

Board of County Commissioners

**Updates to Chapter 30 Article III – Land
Development and Use Ordinance to comply
with SB 812 “Expedited Approval of Residential
Building Permits”**

October 29, 2024



Presentation Outline

- Purpose
- Background
- Current Code
- Proposed Code Change
- Summary
- Action Requested



Purpose

- Respond to legislative mandate for the creation of “Expedited Approval of Residential Building Permits” processes for certain qualifying residential developments, and updating Orange County Code as necessary



Presentation Outline

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Background

- **SB 812 - Expedited Approval of Residential Building Permits**
 - Requires certain local governments to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, under certain circumstances, **by October 1, 2024.**
 - A local government must update its expedited building permit program with certain increased percentages by December 31, 2027.
 - Approved by the Governor on May 29th, 2024



Background

- **Bill outlines a two-step process**

- **Step 1** – Develop requirements to issue 50% of residential permits (then max of 75% by 2027) when the following criteria are met:

- Issuance of an approved “Preliminary Plat”
- Receipt of 130% surety for anticipated construction
- Notice to utility providers, and
- Approval of Hold Harmless & Indemnification Agreement
- Note: The Statute does not restrict the governing body from issuing more than 50 percent of the building permits for the residential subdivision or planned community.

- **Step 2** – Provide a Master Building Permit process consistent with FS 553.794



Presentation Outline

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Current Code

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - (a) A plat shall be approved and recorded in the manner provided in sections 34-48 and 34-133, and, to the extent that it is not inconsistent with sections 34-48 and 34-133, part I, chapter 177, Florida Statutes.

Summary: Paragraph (a) says when a plat is required, it must follow certain rules.



Current Code

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - (b) With the exception of developments and model homes authorized by subsections 30-83(c) and (d), respectively, vertical construction shall not be permitted to commence at a development requiring a plat unless and until the plat has been approved and recorded. However, for single-family development, where it is expected or determined that the plat for a particular development cannot be approved and recorded through no fault of the developer's before vertical construction is ready to commence, the development review committee may approve vertical construction in advance of platting pursuant to terms and conditions that are acceptable to the DRC, provided that in no event may a temporary or permanent certificate of occupancy be issued for such vertical construction before the plat is approved and recorded.

Summary: Paragraph (b) allows for vertical residential permitting under certain extenuating circumstances not caused by the developer.



▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (c) For developments having an expected construction duration of six months or more and consisting of commercial, industrial, hotel, office, or multi-family uses, or other non-single family developments which, when platted, will contain three lots or less, the DRC may approve a request to allow vertical construction in advance of plat approval, provided all of the following conditions are met:
 - (1) The PSP, or DP, as applicable, for such project has received final approval;
 - (2) A plat has been submitted for review and approval pursuant to the applicable PSP or DP and has been deemed sufficient for initial review by the County; and
 - (3) The project landowner has executed and delivered to the county, and the county has approved, an indemnification and hold harmless agreement, in form and substance acceptable to the county, acknowledging:
 - a. The issuance of building permits prior to recordation of the plat;
 - b. The continuing obligation of the owner to record the project plat;
 - c. The owner's understanding that under no circumstances will the county issue a temporary or permanent certificate of occupancy until the plat is approved and recorded; and
 - d. The owner's indemnification of the county from any damages, costs, or claims arising from the issuance of building permits prior to approval and recordation of the plat.



Current Code

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

Summary: Paragraph (c) allows for commercial vertical permitting prior to final plat recordation with certain acknowledgements and restrictions, including execution of a Hold Harmless and Indemnification Agreement



- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - (d) Model homes may be permitted on not more than twenty (20) percent of the lots in a single-family residential development with an approved preliminary subdivision plan, or phase thereof, but in no event may the number of model homes exceed five (5) per phase for single-family detached and may not exceed one (1) six-unit building per phase for single-family attached (each of the model units shall be required to be built out). The model homes shall be situated on contiguous lots or clustered within a readily identified area. Not more than one (1) model home may be used as a sales office/center, subject to the requirements of subsection 38-79(5) and;



▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (1) An applicant/developer requesting a model home permit shall submit a complete and sufficient model home application, with the applicable application fee, to the Zoning Division Manager, or their designee, and include the following documents:
 - a. The site plan for the lot proposed for the model home, depicting the proposed structure, footprint, setbacks, and proposed easements for the model home being requested;
 - b. An electronic copy (in portable document format, GIS shapefile, or similar format) of the preliminary subdivision plan (or plat), identifying the proposed lot lines, indicating where the model home(s) will be located, and reflecting street names which have been approved by Orange County; and
 - c. An executed, notarized, hold harmless and indemnification agreement, a form of which shall be provided by the county, which shall include, among other things, an acknowledgment by the applicant/developer that it understands and agrees that it shall comply with all applicable permitting restrictions, requirements and conditions, including those set forth in this section 30-83.

And;



▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (2) The following permitting restrictions, requirements, and conditions shall apply for a model home permit:
 - a. Permitting is at the risk and expense of the applicant/developer, including any changes which may need to be made with respect to the final recorded plat;
 - b. Under no circumstances will the County issue a temporary or permanent certificate of occupancy until a plat is recorded;
 - c. All construction is at the applicant/developer's own risk and expense;
 - d. Curb and stabilized road base shall have been installed, at a minimum, from the project entrance to the model home(s) to the satisfaction of the Public Works Department and the Orange County Fire Marshal;
 - e. Drainage infrastructure shall have been completed, at a minimum, for the development of the model home(s) to the satisfaction of the Public Works Department;



▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (2) The following permitting restrictions, requirements, and conditions shall apply for a model home permit (Continued):
 - f. A fully functional, readily accessible, County- approved fire hydrant shall be in place within the distance required by the Florida Fire Prevention Code, as may be amended from time to time, of the lot line of the proposed model home(s). The foregoing notwithstanding, in the event the applicant is unable, through no fault of its own, to obtain permanent water to serve the fire hydrant, the Orange County Fire Marshal may approve the use of temporary water during construction of the model home(s) if he or she determines such temporary water would not endanger public safety; provided, however, that a fully functional fire hydrant as set forth above shall be required before any temporary or permanent certificate of occupancy of a model home(s);
 - g. The water system serving the proposed model home shall have been partially or fully cleared for service by the Florida Department of Environmental Protection (FDEP). In cases where fire protection is approved through the use of temporary water for construction of a model home(s), as provided in Subsection f. above, FDEP clearance of the water system, as set forth herein, shall be required before any temporary or permanent certificate of occupancy of a model home(s);



- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - (2) The following permitting restrictions, requirements, and conditions shall apply for a model home permit (Continued):
 - h. An original, fully executed version of the hold harmless and indemnification agreement referenced in Subsection 30-83(d)(1)c., above, shall have been recorded in the official records of Orange County, Florida, and such recorded copy shall have been provided to the Zoning Division;
 - i. Temporary or permanent street signs and a street address number for each proposed model home shall be in place to facilitate emergency response, as determined by the Orange County Fire Marshal; and
 - j. Applicant shall have complied with any and all other Orange County Code provisions, including Zoning regulations.

And;



- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - (3) A certificate of occupancy shall not be issued for a model home until a certificate of completion for infrastructure has been issued for the subdivision, or phase thereof. However, a temporary certificate of occupancy (TCO) may be issued by the Division of Building Safety prior to issuance of a certification of completion, provided the following restrictions, requirements, and conditions are met:
 - a. The Public Works Department shall have verified completion of installation of an asphalt surface from the nearest public right-of-way to the lot line of the model home(s), in accordance with Subsection 30-83(d)(2)d. above;
 - b. The Public Works Department shall have verified completion of installation of the drainage infrastructure and its functionality, in accordance with Subsection 30-83(d)(2)e. above, and all inspections shall have been satisfactorily completed;
 - c. All required traffic control signs and devices shall be in place from the nearest public road right-of-way to the lot line of the model home(s), as determined by the Public Works Department;
 - d. All permits issued by the Division of Building Safety for the model home(s) have received approved final inspections;
 - e. A permanent, fully functional public restroom is located in an easily accessible place within the model home(s);



▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (3) A certificate of occupancy shall not be issued for a model home until a certificate of completion for infrastructure has been issued for the subdivision, or phase thereof. However, a temporary certificate of occupancy (TCO) may be issued by the Division of Building Safety prior to issuance of a certification of completion, provided the following restrictions, requirements, and conditions are met (Continued):
 - f. Sufficient and clear access for emergency vehicles shall be available, as determined by the Orange County Fire Marshal;
 - g. The wastewater system serving the model home(s) shall have been partially or fully cleared for service by the Florida Department of Environmental Protection; and
 - h. The applicant shall have complied with any and all other applicable Orange County Code provisions, including recording a plat for the development.

A TCO shall be effective for a period not to exceed ninety (90) days. An extension of no more than thirty (30) days may be granted upon good cause shown as acceptable to the County.

An appeal of a determination related to a model home application or permit shall be filed with the Zoning Manager in writing within fourteen (14) days of the determination, accompanied by the applicable appeal fee. The appeal shall be heard by the Development Review Committee.



Current Code

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

Summary: Paragraph (d) is the current model home process that allows:

- Model homes may be permitted on not more than twenty (20) percent of the lots in a single-family residential development with an approved preliminary subdivision plan, or phase thereof, but in no event may the number of model homes exceed five (5) per phase for single-family detached residential units or one 6–unit townhome (single-family detached and townhomes cannot be combined)
- The model homes shall be situated on contiguous lots or clustered within a readily identified area. Not more than one (1) model home may be used as a sales office/center



- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - Provides for site plan, proposed lots, street names & signs, hold harmless & indemnification agreement, curb & stabilized road base, drainage infrastructure, fire hydrant, and water service cleared by FDEP
 - Hold Harmless and Indemnification Agreement
 - Temporary or Permanent street signs and addresses
 - A Temporary Certificate of Occupancy (90 days) may be issued under certain conditions
 - No final Certificate of Occupancy is issued until after Certificate of Completion is issued, and the final plat is recorded for the subdivision site



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Proposed Code Change

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
- **New paragraph (e):**
 - **(e) For residential vertical permit applications pursuant to section 177.073, Florida Statutes, vertical permits on not more than seventy-five (75) percent of the lots in a single-family residential development with an approved subdivision plan pursuant to section 34-75 shall be permitted, provided that under no circumstances shall a temporary or permanent certificate of occupancy be issued for such vertical construction before the final plat is approved and recorded.**



Proposed Code Change

▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (1) An applicant requesting a vertical permit under this section shall submit a complete and sufficient Master Building Permit Plan, with the applicable application fee, to the Zoning Division Manager and to the county engineer, or their respective designees, and include the following documents:
 - a. The site plan depicting not more than seventy-five (75) percent of the lots proposed for the vertical permits being requested, depicting the proposed structure, footprint, setbacks, and proposed easements encumbering the respective lots;
 - b. An electronic copy (in portable document format [PDF], GIS shapefile, or similar format) of the preliminary subdivision plan (or plat), identifying the proposed lot lines, indicating where the vertical permits will be located, and reflecting street names and addresses which have been approved by Orange County; and
 - c. An executed, notarized, hold harmless and indemnification agreement, in a form acceptable to the county, which shall include, among other things, an acknowledgment by the applicant that it understands and agrees that it shall comply with all applicable permitting restrictions, requirements and conditions, including those set forth in section 30-83(c)(3) and section 34-75.

