



# CITY COUNCIL AGENDA ITEM #12

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**PUBLIC HEARING: DISCUSS/TAKE ACTION ON ORDINANCE NO. 1235, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 30 - LAND DEVELOPMENT REGULATIONS, SATELLITE BEACH CITY CODE, BY AMENDING SECTION 30-419, REVISING SITE PLAN REQUIREMENTS FOR CONDITIONAL USE PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE (SECOND READING)**

**To:** Mayor and City Council Members  
**Via:** Courtney Barker, City Manager  
**From:** Thea Baker, Planning & Sustainability Director  
**Meeting Date:** 06/07/2023  
**Department:** Planning & Sustainability

**Recommended Action:** Adopt Ordinance No. 1235 on second reading.

**Summary:** Currently, Section 30-419(a)(2) of the City Code states that *a site plan meeting the requirements of this chapter*, shall be submitted. The requirements for the site plan currently referenced in the code are above what would be required to evaluate the criteria identified for consideration in the approval of a conditional use permit. Ordinance No. 1234 revises the requirement to be consistent with the evaluation criteria as identified in the code section, in particular Section 30-419(b) which identifies criteria for approval for a conditional use permit application.

**Background:** At the City Council workshop on February 15, 2023, staff received direction to move forward with the revision to the site plan requirement for a conditional use application.

The Planning Advisory Board, at the meeting held on April 17, 2023, voted unanimously to approve the text amendment to Section 30-419 of the City Code.

The City Council voted unanimously to approve Ordinance 1235 on first reading at a public hearing held at the meeting on May 17, 2023.

**Budget Impacts:** None

**Attachments:**

- Ordinance No. 1235
- Planning Advisory Board Staff Report, dated 17 April 2023

**ORDINANCE NO. 1235**

**AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 30 - LAND DEVELOPMENT REGULATIONS, SATELLITE BEACH CITY CODE, BY AMENDING SECTION 30-419, REVISING SITE PLAN REQUIREMENTS FOR CONDITIONAL USE PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, revising the site plan requirements for conditional use permit applications to be consistent with the identified evaluation criteria to be considered for approval, is appropriate, and

**WHEREAS**, the Planning Advisory Board conducted a duly noticed public hearing, and after considering this ordinance, and determining the proposed amendments are consistent with the Satellite Beach Comprehensive Plan and adopted Land Development Regulations, recommends to City Council that the proposed revisions be made; and

**WHEREAS**, the City Council, following all public hearings required by law preliminary to the adoption of this ordinance, has determined that the proposed amendments are consistent with the Satellite Beach Comprehensive Plan and adopted Land Development Regulations, and is in the best interest of the health, safety and welfare of the City and its residents to adopt this ordinance.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA** as follows:

**Section 1.** The foregoing recitations are accurate and by this reference are incorporated herein.

**Section 2.** Sec.30-419, Satellite Beach City Code, is amended to revise the site plan requirements for conditional use permit applications as follows:

Sec. 30-419 – Conditional use.

\* \* \* \* \*

(2) The application, together with a traffic impact study, or traffic impact statement if the impact is determined to be de minimus, and a site plan meeting illustrating the following requirements of this chapter, shall be submitted for review to the building official, who shall set a date for a public hearing before the planning and zoning advisory board.

- a. Use of property and structures on abutting property;
- b. Ingress and egress to property and proposed structures, particularly regarding multi-modal safety and convenience, traffic flow, and control and access in case of fire or other emergency;
- c. Off-street parking, loading, refuse and service areas in relation to internal circulation on the site;
- d. Location, availability, and compatibility of utilities;
- e. Type, dimensions, and character of screening and buffering;
- f. Location and type of signage;
- g. Lighting plan;
- h. Required open space and landscaping;
- i. Location, use, and height of existing and proposed structures.

**Section 3. Severability Clause.** In the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby; and it will be presumed that the City Council for the City of Satellite Beach did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

**Section 4. Repeal of Inconsistent Provisions.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon its adoption.

**Section 6.** This Ordinance was duly passed on first reading at a regular meeting of the City Council on the \_\_\_ day of \_\_\_, 2023 and adopted on the second and final reading at the regular meeting of the City Council on the \_\_\_ day of \_\_\_, 2023.

