

ORDINANCE NO. 08- 23

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE, BY AMENDING ARTICLE I, IN GENERAL, SECTION 10-1, DEFINITIONS, TO REVISE THE DEFINITIONS FOR RESIDENTIAL, LOW DENSITY, RESIDENTIAL, MEDIUM DENSITY, AND RESIDENTIAL, HIGH DENSITY, TO FACILITATE CONSISTENCY WITH CORRESPONDING DEFINITIONS IN THE COMPREHENSIVE PLAN; AMENDING SECTION 10-1.103 OF ARTICLE I, EXPIRATION OF FINAL DEVELOPMENT ORDERS; AMENDING SECTION 10-4.202 OF ARTICLE IV, PRE-DEVELOPMENT ENVIRONMENTAL ANALYSIS REVIEWS; AMENDING SECTION 10-7.403 OF ARTICLE VII, TYPE A REVIEW; AMENDING SECTION 10-7.404 OF ARTICLE VII, TYPE B REVIEW; AMENDING SECTION 10-7.405 OF ARTICLE VII, TYPE C REVIEW; AMENDING SECTION 10-7.406 OF ARTICLE VII, TYPE D REVIEW; AMENDING SECTION 10-7.410 OF ARTICLE VII, EFFECT OF FINAL APPROVAL, OR APPROVAL WITH CONDITIONS, OF AN APPLICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

SECTION 1. Article I of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "In general" is hereby amended to amend Section 10-1.101, "Definitions," as follows:

Residential, high density shall mean residential density over 20 units up to and including 50 units per gross acre in the range of 16 to 50 dwelling units per acre.

Residential, low density shall mean residential density in the range of 0 to 8 up to and including six dwelling units per gross acre.

Residential, medium density shall mean residential density over six units up to and including 20 in the range of 8 to 16 dwelling units per gross acre.

SECTION 2. Article I of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "In General" is hereby amended to amend Section 10-1.103, "Expiration of final development orders," as follows:

Sec. 10-1.103. Expiration of final development orders.

Except where otherwise provided within this Chapter, All all final development orders shall expire in one year or such shorter time as may be adopted unless it is determined that substantial development has occurred and is continuing in good faith.

SECTION 3. A portion of Section 10-4.202 of Article IV of Chapter 10 of the Code of Laws of Leon County, Florida, entitled “Pre-development environmental analysis reviews” is hereby amended as follows:

Sec. 10-4.202. Pre-development environmental analysis reviews.

- (a) Application for PUD Concept Plan shall require a Natural Features Inventory. Every application for standard form permit, for subdivision approval, for ~~conceptual or final~~ PUD final plan or combined PUD concept and final plan approval, for approval of any project which includes 40 percent or more area of the proposed site located in a conservation or preservation overlay district, for every required application for site and development plan approval, for all roadway projects on new locations, and all widening of existing roadways, shall be accompanied by an environmental analysis which shall become, upon approval, a part of the final development approval. The environmental analysis shall include the following components:
- (1) Same.
 - (2) Same.
 - (3) Same.

(b) Same.

SECTION 4. Division 4 of Article VII of Chapter 10 of the Code of Laws of Leon County, Florida, entitled “Procedure for review and approval of site and development plans” is hereby amended to revise Section 10-7.403, “Type A review,” as follows:

Sec. 10-7.403 Type A review.

Type A review shall be applied to those types of site and development plans listed in Table 10-7.1. For the purposes of this section, non-residential site and development plans include but are not limited to certain commercial, office, institutional, and/or industrial development.

Review requirements.

(a) *Preapplication:* [Same/no changes proposed].

(b) *Application:* [Same/no changes proposed].

(c) *Determination of completeness:* [Same/no changes proposed].

