

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: January 5, 2009

SUBJECT: Land Development Code Amendments: Chapter 4, Article I,
Site Plan Review Procedures

APPLICANT: Administrative

NUMBER: LDC 08-56

PROJECT PLANNER: Ormond Beach Planning Department

INTRODUCTION:

This is an administrative request to amend Chapter 4, Article I, Site Plan Review Procedures, of the Land Development Code (LDC) to amend:

1. Section 4-03, Site Plan Review Committee (SPRC) Established, to create an Alternative Standard for administrative relief for site plans.
2. Section 4-03, Site Plan Review Committee (SPRC) Established, to create a requirement for Neighborhood Compatibility Meetings.
3. Section 4-05, Site Plan Review, to create a re-submittal deadline for response comments.
4. Section 4-06, Information to be Included in Site Plan Application, to clarify the submittal and final approval requirements.

BACKGROUND:

Planning staff has reviewed the permitted, conditional, and special exception uses for each of the City's zoning districts and is proposing changes to improve the function of the zoning code within the City. Planning staff was tasked by the City Commission with reviewing the Land Development Code to review the districts to streamline and improve the review process for uses. One major aspect of the zoning district amendments was the elimination of the public hearing requirements for projects exceeding 10,000 square feet. The neighborhood compatibility meeting amendment is designed to allow residential property owners abutting commercial development an opportunity for review and comment early in the development review process. The neighborhood compatibility meeting also has a provision to bump up the review process to a special exception if there are legitimate conflicts between the developer and residential property owners. These amendments are companion amendments with the zoning district amendments.

ANALYSIS:

The proposed amendments are included in Exhibit "A" attached to this staff report. There are four amendments proposed in this Article as listed below:

1. Section 4-03, Site Plan Review Committee (SPRC) Established to create an Alternative Standard for administrative relief for site plans.

The purpose of this provision is to allow the Planning Director certain flexibility in the Site Plan Review process for minor variations of the Land Development Code. Such variations include minor setback encroachments or the waiver of parking spaces. All administrative relief actions require a written justification by the applicant and review by the Planning Director. The Planning Director would report any granted applications to the Planning Board and City Commission on a quarterly basis.

2. Section 4-03, Site Plan Review Committee (SPRC) Established to create a requirement for Neighborhood Compatibility Meetings.

This provision is designed to replace the public hearing requirement of the Special Exception based on project size. In many applications residents expressed concern about not being a part of the project from the early stages of review. This meeting would be required after the first SPRC submittal with specific notice requirements, including a notification radius of 600 feet. Staff believes that this will provide residents and applicants an opportunity to discuss the project in the early stages of review prior to major design commitments. This meeting requirement applies for new construction of square footage when commercially zoned property abuts residentially zoned property.

Through the meeting process, the Planning Director has the right to determine that the project should go through a Special Exception (bump up” provision) if staff believes that the impacts are great or the applicant is not taking the residential property owners request seriously. In the same consideration, if staff believes that the residents are not fairly negotiating, that would not necessarily trigger the bumping up provision to a special exception.

3. Section 4-05, Site Plan Review, to create a re-submittal deadline for response comments.

The purpose of this amendment is to establish a re-submittal deadline for projects that have received SPRC comments. There are multiple applications that have gone a year or 18 months between application submittals. Staff is seeking to establish a 180 calendar day requirement for the re-submittal of plans responding to the SPRC comments. Staff is also proposing to allow two 90-day extensions based on a written request from the applicant. If an application was determined expired, a new application and review fees would be required. In summary, the amendment allows a total of one year to respond to SPRC comments.

Staff does understand that there are difficulties in re-submitting projects which is why the provision for extension is provided. Staff is also attempting to reduce the re-submittal time and establish a mechanism to declare a project as withdrawn. The expiration date can be noted in the Monthly Development Report that is sent to the applicant’s engineers.

4. Section 4-06, Information to be Included in Site Plan Application, to clarify the submittal and final approval requirements.

This amendment is to clarify that 9 plan sets are required for SPRC final approval and that all documents must be provided in an electronic PDF format.

CONCLUSION:

There are certain criteria that must be evaluated before adoption of an amendment according to the Land Development Code (LDC), the Planning Board must consider the following criteria when making their recommendation.