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STEVEN L. OSMER, Mayor

ATTEST:

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GWEN PEIRCE, CMC, City Clerk

## CITY OF SATELLITE BEACH, FLORIDA

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565 Cassia Boulevard  
Satellite Beach, FL 32937  
(321) 773-4407  
FAX: (321) 779-1388



TO: City of Satellite Beach Planning Advisory Board

FROM: Erica H. Ehly, City Planner

SUBJECT: PAB 02-2023; Chapter 30, Article IV Zoning Text Amendment

MEETING DATE: April 17, 2023

### ATTACHMENTS:

1. City Code Section 30-303, Site plan requirements
2. Proposed language

ISSUE: Review and provide a recommendation for a proposed text amendment to City Code Section 30-419, *Conditional use*, related to site plan requirements.

### BACKGROUND:

At the City Council workshop on February 15, 2023, staff received direction to move forward with the revision to the site plan requirement for a conditional use application.

### COMMENTS:

Currently, Section 30-419(a)(2) of the City Code states that *a site plan meeting the requirements of this chapter*, shall be submitted.

The requirements for the site plan currently referenced in the code are above what would be required to evaluate the criteria identified for consideration in the approval of a conditional use permit (attachment 1). The proposed language (attachment 2) revises the requirement to be consistent with the evaluation criteria as identified in the code section, in particular Section 30-419(b) which identifies criteria for approval for a conditional use permit application.

### STAFF RECOMMENDATION

Staff recommends approval of the text amendment to City Code Section 30-419, as it is consistent with the Comprehensive Plan and the intent of Chapter 30 to provide an efficient, effective, and equitable development review process.

## Sec. 30-303. - Site plan requirements.

- (a) *Preparation.* Site plans shall be prepared by a registered architect, engineer, or landscape architect, as applicable, licensed to practice in the State of Florida. The plans shall be dated and identified by a project title or job number. Any revisions to the plans shall be sealed and dated.
- (b) *Submittal.* Certified copies of the site plan shall be prepared in a form acceptable to the city and submitted to the building official for review and approval. The application shall include one digital copy and five copies of the site plan, along with the required filing fees. The individual who certifies the site plan will attach the following signed statement to the plan:

"To the best of my knowledge, this site plan complies with the City of Satellite Beach Land Development Regulations, except as noted below."

- (c) *Filing approved site plan.* Upon approval by the city council or city staff, whichever is applicable, two copies of the site plan and required exhibits shall be signed by the building official. One signed copy shall be filed with the building official as a permanent record, and the other shall be provided to the applicant.
- (d) *Modification of site plans.* Any proposed modification to an approved site plan must be reviewed by the building official to determine whether the proposed modification constitutes a minor or major modification. Such a request must be filed in writing, and a written determination will be rendered within ten working days of such request.
  - (1) For purposes of this section, major modifications shall include, but not be limited to (i) any changes in use or density, (ii) any increase in the number of structures, (iii) any change in the location of a structure included in an approved site plan and (iv) modifications the building official determines could reasonably be expected to cause adverse changes in internal functioning of the site or its off-site impacts. Major modifications to approved site plans must be approved by the planning and zoning advisory board and city council or city staff, whichever is applicable, in the same manner as a new application.
  - (2) For purposes of this section, minor modifications are slight variations or alterations to an approved site plan of such a nature that they do not qualify as a major modification as described in subsection (1).
  - (3) Minor modifications may be authorized by the building official, when determined to be consistent with an approved site plan. An application for minor modification must be filed with the building official stating the nature of the request and justification for such, as well as an updated site plan illustrating the proposed change. The building official shall provide a written response to the applicant within ten working days of receipt of an application. If the building official denies the minor modification, the reasons for denial shall be stated in the

response. An applicant may proceed with the requested change upon a favorable decision from the building official regardless of whether the minor modification is approved prior to or after a building permit has been issued.

(e) *Time limit for commencing development after site plan approval.* For non-phased development, if the foundation, under-floor plumbing, and floor slab are not completed within one year of the site plan approval date and no extension has been granted by the city council or city staff, whichever is applicable, before the one-year period expires, the site plan shall be deemed null and void, and no construction shall be permitted until a new application has been approved. If development is planned in phases, the time table approved by city council or city staff, whichever is applicable, must be adhered to, or an extension must be obtained from the city council or city staff, whichever is applicable, before the phased schedule expires.

