

## MEMORANDUM

**TO:** Honorable Mayor and City Council Members

**FROM:** J.H.Kerr III, City Planner *JHK*

**DATE:** March 12, 2009

**SUBJECT:** Orange City Land Development Code Text Amendments

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11:58 PM *AB*

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### PURPOSE

Approval of Ordinance No. 379, thereby amending the City's Land Development Code regarding the extension of development orders.

### BACKGROUND

The City's land development code was adopted on August 13, 2003, via Ordinance No. 157. Since then, City staff has utilized the code to process numerous developments, some which were processed in-house by staff, and some which were approved by either the Planning Commission or the City Council. Currently, a development order approval expires after 12 months, and there is no provision for renewal. Since 2003, several requests for extensions of a development order have been reviewed and processed by staff as per Section 5.5 of the land development code. Once these development orders have been extended one time (12 months), the development order approval expires and ceases to exist.

During the past 36 months, the housing industry has declined substantially. Twelve residential certificates of occupancy (CO) were issued during the 2007/08 fiscal year, which is down from 65 during the 2006/07 fiscal year. So far, during the 2008/09 fiscal year (the first quarter), 4 CO's have been issued. In the meantime, the City has approved several subdivisions that could be an asset to the housing community once they are constructed, but because of the housing slump, it may be several years before the housing demand regains normality. At the present time, there is no provision for an extension of a development order beyond the initial 12 months.

Therefore, staff is bringing this item to the attention of the City Council, and a recommendation to amend Section 5.5 titled "Extension of expiration date". The text change will provide a process wherein the development order may be extended beyond the 12 months, and each said extension would be reviewed by staff and by the City Council. Staff recommends that Section 5.5 be amended as proposed in the attached Ordinance No. 379.

Attached to this memo is the staff report dated February 23, 2009, which was sent to the Planning Commission, Ordinance No. 379, and a copy of the Commission minutes from the March 4, 2009 Commission meeting, related to this issue.

### RECOMMENDATION

Staff and the Planning Commission recommend City Council approval of Ordinance No. 379, thereby amending the Land Development Code.

**ORDINANCE NO. 379**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AMENDING THE ORANGE CITY CODE OF ORDINANCES, APPENDIX A, LAND DEVELOPMENT CODE, CHAPTER 5, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS AND CERTIFICATES OF OCCUPANCY, SECTION 5.5, EXTENSION OF EXPIRATION DATE; TO ESTABLISH PROCEDURES FOR A REQUEST FOR EXTENSION OF A DEVELOPMENT ORDER; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, on August 12, 2003, the City Council of the City of Orange City adopted Appendix A, Land Development code, via Ordinance No. 157, thereby establishing a unified land development code to implement the comprehensive plan and establish a development review process, setting forth regulations and procedures governing the use and development of land for the purpose of protecting the health, safety, and general welfare of the citizens of Orange City, to the end of improving the overall quality of life within the community; and

**WHEREAS**, the City Council of the City of Orange City deems it in the best interest of the City to amend Chapter 5, Section 5.5, Extension of expiration date; and

**WHEREAS**, on March 4, 2009, the local planning agency, being the Planning Commission of the City of Orange City, reviewed the requested amendment to Section 5.5, and recommended these changes to the City Council; and,

**WHEREAS**, all applicable notice requirements of Section 166.041(3)(c)(2), Florida Statutes, have been complied with; and,

**WHEREAS**, the City Council of the City of Orange City finds the requested amendment to be consistent with the provisions of the Comprehensive Plan of the City of Orange City, and in the overall best interest of the public health, safety, and welfare; and

**WHEREAS**, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

**NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:**

**SECTION 1.** That Chapter 5, Section 5.5, Extension of expiration date, of the City's Land Development Code is hereby amended as follows:

**Section 5.5. Extension of expiration date.**

Where an extension of a development order expiration date is desired, the applicant shall request an extension in writing to the DSD prior to the expiration date of said development order. The request for extension shall be accompanied by an appropriate fee as adopted by resolution of the City Council. The first request for extension shall be reviewed and considered by the DSD who may allow and approve an extension for a maximum of up to one (1) year, without City Council approval. Thereafter, an applicant may request additional one (1) year extensions of a development order only from the City Council. However, no development order shall be extended for more than a total of seven (7) years from the original date of expiration. The aforedescribed extensions shall be otherwise reviewed and considered by the same process as the original approval, with special consideration to the following:

- A. If any amendment to this code is made after approval of the original development order and would necessitate modification of the original approved development plans or associated documents.
- B. Re-evaluation of the ability of the proposed development to meet the concurrency management requirements of this Code.
- C. Changes in surrounding land use, development or other conditions that may require modification of the application to meet the requirements of this Code.
- D. Statutory development agreements may be extended as set forth in Section 163.3229, Fla. Stat., as it may be amended.

**SECTION 2. Conflicts:** All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

**SECTION 3. Severability:** If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

**SECTION 4. Effective Date:** This ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida, and approval as provided by law.