- 1. The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

The proposed Land Development Code amendment will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life. The purpose of the amendments is to improve the application of the City's zoning code, allow early involvement by residents when a commercial development abuts a residentially zoned property, and streamline the review process.

- 2. The proposed development is consistent with the Comprehensive Plan.**

The proposed Land Development Code amendments are consistent with the Comprehensive Plan. Objective 2.1 of the Future Land Use Element of the Comprehensive Plan discussed the need to update Land Development Code regulations.

- 3. The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

The proposed Land Development Code amendment will not have an adverse impact on environmentally sensitive lands.

- 4. The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties.**

The proposed Land Development Code amendments seek to encourage the meeting of developers and residents to discuss development applications early in the review process.

- 5. There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

The proposed Land Development Code amendments are not applicable to public facilities.

- 6. Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

There is no development proposed for this amendment. The application pertains to a Land Development Code amendment.

- 7. The proposed development is functional in the use of space and aesthetically acceptable.**

There is no development proposed for this amendment. The application pertains to a Land Development Code amendment.

- 8. The proposed development provides for the safety of occupants and visitors.**

There is no development proposed for this amendment. The application pertains to a Land Development Code amendment.

- 9. The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

There is no development proposed for this amendment. The application pertains to a Land Development Code amendment.

- 10. The testimony provided at public hearings.**

There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

RECOMMENDATION:

It is recommended the Planning Board **APPROVE** Case #LDC08-56, to amend the City's Land Development Code to revise Chapter 4, Article I, Site Plan Review Procedures, as shown in Exhibit "A".

EXHIBIT A

Proposed Amendments
Chapter 4, Article I, Site
Plan Review
Procedures

CHAPTER 4: PLAN REVIEW AND SUBDIVISION
ARTICLE I: SITE PLAN REVIEW PROCEDURES

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| §4-01: Purpose | §4.07: Restriction on Release of Permits |
| §4-02: Applicability and Site Plan Review Thresholds | §4-08: Site Inspection |
| §4-03: Site Plan Review Committee (SPRC) Established | §4-09: Performance Guarantee may be Required |
| §4-04: Pre-Application Meeting | §4-10: Records and Considerations |
| §4-05: Site Plan Review | §4-11: Expiration and Extension of Development Orders and Permits |
| §4-06: Information to be Included in Site Plan Application | |

SECTION 4-01: PURPOSE

No change

SECTION 4-02: APPLICABILITY AND SITE PLAN THRESHOLDS

No change

SECTION 4-03: SITE PLAN REVIEW COMMITTEE (SPRC) ESTABLISHED

- A. **Membership.** The Site Plan Review Committee (SPRC) is hereby established. The Site Plan Review Committee shall be chaired by the Planning Director or the Director’s designee, who shall be responsible for coordinating and managing the affairs of the Committee. In addition to the Planning Director, members of the SPRC shall include the City Engineer, and the City Landscape Architect, or the designee(s) of such persons as appropriate. The SPRC shall also consult with, received input from, and send site plans as well as meeting agendas to the City Attorney, Chief Building Official, Utilities Manager, Police Chief, Fire Chief, Public Works Director, or their respective designees as appropriate.
- B. **Designated City SPRC Coordinating Liaison.** For each project reviewed, one member of the SPRC shall be assigned as the project coordinating liaison. The project liaison shall provide the applicant a single City contact responsible for coordinating the work of other City staff involved in the site plan review process. The SPRC shall meet to review City staff comments and resolve any conflicts prior to presenting SPRC comments to the Applicant. Issues requiring Land Development Code interpretation should be resolved between the Planning Director and the City Engineer prior to meeting with the Applicant. The same SPRC shall follow a single project from initial submittal to final approval. The assigned Planner, Development Services Engineer and Landscape Architect that comprise each respective SPRC shall be responsible for final approval and signoff of site plans on behalf of the SPRC.

C. **Meetings of the SPRC.** The Planning Department shall annually establish a schedule for application submittal and review. This shall be approved by the Development Review Board and Planning Board at their respective January meetings.