And;



Proposed Code Change

▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (2) The following permitting restrictions, requirements, and conditions shall apply for a vertical permit under this section:
 - a. Permitting is at the risk and expense of the applicant, including any changes which may need to be made with respect to the final plat;
 - b. Under no circumstances shall the county issue a temporary or permanent certificate of occupancy until a final plat is recorded;
 - c. All construction is at the applicant's own risk and expense;
 - d. stabilized road bases must be installed, at a minimum, from the project entrance to within 50 feet of each vertical permit, and must meet the approval of both the Orange County Public Works Department and the Orange County Fire Marshal;



Proposed Code Change

▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (2) The following permitting restrictions, requirements, and conditions shall apply for a vertical permit under this section (Continued):
 - e. Fully functional, readily accessible, county-approved fire hydrants shall be in place within the requisite distance of the lot line of the proposed vertical permits, in accordance with the Florida Fire Prevention Code. The foregoing notwithstanding, in the event the applicant is unable, through no fault of its own, to obtain permanent water to serve the fire hydrants, the Orange County Fire Marshal may approve the use of a temporary water supply during construction of the vertical permits if he or she determines such temporary water supply meets the fire flow requirements of the Florida Fire Prevention Code for the proposed size of the structures would not endanger public safety; provided, however, that fully functional fire hydrants, as set forth above, shall be required before the issuance of any temporary or permanent certificate of occupancy of a permitted structure;
 - f. The water system serving the proposed vertical permit shall be partially or fully cleared for service by the Florida Department of Environmental Protection (FDEP). In cases where fire protection is approved through the use of temporary water supply for the construction of any vertical permit, as provided in subsection (f) above, FDEP clearance of the water system, as set forth herein, shall be required before the issuance of any temporary or permanent certificate of occupancy of a permitted structure;



Proposed Code Change

▪ **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

- (2) The following permitting restrictions, requirements, and conditions shall apply for a vertical permit under this section (Continued):
 - g. An original, fully executed version of the hold harmless and indemnification agreement referenced in section 34-75, shall be recorded in the official records of Orange County, Florida, and a recorded copy of the hold harmless and indemnification agreement shall be provided to the zoning division and to the county engineer.
 - h. Temporary or permanent street signs and a clearly visible street address number for each proposed home shall be in place to facilitate emergency response, as determined by the Orange County Fire Marshal; and
 - i. Applicant shall have complied with all other Orange County Code provisions, including any applicable zoning regulations.

And;



Proposed Code Change

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**
 - (3) A certificate of occupancy shall not be issued for a home until a final plat has been recorded in the official records of Orange County.



Proposed Code Change

- **Sec. 30-83. - Plats; vertical construction prior to plat approval; vacation.**

Summary: New paragraph (e) is:

- Structured after the Model Home process in paragraph (d) but allowing for release of up to 75% of residential permits in the development.
- and also provides that:
- No Certificates of Occupancy are issued until Certificate of Completion has been accepted and Final Plat has been recorded.



Presentation Outline

29

- Purpose
- Background
- Current Process
- Proposed New Process
- **Summary**
- Action Requested

- **The County is required to create a process for “Expedited Approval of Residential Building Permits ” for certain residential developments by October 1, 2024**
- **Proposed code changes will allow vertical permitting in a residential subdivision to release up to 75% of anticipated starts upon approval of a Preliminary Plat by the BCC**
- **Current model home process is still in place**



Presentation Outline

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- Purpose
- Background
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- **Action Requested**



PZC/LPA Recommendation

- **On October 17, 2024, the Planning and Zoning Commission made a finding of consistency with the Comprehensive Plan, and,**
- **A recommendation of approval regarding proposed changes to Chapter 30 – Subdivision regulations, to comply with statutory requirements for an expedited permitting process**



Action Requested

- **Make a Finding of Consistency with the Comprehensive Plan, and**
- **Approval of an Ordinance Pertaining To Land Use In Orange County; Amending Section 30-83 (“Plats; Vertical Construction Prior to Plat Approval; Vacation”) To Provide a Process for Expedited Approval of Residential Homes Prior to Final Plat; and Providing an Effective Date, and**
- **Approval of a Resolution Adopting a Form Hold Harmless and Indemnification Agreement to be used when County approves the issuance of vertical building permits prior to final platting pursuant to Section 34-75 of the Orange County Code, and authorizing the Director of Planning, Environmental, and Development Services, or authorized designee, to execute the Agreement**