County administrator review: The county administrator or designee shall review the application for compliance with the criteria set out Section 10-7.402.5, above; and, if necessary, receive input from any appropriate agencies. The County administrator or designee shall render final decision regarding the application, and shall notify the applicant of the decision within ten working days of receipt of a

complete application, after providing notice to the applicant and other parties identified in section (e) below.

Subsequent to the action of the county administrator or designee to approve a Type A site and development plan subject to conditions, the applicant shall furnish for review and verification by the county administrator or designee, a revised site and development plan application, demonstrating compliance with all conditions. The revised site and development plan shall be submitted to the county administrator or designee within 90 days of the date of approval entity's action; however, the applicant may, upon demonstration of good faith effort and hardship that is not self-created, be granted a 90-day extension by the county administrator or designee. Subsequent 90-day extensions may be requested and granted, based on the same criteria. Failure to comply with these time limits shall render the site and development plan application approval expired.

- (e) *Public Notice.* Public notice of the Type A application shall be given within ~~no less than fourteen~~ seven calendar days of receipt of application, in a newspaper of regular and general circulation in the county. In addition, public notice shall be mailed at least five calendar days in advance of the public meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within 500 600 feet of the project and to registered neighborhood and business associations. The public notice shall advise such persons of the application, and specify that input and comments

regarding the application should be sent to the Department of Growth and Environmental Management. The public notice shall advise that the application will be reviewed by staff at a public Technical Review staff meeting and provide the date, time, and place of that meeting. The public notice shall advise that no public testimony will be taken at the Technical Review staff meeting and that the application will be subject to administrative review and not subject to quasi-judicial provisions. The notice must also include a statement that, in order to qualify as an aggrieved or adversely affected person for purpose of challenging the County's determination with regard to approval or denial of the application, one must submit written comments regarding the application to the Department of Growth and Environmental Management in response to the public notice no less than seven calendar days from the date of newspaper publication.

(f) *Formal proceedings.*: [Same/no changes proposed].

SECTION 5. Division 4 of Article VII of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "Procedure for review and approval of site and development plans" is hereby amended to revise Section 10-7.404, "Type B review," as follows:

Sec. 10-7.404. Type B review.

Type B review shall be applied to the types of site and development plans listed in Table 10-7.1. For the purpose of this section, non-residential site and development plans include, but are not limited to, commercial, office, institutional, and industrial

development.

Review requirements.

(a) *Preapplication:* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type B site and development plan application. The applicant shall schedule an appointment and meet with the county administrator or designee and technical assistance staff to discuss the application, the procedures for review and approval, and the applicable regulations and requirements for the review type. The county administrator or designee shall determine the level of application detail and specific methodologies required for petitions seeking Type B development approval. Interested parties are permitted to attend and participate in the preapplication meeting. Public notice shall be mailed at least five calendar days in advance of the preapplication meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within ~~500~~ 800 feet of the project and to neighborhood and business associations.

(b) *Application:* [Same/no changes proposed].

(c) *Determination of completeness:* [Same/no changes proposed].

(d) *Public notice:* Public notice of the DRC meeting shall be given at least five calendar days in advance of the meeting by publication in a newspaper of regular and general circulation in the county. In addition, written notice shall be mailed at least five calendar days in advance of the DRC meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property

owner within ~~500~~ 800 feet of the project and to registered neighborhood and business associations. The public notice shall advise such persons of the application, and specify that no testimony may be heard by the DRC at their meeting since it is an administrative review and not subject to quasi-judicial provisions. The notice must also include a statement that, in order to qualify as an aggrieved or adversely affected person, one must submit written comments regarding the application to the DRC in response to the public notice of the DRC meeting on the application.