(f) *Contents.* The site plan shall include the following:

(1) *Existing site conditions.*

- a. A soil map of the site. Existing USDA soil conservation service maps are acceptable.
- b. A map of vegetative cover with the location and common name of all protected trees. Groups of protected trees may be designated as clusters, with the estimated total number noted. This information shall be summarized in tabular form on the plan.
- c. A topographic survey.
- d. A detailed project-area map showing existing hydrography and runoff patterns, as well as the size, location, topography, and land use of any off-site areas that drain onto, through, or from the project area.
- e. Existing surface waters, wetlands, and canals within the proposed development site, including seasonal high-water-table elevations and attendant drainage areas for each.
- f. A map showing the locations of any soil borings or percolation tests required by this chapter. Percolation tests representative of design conditions shall be performed if the surface water runoff management system includes swales, percolation (retention), or exfiltration (detention with filtration) designs.
- g. A scale drawing of the site and all land within 500 feet of any property line of the site.
- h. The location of any underground or overhead utilities, culverts, and drains on the property and within 100 feet of the proposed development boundary.
- i. The location, names, and widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public spaces, and similar information regarding abutting property.
- j. The 100-year flood elevation, minimum required floor elevation, and boundaries of the 100-year floodplain for all parts of the proposed site.

- k. Drainage basin or watershed boundaries, identifying locations of the routes of off-site waters onto, through, or around the project.
  - l. Location of wells.
- (2) *Proposed site activities and design.*
- a. Generally.
    - 1. Area and percentage of total site area to be covered by an impervious surface.
    - 2. Grading plans, including perimeter grading.
  - b. Buildings and other structures.
    - 1. Building footprint, showing the location, dimensions, floor area, and proposed use of buildings.
    - 2. Building setback distances from property lines, abutting right-of-way center lines, and all adjacent buildings and structures.
    - 3. The location of all off-site sidewalks required by section 30-547.
    - 4. Minimum floor elevations of buildings within any 100-year floodplain.
    - 5. The location, dimensions, type, composition, and intended use of all other structures.
  - c. Utilities.
    - 1. Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
    - 2. Location of the nearest available potable water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.
    - 3. Boundaries of proposed dedicated utility easements.
    - 4. Exact locations of existing and proposed fire hydrants within 500 feet of the site.
    - 5. Location of irrigation wells.
  - d. Streets, parking, and loading.
    - 1. The layout of streets and driveways, showing proposed elevations, grades, paving, and drainage plans and profiles.
    - 2. A layout showing the total number and dimensions of proposed parking spaces and loading areas, as well as all proposed ingress and egress, including proposed public street modifications and projected on-site traffic flow.
    - 3. The location of all exterior lighting.
    - 4. The location and specifications of any proposed garbage enclosures.
    - 5. Cross sections and specifications of all proposed pavement.



6. Typical and special roadway and surface water runoff drainage sections and summary of quantities.
- e. Tree removal and protection.
    1. All protected trees to be removed.
    2. Proposed changes in the natural grade and any other development activities directly affecting trees to be retained.
    3. A statement of measures to be taken to protect the retained trees.
    4. A statement of proposed tree relocations.
  - f. Landscaping.
    1. Location and dimensions of proposed landscaped areas, access aisles, and driveways.
    2. A description of existing and proposed plants for landscaped areas, including species (scientific and common names), variety and size.
    3. An irrigation plan for landscaped areas. Irrigation within areas that have native plants that can be damaged by spray type irrigation due to salinity conditions must utilize other methods such as soaker or drip hoses.
  - g. Surface water runoff management.
    1. A plan that describes the type and location of measures to control erosion and sedimentation, the stage of development at which they will be put into place or used, and maintenance provisions for the control measures.
    2. A description of the proposed surface water runoff management system, including:
      - (i) Channel, direction, flow rate, and volume of surface water that will be conveyed from the site, with a comparison to natural or existing conditions.
      - (ii) Detention and retention areas, including plans for the discharge of contained waters, maintenance, and impact on receiving surface waters.
      - (iii) Areas of the site to be used or reserved for percolation, including an assessment of the impact on groundwater quality.
      - (iv) Location of all water bodies to be included in the surface water runoff management system (natural and artificial) with details of hydrography, side slopes, depths, and water-surface elevations or hydrographs.
      - (v) Linkages with existing or planned surface water runoff management systems.
      - (vi) Location of on- and off-site rights-of-way and easements for the system.
      - (vii) The entity or agency responsible for the operation and maintenance of the surface water runoff management system.
      - (viii)

The location of off-site surface water runoff management systems that will be used by the proposed development, showing the names and addresses of the owners of the systems.

