



COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission
Jimmy L. Morales, City Manager

FROM: Ricky Arriola, Commissioner

DATE: January 16, 2019

SUBJECT: DUAL REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE AND PLANNING BOARD TO DISCUSS AN AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS TO ALLOW THE TIMEFRAMES OF A DEVELOPMENT ORDER TO CONTROL OVER LESSER TIMEFRAMES ESTABLISHED THROUGH DEVELOPMENT ORDERS OF A LAND USE BOARD.

Section 163.3220, Florida Statutes, entitled the "Florida Local Government Development Act," provides, as part of the Legislative intent, the desire to limit uncertainty in the approval of development, which lack of certainty can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development, and discourage commitment to comprehensive planning. A development agreement can provide assurances to a developer that upon receipt of a development permit he or she may proceed in accordance with existing laws and policies, subject to the conditions of the development agreement, which then strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, and reduces the economic costs of development.

Under State law, a development agreement may not exceed 30 years in duration. Although the duration of the City's development agreements will vary, the term of a development agreement can often exceed the time period authorized under a development order approved through the City's Land Development Regulations. In the City all development orders approved by the Board of Adjustment, Design Review Board, Historic Preservation Board, and Planning Board, expire in 18 months, if no building permit is pulled within the 18 month period. The City's Land Development Regulations solely provide for a possible a one year extension, after public hearing, for a Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board development order; for a possible total of 30 months before the development order expires, if no building permit is pulled.

The foregoing 18-30 month default time periods may conflict with the express negotiated terms of a development agreement. Moreover, development orders of the Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board (City's Land Use Boards) may be insufficient to ensure compliance with the development agreement.

In fact, by expiring, the developer would be required to seek additional, unnecessary hearings, and may face additional legal challenges that would require the developer to seek new approvals over the term of the development agreement; even though the development agreement may vest the developer with the zoning code requirements from the time period when the agreement was entered.

As State law recognizes a development agreement may include a duration of up to 30 years, and include additional terms and timeframes tailored to the needs of each project, the City desires to conform its code to be consistent with the provisions of Fla Statutes 163.3220-163.3243 relating to the requirements of a development agreement, to clarify that the timeframes set forth in a development agreement shall control over any shorter timeframes provided in development orders of the City's Land Use Boards. The attached amendments are necessary to accomplish all of the above objectives.

CONCLUSION

I ask that the attached ordinance be referred to the Land Use and Development Committee and the Planning Board.

Legislative Tracking

Planning

Sponsor

Commissioner Ricky Arriola