D. **Scope of Powers**

1. **Function.** The SPRC shall review all site plans, subdivisions, planned developments, conditional uses, and special exceptions as required and make a determination of the plan's acceptability and consistency with the Land Development Code and other applicable laws and ordinances.
2. **Review Powers.** The SPRC shall be responsible for conducting the review of development applications to ensure that the applications and related documentation comply with the technical standards established in the Comprehensive Plan, Land Development Code and other relevant city ordinances. If an application is for a use that is allowed by right in a particular zoning district or otherwise not subject to a Special Exception or rezoning to planned development (PBD, PRD, PID or PMHC), then the SPRC shall approve the application if it is consistent with the technical standards of the Comprehensive Plan and applicable regulations contained in the Land Development Code and Code of Ordinances. For applications that require approval of a Special Exception or for a rezoning to planned development, the SPRC shall review and provide technical comments to the appropriate advisory boards and the City Commission, subject to the procedures established in Chapter I, Article II of this Land Development Code. If the SPRC determines that an application does not comply with the technical standards contained in the Comprehensive Plan, Land Development Code or other relevant city ordinances then the applicant shall be informed of the inconsistencies and the applications shall follow the procedures established in Section 4-05 of this Article.

3. **Alternative Standard:** The Planning Director may accept an alternative standard to a prescribed standard provided a written request by the applicant is received. The written request shall detail how the prescribed standard fails to address the purpose for which it was developed and how an alternative standard accomplishes the stated purpose. The granting of administrative relief from the standards of this Code requires the following:

- a. Administrative relief may not exceed ten (10) percent of a yard or area standard, and shall be reviewed by the Planning Director in accordance with the criteria established for a variance under this Code. All other relief requests must comply with all the variance procedures of this Code.
- b. If the request is approved by the Planning Director, such administrative relief shall be added to the site plan as a certificate with a signature block for the Planning Director.
- c. Quarterly, the Planning Director shall provide to the Planning Board and City Commission a report identifying all alternative standards and administrative relief granted.
- d. Any party may appeal the Alternative Standard determination of the Planning Director per Section 1-19 of this Code.

4. **Advisory Comments.** The SPRC may also make recommendations to the applicant, to the Planning Board, to the Development Review Board, and to the City Commission on

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discretionary matters. The Committee may also make advisory comments on site layout and design features.

5. Publish Rules of Procedure. The SPRC shall adopt and publish rules of procedure in order to expedite the orderly processing and review of proposed land uses, site plans, subdivision plans, planned developments and other matters assigned to the SPRC by this Code.

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6. Neighborhood Compatibility Meetings.

a. Applicability. An informal community meeting shall be held after the initial submittal of an application and prior to the second review by the SPRC when it has been determined by the Planning Director or his or her designee that such a meeting could contribute to the community's understanding and knowledge of a proposed development in their neighborhood. Community meetings are required at a minimum when a nonresidential development is abutting residential areas. Industrial is specifically excluded from this requirement.

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b. Purposes. The purposes of community meetings are as follows:

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1 Provide an opportunity where an applicant and the community can meet and discuss the merits of a development in an informal environment;

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2 Educate and inform residents of how new development can co-exist with existing development in the community;

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3 Obtain input from residents to revise site plan prior to administrative approval by the City.

c. Structure of a Community Meeting. Any meeting held as a result of this section shall be conducted at or in a close proximity of the proposed project location. The time of the meeting shall be convenient to the surrounding property owners to maximize attendance. A record of the meeting and those in attendance shall be provided to the Planning Department. The planner attending the meeting shall only act as an observer of the proceedings. It is the responsibility of the applicant to notify, in writing, all affected parties, including the Homeowner's Association, if one exists, all tenants of property, the appropriate city staff person, and members of the Planning Board and City Commission, regardless of the project's location, of the meeting's date, time, and place. No neighborhood meeting shall be on the night of Planning Board or City Commission meetings. The following sequence of activities is required:

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1.Notification: Two (2) weeks prior to the meeting date, the applicant shall mail notices of the meeting date, time, and place to all property owners inside a radius of 600 feet from the boundary of the proposed development. Documentation of the mailed notice in the form of stamped mailing list by the local postal office signifying the notice was sent shall be provided to staff for verification. For purposes of the Sunshine laws, city staff shall ensure these meetings are included in a public notice published in a newspaper of general circulation.