**ROLL CALL VOTE AS FOLLOWS: (Ordinance No. 379):**

First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Donald Sandford \_\_\_\_\_ Jim Mahoney \_\_\_\_\_

Thomas Laputka \_\_\_\_\_ Thomas Abraham \_\_\_\_\_

Jeff H. Allebach \_\_\_\_\_ Donald C. Sherrill \_\_\_\_\_

Harley Strickland, Mayor \_\_\_\_\_

**ROLL CALL VOTE AS FOLLOWS: (Ordinance No. 379):**

Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Donald Sandford \_\_\_\_\_ Jim Mahoney \_\_\_\_\_

Thomas Laputka \_\_\_\_\_ Thomas Abraham \_\_\_\_\_

Jeff H. Allebach \_\_\_\_\_ Donald C. Sherrill \_\_\_\_\_

Harley Strickland, Mayor \_\_\_\_\_

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
W. E. Reischmann, City Attorney



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## MEMORANDUM

Date: February 23, 2009  
To: Chairman Seaman and members of the Planning Commission  
Prepared by Jim Kerr, City Planner *JKK*

**SUBJECT: ADMINISTRATIVE STAFF RECOMMENDATION FOR A TEXT CHANGE  
SECTION 5.5 OF THE CITY'S LAND DEVELOPMENT CODE**

### DEVELOPMENT SERVICES RECOMMENDATION

The City's development services is recommending a change to the text in Section 5.5 of the City's land development code. The department maintains that the proposed text change will implement a more enhanced process for extension of development orders, and is therefore requesting the Commission to create a motion stating as follows.

**Based on competent substantial evidence, the Planning Commission recommends that the City Council of the City of Orange City adopt an ordinance amending Section 5.5 of the City's land development code as proposed in Ordinance No. 379.**

### BACKGROUND

The City's land development code was adopted on August 13, 2003, via Ordinance No. 157. Since then, City staff has utilized the code to process numerous developments, some which were processed in-house by staff, and some which were approved by either the Planning Commission or the City Council. Currently, a development order approval expires after 12 months, and there is no provision for renewal. Since 2003, several requests for extensions of a development order have been reviewed and processed by staff as per Section 5.5 of the land development code. Once these development orders have been extended one time (12 months), the development order approval expires and ceases to exist.

During the past 36 months, the housing industry has declined substantially. Twelve certificates of occupancy (CO) were issued during the 2007/08 fiscal year, which is down from 65 during the 2006/07 fiscal year. So far, during the 2008/09 fiscal year (the first quarter), 4 CO's have been issued.

In the meantime, the City has approved several subdivisions that could be an asset to the housing community once they are constructed, but because of the housing slump, it may be several years before the housing demand regains normality. Be aware, even though staff may be focusing on residential development in this report, the extension of a development order will also apply to nonresidential development. Regardless of whether the development

be residential or nonresidential, at the present time, there is no provision for an extension of a development order beyond the initial 12 months.

Therefore, staff is bringing this item to the attention of the Planning Commission and the City Council, and to offer a recommendation to amend Section 5.5 titled "Extension of expiration date". The text change will provide a process wherein the development order may be extended beyond the 12 months, and each said extension would be reviewed by staff and by the City Council. Staff recommends that Section 5.5 be amended as proposed in the attached Ordinance No. 379.

### **Planning Commission Consideration**

When reviewing a request for a text change, Section 3.5.2 F of the City's Land Development Code requires the Planning Commission to consider the following.

1. Whether the change is consistent with all adopted elements of the Comprehensive Plan and other laws and ordinances.

**There does not appear to be any inconsistency between the proposed text change and any comprehensive plan element or any other law or ordinance.**

2. Whether the change would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, as well as compatibility with existing and proposed land uses and an orderly and compatible land use pattern.

**The items listed in this section will not be adversely affected by the text changes.**

3. Whether the change is in the public interest or would benefit only the applicant.

**The text change would not benefit only the applicant, but would be in the public interest by ensuring that quality development orders will be reviewed annually to maintain their longevity.**

4. The zoning change impact upon the environment and natural resources.

**The environment and natural resources will not be adversely affected by the text changes.**

5. The zoning change impact upon the economy of the effected area.

**The economy of the City will not be adversely affected by the text changes.**

6. Whether the applicant has demonstrated that the zoning change in policy would not cause inadequacies in the level of service for transportation systems, potable water and wastewater systems, drainage, solid waste, parks and recreation facilities.

**The level of services will not be adversely affected by the text changes.**

7. Any changes in circumstances or conditions affecting the area.

**The circumstances or conditions will not be adversely affected by the text changes.**

8. The changes impact upon the use or value of the affected area.

**The use or value will not be adversely affected by the text changes.**

9. The changes impact upon the public health, welfare, safety or morals.

**The public health, welfare, and safety or morals will not be adversely affected by the text changes.**

10. Other matters that may be deemed appropriate to preserve consistency with the Comprehensive Plan, the general intent of this Code and its enabling legislation.