(e) *DRC meetings:* ~~Meetings of the DRC are administrative in nature and not subject to quasi-judicial provisions.~~ No testimony shall be received from any applicant or member of the public during the course of the DRC meeting, although written comments may be provided to the DRC and the meetings shall be open to public attendance. Each member of the DRC is responsible for providing proposed written findings which identify whether a development meets the applicable criteria and standards of this chapter and those imposed by other applicable ordinances, regulations and/or adopted standards of the county. The proposed written findings shall be transmitted to other members of the DRC, the applicant, and made available for public inspection at least one working day prior to consideration by the DRC. The proposed written findings shall be the basis for a recommendation by each DRC member to the DRC as a whole to issue a written preliminary decision to approve, approve with conditions, or deny the application. Absent a written preliminary decision, the DRC may continue consideration of an application to a date and time certain.

(f) *DRC review:* [Same/no changes proposed].

(g) [Same/no changes proposed].

[Same/no changes proposed].

Subsequent to the action of the DRC to approve a Type B site and development plan subject to conditions becoming final, the applicant shall furnish for review and verification by the DRC or their designee, a revised site and development plan application, demonstrating compliance with all conditions. The revised site and development plan shall be submitted to the DRC or their designee within 90 days of the date of approval entity's action; however, the applicant may, upon demonstration of good faith effort and hardship that is not self-created, be granted a 90-day extension by the DRC or designee. Subsequent 90-day extensions may be requested and granted, based on the same criteria. Failure to comply with these time limits shall render the site and development plan application approval expired.

SECTION 6. Division 4 of Article VII of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "Procedure for review and approval of site and development plans" is hereby amended to revise Section 10-7.405, "Type C review," as follows:

Sec. 10-7.405 Type C review.

Type C review shall be applied to the types of site and development plans listed in Table 10-7.1., and to all site and development plans listed as special exception uses within any

zoning district. For the purpose of this section, non-residential site and development plans include, but are not limited to, commercial, office, institutional, and industrial development.

Review requirements.

(a) *Preapplication:* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type C site and development plan application. The applicant shall schedule an appointment and meet with the county administrator or designee and technical assistance staff to discuss the application, the procedures for review and approval, and the applicable regulations and requirements for the review type. The county administrator or designee shall determine the level of application detail and specific methodologies required for petitions seeking Type C development approval. Interested parties are permitted to attend and participate in the preapplication meeting. Public notice shall be mailed at least five calendar days in advance of the preapplication meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within ~~500~~ 1000 feet of the project and to neighborhood and business associations.

(b) *Application:* [Same/no changes proposed].

(c) *Determination of completeness:* [Same/no changes proposed].

(d) *Public notice:* Notice of the application shall be as set forth in Section 10-

7.402, 6.(d) Public notice of the DRC meeting shall be given at least five calendar days in advance of the meeting by publication in a newspaper of regular and general circulation in the county. In addition, written notice shall be mailed at least five calendar days in advance of the DRC meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within ~~500~~ 1000 feet of the project and to registered neighborhood and business associations. The public notice of the DRC meeting shall advise such persons of the application, and specify that no testimony may be heard by the DRC at their meeting since it is an administrative review and not subject to quasi-judicial provisions.

(e) *DRC meetings:* ~~Meetings of the DRC are administrative in nature and not subject to quasi-judicial provisions.~~ No testimony shall be received from any applicant or member of the public during the course of the DRC meeting, although the meetings shall be open to public attendance. Each member of the DRC is responsible for providing proposed written findings which identify whether a development meets the applicable criteria and standards of this chapter and those imposed by other applicable ordinances, regulations and/or adopted standards of the county. The proposed written findings shall be transmitted to other members of the DRC, the applicant, and made available for public inspection at least one working day prior to consideration by the DRC. The proposed written findings shall be the basis for a recommendation by each DRC

member to the DRC as a whole to approve, approve with conditions, deny, or continue consideration of an application to a date and time certain.

(f) *DRC review*: [Same/no changes proposed].

(g) [Same/no changes proposed].

