



Legislation Text

File #: 200722., **Version:** 4

Text Change - Neighborhood Workshop and Site Plan Review Process (B)

Ordinance No. 200722

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) by amending development thresholds and applicable reviewing authorities; by amending Section 30-3.1 Development Review Coordinator; by amending Section 30-3.2 Technical Review Committee; by amending Section 30-3.7 Neighborhood Workshop; by amending Section 30-3.8 Public Notice; by amending Section 30-3.18 Review Procedures; by amending Section 30-3.36 Minor Subdivisions; by amending Section 30-3.45 Levels of Development Review; by amending Section 30-3.47 Review Procedures; by amending Section 30-3.56 Land Use Hearing Officer; by amending Section 30-6.4 Level of Service Review; by amending Section 30-6.6 Design Standards; by amending Section 30-6.12 Outdoor Lighting; by amending Section 30-7.2 Off-Street Vehicle Parking; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

The City Commission adopt the proposed ordinance.

STAFF REPORT

This ordinance will amend various provisions in the Land Development Code relating to public notification and participation in development review. Development applications that both require and do not require board approval must first hold a neighborhood workshop and include in the application a written record of such meeting. This ordinance amends the neighborhood workshop requirements to include a more robust process, including submittal of a Public Participation Report documenting the results of the public participation effort.

In addition, this ordinance per City Commission direction changes the Land Development Code so that site plans for residential developments with greater than 50 units will no longer be reviewed and approved administratively by substantive City staff and instead will be reviewed and approved by a volunteer citizen board. Importantly, site plan review and approval standards by law are the exact same regardless of the applicable reviewing authority. It is also important to note that site plan review, the subject of this ordinance, is the very last stage in a multi-layered development entitlement and review hierarchy adopted by the City Commission that dictates what ultimately can be constructed at any time on any given property within the City of Gainesville. That multi-layered regulatory hierarchy begins with the City Commission adopting regulations in the Comprehensive Plan and then the Land Development Code; followed by the City Commission applying those regulations to specific properties throughout the City limits by assigning land use designations and zoning districts; then often involves intermediary reviews such as Special Use Permits, subdivisions/plats, lot splits, historical special districts or other overlays, right-of-way vacations, variances, etc.; and finally ends with site plan review and building permit issuance on specific properties. Because site plan review is the last stage of the development approval process with fundamental questions and development entitlements for any given property already dictated by the City Commission at that point, it is also by law the stage where the reviewing authority (whoever that may be) has the least discretion as to whether any given site plan must be approved or

denied. What this means is that if a given site plan meets the voluminous prescribed regulations previously adopted by the City Commission in the Comprehensive Plan and Land Development Code and applied to specific properties by the City Commission through land use designations and zoning districts, then that site plan must be approved - again regardless of reviewing authority - even if the site plan turns out to be seemingly unpopular or has generated significant opposition by interested neighbors.

In other words, if the land development regulations that the City Commission adopts in the Comprehensive Plan and Land Development Code and that the City Commission then assigns to particular properties through land use designations and zoning districts allow for unpopular or controversial site plans on any given property, then the City Commission - if it in fact desires to take any action to address the root cause of the unpopular or controversial site plans that have resulted from its previously adopted regulations - would need to amend in accordance with law those enabling regulations that were previously adopted by the City Commission. Whatever the pros and cons may be, changing from staff administrative review to board review for the final site plan review stage fundamentally does not address that underlying root issue and therefore by definition any public input in site plan review is ultimately not efficacious like public input in the City Commission's actual establishment of the very land development regulations that enable and allow any given development to occur on particular property within the City of Gainesville.

To illustrate the above, the relatively recent Seminary Lane site plan review/approval, which in many respects serves as the genesis of this ordinance, is an example of a site plan review that generated public opposition. (The recent Royal Park site plan review is another and it is important to note that both Seminary Lane and Royal Park are categorically different from both the recent St. Michael's review and the South Main Street review, which also generated public opposition but involved the City Commission exercising fundamentally different authority with significantly more discretion with land use and zoning matters near the top of the regulatory hierarchy.) The Seminary Lane site plan approval, which was done administratively by City staff, was appealed by interested parties and after two separate meticulous reviews by the assigned state-level Judge, which included more than six days of hearings and an incredible amount of time, effort, and expense, the Judge upheld in almost every respect the City staff's very detailed administrative review/approval of the Seminary Lane site plan. This result was a confirmation of the high quality and competency of City staff in the very technical site plan review process, and shows that the root cause of the public opposition over Seminary Lane was not in fact that City staff somehow acted erroneously in any way (as was alleged and was the very basis of the legal challenge) but was rather that the City Commission adopted Comprehensive Plan and Land Development Code regulations and then assigned specific land use designations and zoning districts to the Seminary Lane property that in fact enabled the Seminary Lane development to occur on that property. In other words, it was the City Commission's adoption of regulations at the top of the development regulatory hierarchy and fundamentally not the carrying-out or implementation of those regulations (whether by City staff or a citizen board notwithstanding) at the bottom of the development regulatory hierarchy that was the true genesis or cause of public opposition over the Seminary Lane site plan. Consequently and as explained above, this ordinance does not address that underlying root matter.

Nevertheless and limited strictly to the site plan review process, this ordinance per City Commission direction and as stated above replaces a City staff administrative process with a board review process for site plans that are residential developments with greater than 50 units. The implications or pros/cons of those two distinct types of site plan review processes is most pertinent to the supply and development of affordable housing (however defined), as has been documented by the U.S. Department of Housing and Urban Development under the Obama administration and as has been presented by staff and discussed by the City Commission several times. Therefore, this ordinance as currently drafted attempts to recognize that fact by exempting from board review (and therefore maintaining the current City staff administrative review) any site plans that consist of

residential developments with 15% of units reserved for households making 80% AMI or less. The City Commission should consider the parameters of this exemption in order to most effectively encourage the provision of affordable housing throughout the City of Gainesville.

This ordinance requires two hearings and will become effective upon adoption.