(ix) Runoff calculations, which shall be in accord with St. Johns River Water Management District regulations.

h. Environmentally sensitive lands identified in this chapter.

1. Exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal, including estimated quantities of excavation or fill materials computed from cross sections.
2. Percentage of the site's land surface that is covered with natural vegetation and percentage of natural vegetation to be removed by development.
3. Distances between development activities and the boundaries of protected, environmentally-sensitive lands.
4. The manner in which habitats of endangered, threatened, and special-concern species will be protected.

i. Signs. Location of all proposed signs.

j. Subdivision. The proposed number, minimum area, and location of lots if development involves a subdivision of land.

k. Land use and dedications.

1. The location and amount of area on the site devoted to all existing and proposed land uses, including schools, open space, churches, and residential and commercial uses.
2. The total number of dwelling units per acre.
3. The location of all land to be dedicated or reserved for all public and private uses, including rights-of-way, easements, special reservations, and the like.

(3) *Concurrency requirements.* Before a building permit may be issued, the following concurrency requirements regarding potable water, sanitary sewer, solid waste disposal, surface water runoff drainage, roads, recreation, and schools shall be met:

- a. A certificate from the appropriate permitting authority, indicating that the surface water runoff management system into which the proposed project will discharge surface water runoff has sufficient capacity to accommodate the proposed development.
- b. A certificate from the county indicating sufficient sanitary sewer capacity for the proposed development.
- c. A certificate from the county indicating sufficient solid waste capacity for the proposed development in the county landfill.
- d. A certificate from the City of Melbourne indicating sufficient potable water capacity for the proposed development in the Melbourne Water System.

- e. A certificate from the city's recreation director indicating that sufficient recreational facilities exist in the city to serve the occupants of the proposed development.
- f. For those projects proposing access to a state roadway, an access permit from the state. Such permit shall indicate the existing level of service from the access road, the latest average daily traffic count on such road, and the average daily trip generation projections for the project and their resulting level of service on the access road.
- g. A certificate from the Brevard School District indicating that sufficient public education facilities exist to serve the occupants of the proposed development.

(4) *Traffic study.*

- a. *Required.* Proposed development projects which meet one of the following criteria shall submit a traffic study prepared and signed by a professional traffic engineer:
  - 1. Nonresidential projects which have a total of 10,000 or more square feet of floor area.
  - 2. Residential projects of 25 or more dwelling units.
- b. *Contents.* The traffic study shall be designed to predict the impact of the proposed development on the transportation system. The study shall include at least the following information:
  - 1. A statement explaining the assumptions used in the study, including as a minimum, background traffic growth rate, directional splits, average trip length, and major attractions.
  - 2. Estimates and projections of average daily traffic, and the effect of increased traffic on the level of service adopted by the city. Estimates of anticipated trip generation shall be based upon current information from the Institute of Transportation Engineers, American Association of Safety Highway and Transportation Officials, Federal Highway Board, or similar professionally-acceptable source.
  - 3. Any need for frontage or access roads parallel to the primary access road.
  - 4. Any need for signalization.
  - 5. Provisions for maintaining the level of service adopted by the city for affected roadways and intersections.

(5) *Administrative deviations.*

- a. *Provisions where deviations are authorized.* The building official is authorized to grant deviations from the setback provisions contained in sections 30-407 through 30-416 (various zoning district regulations) for street, rear, side, or waterbody setbacks to permit structures to encroach with regard to a specific setback only under the following circumstances:
  - 1.

Bay windows, chimneys and similar architectural features that may encroach into the setback provided the encroachment does not protrude beyond a two-foot overhang.

2. Where American Disability Act (ADA) standards will be applied, street, rear, side, or waterbody setbacks may be modified to permit construction of access (walks, paths, steps, ramps, parking spaces, doorways, etc.) for disabled persons.
  3. Street, rear, side, or waterbody setbacks may be modified to allow the replacement of stairs or decking that provides access into an existing dwelling unit.
- b. *Criteria for administrative deviations.* Administrative deviations may be granted only where the building official finds that the following criteria have been met:
1. The alternative proposed to the standards contained herein is based on sound engineering practices.
  2. The granting of the deviation does not violate and is not inconsistent with any specific policy directive of the city council, any other city regulation, or any comprehensive plan provision.
  3. The modifications will be the minimum required.
- c. *Submittal requirements.* The submittal requirements for a deviation include the following:
1. A completed deviation application form provided by the city.
  2. Plans, sealed by a registered professional engineer, that accurately reflect the applicant's alternative proposal.
  3. A written statement showing how the proposed alternative meets the criteria in subsection (b) above.
  4. Any other materials and/or calculations requested by the building official to aid in the decision.
- d. *When submittals may be made.* Requests for deviations may be submitted contemporaneously with the applicant's original site plan review application, or at any time thereafter, so long as the application has not been withdrawn.