(h) Subsequent to the action of the Board of County Commissioners to approve a Type C site and development plan subject to conditions becoming final, the applicant shall furnish for review and verification by the Board of County Commissioners or their designee, a revised application, demonstrating compliance with all conditions. The revised site and development plan shall be submitted to the Board of County Commissioners or their designee within 90 days of the date of approval entity's action; however, the applicant may, upon demonstration of good faith effort and hardship that is not self-created, be granted a 90-day extension by the Board of County Commissioners or designee. Subsequent 90-day extensions may be requested and granted, based on the same criteria. Failure to comply with these time limits shall render the site and development plan application approval expired.

SECTION 7. Division 4 of Article VII of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "Procedure for review and approval of site and development plans" is hereby amended to revise Section 10-7.406, "Type D review," as follows:

Sec. 10-7.406. Type D review.

1. *Type D review shall be applied to the creation of Historic Preservation or Canopy Road Special Regulatory Overlays; Developments of Regional Impact; Florida Quality Developments; and, transitional residential facilities.* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type D site and development plan application. Such applications shall be reviewed by the DRC, which shall make a recommendation to the planning commission. The planning commission shall review the application at a public hearing and make a recommendation to the Board of County Commissioners. Quasi-judicial proceedings may be invoked pursuant to the provisions of Article VII, Division 7 of this Code.

[making this a new paragraph is a revision] After a public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the application, or continue their consideration to a date and time certain; the Board's decision shall be based upon whether the application demonstrates consistency with the comprehensive plan, and compliance with other applicable codes, rules, regulations, and policies of the county, as applicable. In rendering its decision regarding applications for Notice of Proposed Change to a Development of Regional Impact (DRI) development order, the Board's decision shall also be based upon the criteria stated above and a determination as to whether the change represents a substantial deviation to the application for development approval in effect for that DRI. If the Board determines that the application constitutes a substantial deviation, the

application can not be approved although the applicant may reapply as a requested Substantial Deviation to the DRI, in accordance with the Substantial Deviation application requirements set out in the Florida Administrative Code and Florida Statutes.

~~Type D review provides a flexible process affording any applicant with the ability to demonstrate the appropriateness of modifying any standards set forth in this chapter.~~

2. *Developments of Regional Impact (DRI) and Florida Quality Developments (FQD).*

(a) [Same/no changes proposed].

(b) Prior to the Board of County Commissioners' consideration of any approval, or any proposed change to an approved DRI or FQD, or for a Board of County Commissioners' consideration for a determination of substantial deviation to an approved DRI or FQD, the planning commission shall review the proposed change or request for determination of substantial deviation at a public hearing and shall transmit its recommendation to the Board of County Commissioners for its consideration. Quasi-judicial proceedings may be invoked pursuant to the provisions of Article VII, Division 7 of this Code. The planning commission shall render its recommendation considering:

- (i) Whether the proposed change is a substantial deviation,
- (ii) Whether the proposed change is consistent with the comprehensive plan, and

A.— (iii) Whether the proposed change is consistent with other applicable codes, rules, regulations, and policies of the county.

3. *Submittal requirements.* [Same/no changes proposed].

4. *Review requirements.* The county administrator or designee shall determine the level of detail required for the application for concept plan consideration requesting Type D review.

The Type D review provides a process affording the applicant with the ability to demonstrate the appropriateness of modifying any standards set forth in this chapter. The applicant may propose, within their application, proprietary standards, applicable specifically to the property included within the application. Such standards may be approved upon a determination that they would be consistent with the comprehensive plan, and not be likely to result in adverse health, safety, or welfare impacts to the public of Leon County.

5. *Combined development order.* At the option of the applicant, and upon submittal of necessary requirements application materials and supporting information required to address the level of detail needed for a final plan approval; i.e., a Type A, Type B, or Type C for-site and development plan application consistent with the applicable review procedure pursuant to this chapter, the The Board of County Commissioners' may approve action approving a plan for properties an application for development approval for a DRI, or any amendment thereto, or a Planned Unit Development (PUD) wherein that order issued by the Board shall also constitute a final plan approval, so long as that

combined application also demonstrates approval with applicable site and development plan requirements, and so that such projects shall not be subject to A combined development order approval precludes further site and development plan application review for development within the scope of the combined development order, so long as that development is consistent with the order.