**It is not anticipated that there are any other matters that will cause any adverse impacts to preserving consistency with the comprehensive plan, or the intent of the land development code.**

#### **SUMMARY**

**Administrative staff is recommending that the proposed text changes be reviewed and considered for approval via Ordinance Number 379.**

1 **MINUTES OF THE REGULAR MEETING** of the Planning Commission of the City of Orange City,  
2 Florida, held on Wednesday, March 4, 2009, at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue,  
3 Orange City, Florida.

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5 **1. CALL TO ORDER:**

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7 The meeting was called to order at 7:00 p.m. by Chairman Seaman and roll call was taken.  
8

9 **2. ROLL CALL:**

10  
11 PRESENT: Chairman David Seaman; Vice Chairman Benjamin Franklin; Commissioners: Paul  
12 DeSilva, Christopher Weldon, Bob Storke; Staff Members: Chester Murray, Interim City  
13 Manager; Jim Kerr, City Planner; Wendy Hickey, Planning & Zoning Analyst;

14  
15 ABSENT: Commissioners Alisa Stafford and Michelle Polgar  
16

17 **3. APPROVAL OF MINUTES:** January 7, 2009  
18

19 **Commissioner Storke moved to approve the minutes of the January 7,**  
20 **2009 Planning Commission meeting, seconded by Commissioner DeSilva**  
21 **and approved by 5/0 voice vote.**  
22

23 **PUBLIC HEARING:**

24  
25 **4. Review and Consideration** by the Planning Commission to review and consider a recommendation  
26 to the City Council to approve a text change to Section 5.5 of the City's Land Development Code to  
27 establish procedures for extensions to development orders. (Ordinance No. 379)  
28

29 **Commissioner Weldon moved that based on competent substantial**  
30 **evidence, the Planning Commission recommends that the City Council of**  
31 **the City of Orange City adopt an ordinance amending Section 5.5 of the**  
32 **City's land development code as proposed in Ordinance No. 379,**  
33 **seconded by Commissioner DeSilva.**  
34

35 Mr. Murray administered an oath to those parties wishing to speak on this matter. Chairman Seaman  
36 opened the public hearing.  
37

38 Jim Kerr, City Planner, came forward and noted that he had distributed an updated copy of the proposed  
39 revised language for this section. He advised that Section D had been added to Page 2 of Ordinance No.  
40 379 at the direction of the City Attorney.  
41

42 Mr. Kerr noted that the text amendment under consideration relates to the extension of development  
43 orders. He said that presently, a development order expires one year after approval, but can be extended  
44 for an additional year upon request of the applicant. Mr. Kerr explained that if the proposed amendment is  
45 adopted, the applicant can request an additional year's extension which must be approved by the City  
46 Council. The development order can be extended through this process for up to seven additional years.

1 Mr. Kerr advised that this revision is applicable to (1) a preliminary subdivision plat, (2) a final plat, (3) a  
 2 site plan, (4) a variance, and (5) a conditional use.

3  
 4 Mr. Kerr said that staff has reviewed Section 3.52 (f) of the code and found that the recommendation is  
 5 consistent with the City’s comprehensive plan, as well as the items distributed previously in the agenda  
 6 packet. He advised that staff recommends approval of the proposed text change. In response to a question  
 7 from Commissioner Storke, Mr. Kerr said that any language in the handout that is not underlined is as  
 8 currently written in the code.

9  
 10 Chairman Seaman opened the Public Hearing. No one appeared. Chairman Seaman closed the Public  
 11 Hearing.

12  
 13 Commissioner DeSilva asked whether an extension of a development order would take into account any  
 14 proposed changes that had been made to the project before the extension is granted. Mr. Kerr responded in  
 15 the affirmative noting that the project would also have to comply with any new requirements due to  
 16 changes in the code. Mr. Murray said that this provision gives Council the option to deny an extension if  
 17 extensive changes have been made to the code since the project was originally approved. Chairman  
 18 Seaman expressed that he felt this provision was “very well written” because it allows the extension while  
 19 protecting the City’s codes and keeping the elected officials in the approval loop.

20  
 21 **Motion passed by unanimous 5/0 roll call vote of the Commission.**

22  
 23 **5. STAFF COMMENTS:**

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 25 Staff had no further comments and there were no questions.

26  
 27 **6. COMMISSION COMMENTS**

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 29 Commissioner Franklin stated, “Staff knows how I feel about their work.”

30  
 31 Commissioner DeSilva stated that he concurred with the language in the proposed amendment, especially  
 32 given the economic conditions of today.

33  
 34 **9. ADJOURNMENT**

35  
 36 There being no further business, Chairman Seaman adjourned the meeting at 7:10 p.m.

37  
 38 **RESPECTFULLY SUBMITTED:**

**APPROVED ON**

39  
 40  
 41  
 42 Deborah J. Renner, CMC  
 43 City Clerk

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