constitutes a bioswale.
- Garden center – establishes a definition for what constitutes a garden center.
- Low impact development – establishes a definition for what constitutes low impact development.
- Museums – establishes a definition for what constitutes a museum.
- Problematic uses – modifies the definition to remove tattoo parlors and body piercing.
- Retail sales and services – modifies the definition to include tattoo parlors.
- Tattoo parlor – establishes a definition for what constitutes a tattoo parlor.

14. Appendix A *[page 30 of Ordinance]*

The Engineering Department is proposing to increase the fee for final plat reviews from \$300 to \$600. Changing the final plat fee, which has not been updated for over ten years, would cover the cost of having a consultant review the plat if staff time is not available. Plats are required to be signed and sealed by the Florida licensed surveyor, and the city has only one licensed surveyor on staff. If this individual was unavailable for review, then the review could be outsourced without a deficit.

The Engineering Department has indicated that Pinellas County charges \$2,185 for a final plat, plus \$18 per lot, and that the City of St. Petersburg charges \$650 for a final plat with no variances, or \$1,000 for a final plat with variances.

CRITERIA FOR TEXT AMENDMENTS:

CDC Section 4-601 sets forth the procedures and criteria for reviewing text amendments. All text amendments must comply with the following:

- 1. The proposed amendment is consistent with and furthers the goals, policies and objectives of the Comprehensive Plan.**

A review of the Clearwater Comprehensive Plan identified the following Goals, Objectives and Policies which will be furthered by the proposed Code amendments:

- Policy A.1.1.10 The Community Development Code shall provide for on-site drainage detention and/or retention or payment in lieu thereof for compatibility with community master drainage plans
- Objective A.5.5 Promote high quality design standards that support Clearwater’s image and contribute to its identity.
- Goal A.6 The City of Clearwater shall utilize innovative and flexible planning and engineering practices, and urban design standards in order to protect historic resources, ensure neighborhood preservation, redevelop blighted areas, and encourage infill development.
- Objective A.6.2 The City of Clearwater shall continue to support innovative planned development and mixed land use development techniques in order to promote infill development that is consistent and compatible with the surrounding environment.
- Policy F.2.1.10 The City will encourage the use of “Low Impact Development” techniques for stormwater management, such as minimal land disturbance, the preservation of native vegetation, and the minimization of impervious cover, through site plan and internal review processes.

The proposed amendments are intended to make various clarifications, corrections and updates to the Code of Ordinances and the Community Development Code. However, the proposed amendments will also further the functionality of our development approval process making it easier to navigate and producing improved results, as well as begin to implement the use of low impact development techniques. As such, the above referenced Goal, Objectives and Policy of the Comprehensive Plan will be furthered.

2. The proposed amendment furthers the purposes of the Community Development Code and other City ordinances and actions designed to implement the Plan.

The proposed text amendment will further the purposes of the CDC in that it will be consistent with the following purposes set forth in CDC Section 1-103:

- Sec. 1-103.A. It is the purpose of this Development Code to implement the Comprehensive Plan of the city; to promote the health, safety, general welfare and quality of life in the city; to guide the orderly growth and development of the city; to establish rules of procedure for land development approvals; to enhance the character of the city and the preservation of neighborhoods; and to enhance the quality of life of all residents and property owners of the city.
- Sec. 1-103.B.1. Allowing property owners to enhance the value of their property through innovative and creative redevelopment;
- Sec. 1-103.E.3. Protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and minimize the conflicts among the uses of land and buildings.

Sec. 1-103.E.9. Establish permitted uses corresponding with the purpose and character of the respective zoning districts and limit uses within each district to those uses specifically authorized.

The amendments proposed by this ordinance will further the above referenced purposes by implementing the aforementioned Goal, Objectives and Policy of the Comprehensive Plan; by establishing a new permissible use (museums); by improving the functionality of the accessory uses/structures and landscaping provisions of the CDC; and by continuing to make incremental adjustments to various regulations that ultimately result in a more adaptive and flexible development approval process.

SUMMARY AND RECOMMENDATION:

The proposed amendment to the Community Development Code is consistent with and will further the goals of the Clearwater Comprehensive Plan and the purposes of the Community Development Code. Based upon the above, the Planning and Development Department recommends **APPROVAL** of Ordinance No. 8931-16 that amends the Community Development Code.

Prepared by Planning and Development Department Staff: _____

Robert G. Tefft,
Development Review Manager

ATTACHMENTS: Ordinance No. 8931-16