6. *Time limits for completing revisions for applications approved with conditions.*

With the exception of applications for Developments of Regional Impact or changes to Developments of Regional Impact, and amendments to Official Zoning Map to create or amend a Planned Unit Development zoning district, subsequent to the action of the Board of County Commissioners to approve a Type D site and development plan subject to conditions becoming final, the applicant shall furnish for review and verification by the Board of County Commissioners or their designee, a revised application, demonstrating compliance with all conditions. The revised site and development plan shall be submitted to the Board of County Commissioners or their designee within 180 days of the date of approval entity's action; however, the applicant may, upon demonstration of good faith effort and hardship that is not self-created, be granted a 180-day extension by the Board of County Commissioners or designee. Subsequent 90-day extensions may be requested and granted, based on the same criteria. Failure to comply with these time limits shall render the site and development plan application approval expired.

~~5.~~ *7. Further review of individual development components of Type D development.*

Once a plan for a Type D Development has been approved by the Board of County

Commissioners, the approval of individual parcels, tracts, or projects within the Type D development shall utilize the applicable review procedure pursuant to this chapter to ensure compatibility with the concept plan as well as to meet all other appropriate technical requirements.

~~6. 8 — *Revocation of the concept plan.* An approved concept plan under the provisions of this chapter (except for developments of regional impact and Florida Quality Developments) shall be effective for 60 months. If no building permit has been issued prior to the expiration of that time, the concept plan approval shall expire. Extensions may be granted by the county administrator or designee, provided that the concept plan is consistent with the comprehensive plan and meets the requirements of this chapter, for a period not to exceed six months upon a demonstration of continuing good faith effort to move the development toward completion.~~

SECTION 8. Article VII of Chapter 10 of the Code of Laws of Leon County, Florida, entitled “Subdivision and site and development plan regulations” is hereby amended to amend Section 10-7.410, “Effect of final approval, or approval with conditions, of an application,” as follows:

Sec. 10-7.410. Effect of final approval, or approval with conditions, of an application.

1. [Same/no changes proposed].
2. [Same/no changes proposed].
3. [Same/no changes proposed].
4. The site and development plan approval, or approval with conditions, shall remain in effect until full development build-out and until transfer of ownership of all created lots, if applicable. However, the approval, or approval with conditions, shall expire if:

- (a) Substantial and observable development has not begun within ~~two~~ three years of the date of approval; or,

Except as provided in (c), below, Ssubstantial and observable development ceases for a period of ~~two~~ three years before the project is complete and certificates of occupancy have been issued.

- (c) Any owner of an affected property may request that the approval entity grant an additional three-year extension to the time limits set out in (a) and (b), above. Upon demonstration of good faith effort and hardship that is not self-created, that entity shall grant such extension.

[Same/no changes proposed].

SECTION 9. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the Comprehensive Plan.

SECTION 10. Severability. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this

Ordinance.

SECTION 11. Effective date. This ordinance shall be effective according to law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 25th day of November, 2008.



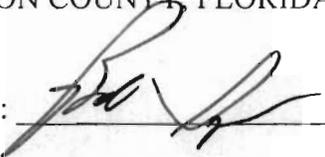
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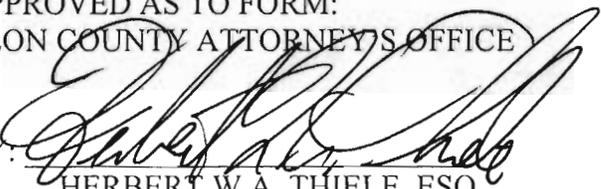

BRYAN DESLOGE, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY:


APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY:


HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY