

ORDINANCE NO. 1224

AN ORDINANCE OF THE CITY OF MAITLAND, FLORIDA, AMENDING CHAPTER 7.5 LAND DEVELOPMENT PROCEDURES OF THE MAITLAND CITY CODE WHICH INCLUDES MODIFICATIONS TO THE FOLLOWING: CREATING ARTICLE VI. DEVELOPMENT AGREEMENT AMENDMENT; AND PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3187, Florida Statutes, provides for a local government to amend a local government comprehensive plan; and

WHEREAS, on September 27, 2010, the Maitland City Council adopted a comprehensive plan, entitled Maitland Comprehensive Development Plan 2030 (CDP 2030) by Ordinance No. 1201, pursuant to Chapter 163, Florida Statutes; and

WHEREAS, The City of Maitland CDP 2030 included amendments identified as part of the City's Evaluation and Appraisal Report process; and

WHEREAS, pursuant to F.S. 163.3202, Land Development Regulations are to be updated within 12 months of the adoption of a CDP Evaluation and Appraisal Report Amendments (a.k.a., EAR-Based Amendments), which are to be consistent with and implement the 2030 CDP; and

WHEREAS, Chapter 7.5 Land Development Procedures, contains the processes and procedures for regulating land development within the Maitland City Code; and

WHEREAS, the City has modified and updated a portion of Chapter 7.5 Land Development Procedures of the Maitland City Code in conjunction with the review of the Land Development Regulations; and

WHEREAS, the Planning and Zoning Commission, indicates the necessity to provide for a clear and efficient review process for amendments to Development Agreements and therefore finds it necessary to further amend Chapter 7.5 of the Maitland City Code; and

WHEREAS, Chapter 4.7-22. General, functions, powers, and duties, of the Maitland City Code states that the Commission shall be responsible for the preparation of the Maitland Land Development Code, or amendments thereto; and

WHEREAS, the Planning and Zoning Commission, also sitting and the Local Planning Agency, advertised and held a public hearing on December 15, 2011, to take public comment regarding the proposed amendment to Chapter 7.5; and

WHEREAS, the Planning and Zoning Commission, at its meeting on December 15, 2011, recommended approval of the amendment subject to the Planning and Zoning Commission recommendation dated December 15, 2011; and

WHEREAS, the Maitland City Council introduced this Ordinance on January 23, 2012 and subsequently in accordance with Section 166.041, Florida Statutes the Maitland City Council advertised and held a public hearing on this ordinance on February 13, 2012 to take public input; and

WHEREAS, the Maitland Local Planning Agency has found the amendments to the City's Land Development Regulations to be consistent with the CDP 2030 and, found that they will promote the public health, safety, welfare, economic order and aesthetics of both the region and the community; and

WHEREAS, the Maitland City Council concurs in the foregoing findings;

NOW THEREFORE, BE IT ENACTED by the Maitland City Council, that:

SECTION 1. Chapter 7.5 Land Development Procedures, of the Maitland City Code shall be amended consistent with the modifications evidenced in Exhibit "A" attached hereto and incorporated herein.

SECTION 2. Severability Clause. In the event that any term, provision, clause, sentence or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal or unenforceable term, provision, clause, sentence or section did not exist.

SECTION 3. Ordinances and Resolutions in Conflict. All ordinances or resolutions or parts thereof, which may be determined to be in conflict herewith, are hereby repealed.

SECTION 4. Effective Date.

ADOPTED by the City Council of the City of Maitland, Florida, on the 13th day of Feb., 2012.

CITY OF MAITLAND, FLORIDA

By: 

Howard Schieferdecker, Mayor

Attest:


Maria Waldrop, City Clerk

Exhibit "A"

Article VI. Development Agreement Amendment.

Sec. 7.5-40. Purpose and Intent.

The purpose of this section is to ensure that when an amendment to a development agreement (DA) which was adopted pursuant to Section 163.3220, et. seq. Florida Statutes, is considered by the City of Maitland, that a review process is articulated within the Maitland City Code to provide for a clear and efficient review process. ~~that one of the two required public hearings be held by the Local Planning Agency (LPA), with findings provided as listed herein. The second public hearing shall be held by the Maitland City Council, following recommendation by the LPA.~~

Sec. 7.5-41. Applicability.

The procedures contained in this article are applicable to any amendment to a DA previously adopted by the City of Maitland pursuant to Section 163.3221, Florida Statutes.

When referencing a Florida Statute within this Article it shall include its successor provisions.

Sec. 7.5-42. Procedure for Amendment to a Development Agreement (DA).

(I) *Development Review Committee Review and Recommendation.* The Development Review Committee (DRC) shall review the DA amendment and provide a recommendation to the LPA to approve, approve with modifications or deny the DA amendment. The DRC shall make findings as to each proposed DA amendment and shall forward such findings to the LPA.