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2.Development Presentation: The applicant should explain the proposed use of the subject property and make a copy of the proposed site plan available for review by attendees. The applicant should also discuss the project's development objectives, fit, and design philosophy.

3.Question and Answer Period: Upon completion of the presentation, time should be reserved for questions and answers. The applicant should be prepared to discuss how potential conflicts could be mitigated. Any representations made by the applicant to the attendees, in order to gain support for the proposal, shall be considered as a voluntary proffered condition. The use being presented is a permitted use, consequently citizen questions should be concentrated on how the

development affects their property and possible solutions for mitigating such impacts. A question of whether a permitted use should be developed is not a subject of the meeting.

d. Determination of Compatibility. In preparation of a community meeting, compatibility of proposed projects shall be assessed by the applicant based on the ability of a development to fit in the area by resolving differences and averting negative impacts created upon surrounding properties. This determination shall include assessing impacts upon community character and the local roadway network, while identifying potential land use conflicts. To assist the applicant, residents, and other interested parties in understanding the potential issues that may result from new development locating beside existing development, Section 2-28 D. 1. of the Land Development Code may be used as a step-by-step guide to assessing compatibility.

e. Discretionary Review. Site plans shall be administratively reviewed and approved when it has been determined based upon neighborhood meetings that the project's impacts upon adjacent property have been adequately addressed such that minimal or no effect occurs. To accomplish this, the applicant should recognize that a minimum standard may need to be increased in order to address the negative effect. The Planning Director shall have the authority to change the review process of an application from administrative to a Special Exception involving a formal public hearing approval process when it has been determined that the minimal standard fails to satisfy the compatibility test thus not adequately protecting the public interest.

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E. Application Processing/Subdivisions; Planned Developments

1. **Applications for Subdivisions and Planned Developments.** Applications for subdivision approvals under Chapter 4, Article II, or planned development approvals under Chapter 2, Article II of this Code, shall be submitted to the Planning Department and shall include the completed application form, processing fee and site plan information required in Section 4-06, Chapter 4, Article I.
2. **Review of Applications.** The SPRC shall review the submittal for completeness and general conformance to this Code and all other applicable City ordinances and regulatory agency requirements. Applications shall be made in accordance with the schedule previously referenced in LDC §4-3.C and the requirements of Chapter 1, Article II.
3. **Resubmittal of Applications.** Resubmittal of applications shall be considered under the same process as set forth in paragraph E.2, above.

SECTION 4-04: PRE-APPLICATION MEETING

No change

SECTION 4-05: SITE PLAN REVIEW

The purpose of the final site plan is to present the proposed development in an exact and precise manner in order that it may be evaluated pursuant to this Code.

A. Site Plan Application. A final site plan shall be submitted to the SPRC Coordinating Liaison using

the application form provided by the Planning Department and shall be accompanied by all appropriate review fees. The final site plan application shall be filed according to the schedule established by the Planning Department per LDC §4-3.C.

The applicant shall retain the services of a Professional Engineer or other professional registered in the State of Florida and authorized by the State to prepare the site plan. The plan shall be clearly and legibly drawn or reproduced at a scale no smaller than one inch equals fifty feet (1" = 50'), or other scale approved by the Planning Director. The plan size shall be 24 x 36 inches, except for final plats, which shall be at a size established in Chapter 4, Article II.

B. SPRC Review of Application. The SPRC Coordinating Liaison shall review the final site plan to ensure that the application is complete and conforms to requirement of this Code.

1. **SPRC Determination of Completeness.** If the SPRC Coordinating Liaison determines that the final site plan application is incomplete or that the application does not comply with the Land Development Code, the applicant will be notified that the application is incomplete or otherwise does not comply with the Land Development Code. The SPRC Coordinating Liaison shall provide the applicant with written findings regarding the additional information and/or site plan requirements necessary to meet submittal requirements. Information and plans may also be found incomplete if their print quality, font size, and condition at the time of submittal preclude reasonable and timely review by the City.

