



Interoffice Memorandum

July 23, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development Services Department

CONTACT PERSON: **Whitney Evers, Assistant County Attorney**
County Attorney's Office
(407) 836-7321

SUBJECT: August 6, 2019 – Public Hearing
Chapter 38 - Major Economic Development Project Program

In April 2019, Mayor Demings created the Customer-First Development Services initiative to help identify customer service gaps and opportunities for improvement in the County's traditional land development process. While that initiative is underway, there is also recognition that additional flexibility in our processes would be beneficial in attracting major projects which benefit the citizens of Orange County, including by increasing employment opportunities.

As an outgrowth of that initiative and to help promote economic development, the County is proposing the Major Economic Development Project (MEDP) Program as an optional program to provide an expedited and streamlined development process for projects that meet the criteria set forth therein. The MEDP ordinance will create a new section in Chapter 38 (Zoning) of the County Code, but it will not change the zoning designation of any properties subject thereto.

The MEDP ordinance provides specific criteria that a project must meet in order to qualify for the program, including, among other things, an anticipated increase in real property values of no less than one billion dollars within 10 years, the ability to create or retain 2,500 jobs, and a total project area consisting of no less than 500 developable acres. In addition, the MEDP ordinance establishes the role of a County Project Manager (CPM) as the sole point of contact for many development-related applications and decisions provided that such decisions are not required by State Statutes or County Charter to be made by another entity. The MEDP ordinance also creates new concepts of a Perimeter Development Plan (PDP) and a Master Infrastructure Plan (MIP) that allow for more flexibility in the development process. As written, the MEDP ordinance would sunset on December 31, 2028 without further action by the Board.

On July 18, 2019, the proposed ordinance was recommended for approval by the Planning and Zoning Commission (PZC). Changes made by staff subsequent to the PZC hearing are shown in strikethrough and underline, and primarily address the authority of the CPM on waivers, variances, and deviations from Code, and sunset provisions.

Finally, staff is requesting approval to establish fees for applications associated with a MEDP project, including the MEDP application, PDP, and MIP. Other development permit fees would follow the adopted Fee Directory.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve an ordinance affecting the use of land in Orange County, Florida by creating in Chapter 39, Orange County Code, Section 38-30, Major Economic Development Project Program; providing an effective date; and establish fees associated with MEDP applications. All Districts.

JVW:wee
Attachment

cc: Chris Testerman, Deputy County Administrator, County Administration
Randy Singh, Deputy County Administrator, County Administration
Joel Prinsell, Deputy County Attorney, County Attorney's Office
Whitney Evers, Assistant County Attorney, County Attorney's Office
Jennifer Moreau, Manager, Zoning Division
Kurt Peterson, Manager, Office of Management and Budget

ORDINANCE NO. 2019-_____

AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA BY CREATING IN CHAPTER 38, ORANGE COUNTY CODE, SECTION 38-30, MAJOR ECONOMIC DEVELOPMENT PROJECT PROGRAM; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Creation of Section 38-30, Major Economic Development Project Program. Section 38-30, Orange County Code, is hereby created and shall read as follows:

Section 38-30. Major Economic Development Project Program.

(a) Intent and Purpose.

(1) This section creates the Major Economic Development Project ("MEDP") program, which is an optional, alternative process for the expedited and streamlined review of, and action upon, applications for various development permits arising from and related to certain projects which are reasonably anticipated to generate significant and desirable increases in the Orange County tax base.

(2) The county desires to attract projects which benefit the citizens of Orange County in various ways, including by increasing employment opportunities.

(3) The county recognizes that the establishment and retention of MEDPs increases the visibility of Orange County at the state, national, and international levels making it more likely that the county will attract additional desirable and sustainable economic growth.

(4) Nothing herein is intended to supersede the County Charter, State statutes, or Orange County Comprehensive Plan; in the event of a conflict between this ordinance and the County Charter, State statutes, or Comprehensive Plan, the County Charter, State statutes, or Comprehensive Plan, as applicable, shall control.

(5) Nothing herein is intended to amend or supersede the Florida Building Code or the Florida Fire Prevention

38 Code ("FFPC") and nothing herein shall be construed as a waiver
by the county of its role as the Authority Having Jurisdiction
("AHJ") pursuant to the FFPC.

40 (b) Definitions. The following words, terms, and
42 phrases, when used in this section or in any county policy or
regulation adopted pursuant to this section, whether capitalized or
44 not, shall have the meanings ascribed to them in this section unless
the context clearly indicates a different meaning.