The findings shall ~~include, but not be limited to~~ be based on the following criteria:

- (a) Whether the amendment to the DA is consistent with the City of Maitland 2030 Comprehensive Plan, or as may be amended; and
- (b) Whether the provisions of the DA amendment ~~will promote~~ are in the best interests of the public health, safety, welfare, economic order and aesthetics of the region and the community; and
- (c) Whether the development will adversely affect the orderly development of property in the area of the parcel of land subject to the DA amendment; and
- (d) Any findings required to be made pursuant to Section 163.3227, Florida Statutes.

(II) *Local Planning Agency Public Hearing and Recommendation.* Upon consideration of the recommendations of the DRC, the LPA shall hold a public hearing. Notification of the public hearing shall be accomplished pursuant Section 163.3225, Florida Statutes. Following the public hearing, and after review of the DRC recommendation and findings, the LPA shall make its written recommendation to the City Council and shall make a written finding certifying consistency with the items listed in (I.) (a) through (d) above.

(III) *City Council Public Hearing and Decision.* Upon consideration of the recommendations of the LPA and the DRC, the City Council shall hold a public hearing. Notification of the public hearing shall be published and mailed in accordance with Section 163.3225, Florida Statutes. Following the public hearing the City Council shall approve, or approve with modifications, or deny the proposed DA amendment. This does not preclude an additional public hearing(s) as may be required by Law or as may be deemed appropriate by the City.

Sec. 7.5-43. Procedure for Minor Amendments to a Development Agreement.

(I) *Review and approval by Community Development Director.*

(a) Minor amendments to a development agreement may be approved as a non-statutory development agreement pursuant to the City's home rule powers under the Florida Constitution and Chapter 166, Florida Statutes, after review by the Community Development Director, provided:

- (1) the change is substantially consistent with the overall purposes and intent of the approved development agreement; and

- (2) the change conforms to all other applicable City ordinances and regulations; and
 - (3) the change does not require a change in any other provision of the development agreement that would require review under Section 7.5-42; and
 - (4) the change is not inconsistent with the City's Comprehensive Development Plan.
- (b) An amendment is considered minor if it includes one or more of the following:
- (1) Adds less than five (5) percent of the approximate structural square footage of the project, if the development agreement states an approximate maximum square footage of the project.
 - (2) Changes provisions regarding easements or utilities so that more effective service levels can be achieved.
 - (3) Corrects any scriveners' errors.
 - (4) Changes provisions which are specifically provided for as minor in the approved development agreement.
 - (5) Change time frames for development application review, as long as the modified schedule does not trigger any default dates that may exist within the agreement and the modified review time frames and all required improvements, can be accomplished without an extension of the expiration date of the agreement.
 - (6) Changes resulting from changes to any section or subsection numbers of amended Florida Statutes, Florida Administrative Code, or any other state or local law, so long as the substance of the state or local law has not changed.
 - (7) When the development agreement provides that a city official take certain action, the change adds that the city official "or his or her designee" may execute the action.
 - (8) Changes provisions that allow administrative site plan reviews by providing that site plan reviews shall be processed in accordance with Article X of Chapter 7.5.
 - (9) Extends the effective date of the a current, unexpired development agreement if state law applicable to the development agreement requires such extension, so long as the developer follows the requirements of the law.
 - (10) When a development agreement requires a letter of credit or maintenance bond, the change allows other forms of security interest, so long as any surety is approved by the City staff; provided, however, that any stated amount or percentage of the security interest remains the same.
 - (11) Changes the corporate name or address of developer when such changes have been accomplished through the State.
 - (12) Changes the name of the subject property or project, unless the name of the subject property listed in the development agreement is the same as an already-platted subdivision.

(II) Development Review Committee Review and Recommendation. If the Community Development Director desires review and recommendation by the DRC for a determination of whether the change is minor, (s)he may require DRC to review the proposed change. The DRC shall recommend approval or denial that the change is minor.

(III) Decision of Community Development Director. If the Community Development Director determines, when applying the above criteria, that the change is minor, the amendment shall be prepared, executed, and recorded in the public records of Orange County, without necessity of any public hearings before the LPA or City Council. If the Community Development Director determines that the change is not minor, (s)he shall state reasons in writing to the applicant minor, and the amendment shall be reviewed in accordance with Section 7.5-42.

Sec. 7.5-4344. Periodic review of development agreements.

The Community Development Director or designee shall review each development agreement in accordance with Section 163.3225, Florida Statutes, or as may be amended. A determination shall be made as to whether the developer has complied with the terms of the development agreement.

The development agreement may be revoked or modified by the City of Maitland in accordance with Section 163.3235, Florida Statutes, or canceled at any time in accordance with Section 163.3237, Florida Statutes; or revoked in accordance with Section 163.3241, Florida Statutes.