(Ord. No. 1073, § 2, 7-17-13; Ord. No. 1092, § 5, 5-21-14)

## ATT 2: Proposed Language

Sec. 30-419. - Conditional use.

(a) *Application.* By ordinance, the city council may approve a conditional use, which shall prescribe any conditions deemed necessary or desirable for the public interest. Any ordinance authorizing a conditional use shall be construed as allowing only the specifically named or described conditional use.

(1) To obtain a conditional use, a written application, signed by each owner of the property, shall be submitted, giving the property's legal description, the names and addresses of all owners of the property, the conditional use requested, and the reason therefor.

(2) The application, together with a traffic impact study, or traffic impact statement if the impact is determined to be de minimus, and a site plan meeting illustrating the following requirements of this chapter, shall be submitted for review: ~~to the building official, who shall set a date for a public hearing before the planning and zoning advisory board.~~

- a. Use of property and structures on abutting property;
- b. Ingress and egress to property and proposed structures, particularly regarding multi-modal safety and convenience, traffic flow, and control and access in case of fire or other emergency;
- c. Off-street parking, loading, refuse and service areas in relation to internal circulation on the site;
- d. Location, availability, and compatibility of utilities;
- e. Type, dimensions, and character of screening and buffering;
- f. Location and type of signage;
- g. Lighting plan;
- h. Required open space and landscaping;
- i. Location, use, and height of existing and proposed structures.

(3) All required documentation and fees shall be received within 30 days from receipt or the application will be returned to the applicant and not processed until complete application together with fees is received.

(b) *Criteria for approval.* No conditional use shall be recommended by the planning and zoning advisory board, or approved by the city council, unless a determination is made that the conditional use will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the general purpose of this chapter. In making this determination, the planning and zoning advisory board and the city council shall consider the following:

(1) Character and use of buildings in the vicinity;

(2) Traffic to be generated by the conditional use and its impact on nearby properties;

(3) Traffic conditions in the vicinity, including ingress and egress to property and proposed structures, particularly regarding automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

(4) Off-street parking and loading areas, particularly regarding the items described in (3) above.

(5) Noise, glare, and odor effects of the conditional use on nearby properties.

- (6) Adverse economic impacts of the conditional use on the value of nearby properties.
  - (7) Refuse and service areas, particularly regarding the items in (3), (4), (5), and (6) above.
  - (8) Location, availability, and compatibility of utilities.
  - (9) Type, dimensions, and character of screening and buffering.
  - (10) Signs and proposed exterior lighting, with regard to glare, traffic safety, economic impact, and compatibility and harmony with nearby properties.
  - (11) Required open space.
  - (12) Height of buildings.
  - (13) Landscaping.
  - (14) Reasonable compatibility with surrounding uses in regard to function, hours of operation, building size and setbacks, and other factors that may be used to measure compatibility.
- (c) *Conditional use deemed conforming use.* An approved conditional use shall be deemed a conforming use in the zoning district in which the property is located, provided that it is not extended or expanded without city council approval.
- (d) *Expiration of conditional use.*
- (1) A conditional use shall expire if construction does not commence within six months of the effective date of the authorizing ordinance, or if construction is not completed within the period of time established by the city council.
  - (2) For property where structures exist on the effective date of the authorizing ordinance, the conditional use must commence within six months of the effective date of the ordinance, or the conditional use shall expire.
- (e) *Termination of conditional use.* When a conditional use stops for a continuous period of six months, the conditional use shall terminate, and use of the premises shall revert to the zoning district in which the property is located, free of the conditional use designation. The city council shall adopt an ordinance to effect such a change to the official zoning map after notice has been given to the owner of record. Such notice shall be given by certified mail to the last known address of the owner, as reflected in the most recent real property tax rolls, at least 15 days in advance of the first reading of the ordinance.

(Ord. No. 946, § 4, 8-16-06)