Review of the application shall not commence until the SPRC Coordinating Liaison has determined that an application is complete and in substantial conformity with the Land Development Code. If the application is determined to be complete and in substantial compliance with the Land Development Code, the application can be forwarded to the SPRC for review. However, if the SPRC Coordinating Liaison determines that the applicant's site plan is incomplete or otherwise fails to comply with requirements of the Land Development Code, the applicant shall be required to make necessary revisions to the site plan application to ensure compliance, or appeal the determination of the SPRC Coordinating Liaison as described in Chapter 1, Article II.

Attendance by the applicant at SPRC meetings is not necessary, but is encouraged for the initial SPRC meeting to ensure that all issues are clearly understood.

2. **Site Plan Review Committee (SPRC) Consideration of all Site Plans.** The SPRC shall review the site plan application pursuant to all applicable federal, state or local laws. After its review the SPRC shall determine if an application is technically consistent with the requirements of the Comprehensive Plan, Land Development Code, applicable sections of the Code of Ordinances and other applicable federal, state or local laws. The SPRC shall proceed with the application in accordance with the provisions of Article I, Chapter II, Administration and Enforcement, and Chapter 2, Article I through VI of this Land Development Code. The SPRC shall provide a written summary of the SPRC's comments and findings to the applicant as specified by the annual schedule (see Section 4.03.C.) Upon receipt of such findings, the applicant shall make the corrections or revisions and resubmit the application to the SPRC for review, documenting how each request change has been addressed. The applicant's response shall be distributed to the SPRC members and scheduled for review within eight (8) days of its receipt. If applicable, any additional review fees established by the City Commission by resolution shall accompany the resubmitted application.

When the SPRC determines that the final site plan application meets the provisions of the Land Development Code, such written recommendations shall be submitted to the applicant and the application will be forwarded to the DRB if the request involves a conditional use or special exception as described in Chapter 2, Article II or the Planning Board, if the request involves a rezoning to PRD, PBD, PID, PMHC, as described in Chapter 2, Article II.

If an application is for a use that is allowed by right in a particular zoning district or otherwise not subject to a Special Exception or rezoning to planned development (PBD, PRD, PID or PMHC), then the SPRC shall approve the application if it is consistent with the technical standards of the Comprehensive Plan and applicable regulations contained in the Land Development Code and Code of Ordinances.

3. SPRC Expiration of Comments. Applicants shall respond to SPRC written comments with 180 calender days of the issuance date or the project shall be considered withdrawn. All projects that do not respond within the allotted time shall be required to submit a new application and SPRC review fees. Applicants may request a maximum of two 90 calendar day extensions with a written request to the Planning Director detailing the reason for the delay in responding to the SPRC comments.

SECTION 4-06: INFORMATION TO BE INCLUDED IN SITE PLAN APPLICATION

A site plan, for the purposes of this section, shall include, but not necessarily be limited to, the following requirements. The site plan submittal shall include one (1) record set with original signatures, dates, and seals and submitted with nine (9) copies that clearly indicate the signatures, dates, and seals shown on the record set. One (1) of the nine (9) copies shall be an 11” x 17” size site plan including all the sheets of the site plan submittal, and an electronic/digital complete plan set submitted in Portable Document Format (PDF). All supporting documents such as response comments, traffic studies and stormwater reports shall be submitted in PDF. All drawings on the record set shall be signed, dated and sealed by a registered civil engineer, architect, landscape architect or other person as required under this Code or by Florida general law. For final SPRC sign-off, nine (9) original signed, dated and sealed plan sets, one 11” x 17” signed, dated, and sealed plan set, and one set in Portable Document Format. The required narrative text demonstrating compliance with Code requirements may be provided on the illustrated sheets in tabular or text format as appropriate or may be submitted as a supportive narrative.

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SECTION 4-07: RESTRICTION ON RELEASE OF PERMITS

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SECTION 4-08: SITE INSPECTIONS

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SECTION 4-09: PERFORMANCE GUARANTEE SHALL BE REQUIRED

No change

SECTION 4-10: RECORDS AND CONSIDERATIONS

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SECTION 4-11: EXPIRATION AND EXTENSION OF DEVELOPMENT ORDERS AND PERMITS

No change