Affiliated Entity shall mean an entity that directly, or
46 indirectly controls, is controlled by, or is under common control
with the applicant, including without limitation any entity that is
48 owned at least fifty percent (50%) by the applicant, or one in
which the applicant and the affiliated entity have at least fifty
50 percent (50%) common ownership.

Applicant shall mean an entity seeking approvals for
52 development of an MEDP in unincorporated Orange County. For
purposes of this section, the term applicant shall include any
54 affiliated entity.

Building Official shall mean the person appointed by the
56 county mayor, or a duly appointed designee, to enforce the Florida
Building Code in the county. The Building Official shall cause to
58 be kept a record of all permits issued, plans reviewed, inspections
made, notices served, and fees collected by the Division of
60 Building Safety, defined in section 9-3 of the code, as may be
amended.

County Project Manager or *CPM* shall mean an individual
62 designated by the Mayor who shall hold the title of County
64 Administrator, Deputy County Administrator, or Assistant County
Administrator, with a present or former supervisory role over at
66 least two of the following areas: planning, zoning, building,
development engineering, or transportation planning. Once
68 designated for a specific MEDP, the CPM shall serve at the
pleasure of the Mayor and may be replaced at any time by the
70 Mayor.

Development Permit shall mean any zoning approval,
72 subdivision approval, lot split, rezoning, land use, or any
amendment thereto, development order, perimeter development
74 plan approval, development plan, site work permit, mass grading
permit, landscaping and irrigation permits, conservation area
76 impact permit, building permit, master sign guidelines/plan, right-
of-way utilization permits, driveway or other road/utility related

78 permits or agreements, or any other agreement, order or official
80 action of the county having the effect of permitting or allowing the
development of land or placement of structures thereon.

82 *Economic Development Director* or "*EDD*" shall mean the
Orange County Economic Development Director.

84 *Fire Marshal* shall mean the individual designated by the
86 Orange County Board of County Commissioners in its capacity as
the AHJ for the county, pursuant to the FFPC, to enforce the FFPC
88 as triennially adopted by the State Fire Marshal and any additional
fire safety regulations specified in Chapter 18, Fire Prevention, of
the code, as may be amended by the county from time to time.

90 *Major Economic Development Project, MEDP, or Project*
shall mean any commercial, industrial, or non-residential mixed
92 use project zoned planned development ("PD"), but specifically
excluding any residential (including multi-family) development,
94 located within unincorporated Orange County which satisfies the
criteria set forth in Section 38-30(c)(2).

96 *Master Infrastructure Plan* shall mean a plan provided by
an applicant that sets forth with sufficient specificity (as
98 determined by the CPM) the location and details of any and all
stormwater facilities, utilities, roadways, and other infrastructure
within the MEDP.

100 *Orange County Code* or *Code* shall mean those ordinances
codified and published under the title "Orange County Code" in
102 effect on the effective date of this ordinance and as the same may
from time to time be amended, revised, renumbered, superseded or
104 replaced.

106 *Perimeter Development Plan* or *PDP* shall mean a
development plan for the perimeter of the project which shall be a
108 minimum of twenty-five feet (25') in width measured from each
adjacent existing or planned public right-of-way and adjacent
110 parcel of land not part of the project. Such plan shall address those
provisions of section 38-1206 of the code related to perimeter
112 buffering, landscaping, walls, access (including, but not limited to,
ingress and egress), signage, and lighting, all in accordance with
114 the PD Land Use Plan ("PD/LUP") for the MEDP. Applicant may
request that the county consider easements, conservation areas, and
116 wetland creation areas located at the boundary of the project as
perimeter buffering for purposes of the PDP.

118 *Program* shall mean the MEDP program as established by
this section.

120 *Third Party Provider* shall mean a party contracted by the
122 county, at the county's sole option, on a temporary or part-time
124 basis, for the purpose of providing additional support as needed to
the CPM or the county in the performance of the tasks and duties
126 as set forth herein relating to an MEDP, funded in whole by
applicant, but answerable solely to the county through the direction
128 of the CPM, the Building Official, the Fire Marshal, and/or other
county official, as appropriate. Third party providers may include,
but are not limited to, on-call professionals to assist the Fire
130 Marshal with plans review, personnel to conduct building plans
review and inspection services, engineers, planners, and surveyors.
132 If third party providers are hired, they must be approved by the
CPM, the Building Official, and/or the Fire Marshal, as
134 appropriate, to review applications and conduct inspections for
development permits related to MEDPs. Third party providers
shall not be owners, officers, employees, agents, independent
136 contractors of, or affiliated in any way with, the applicant and shall
be required to have necessary licensing, education, and experience.
138 Nothing herein is intended to preclude county from performing an
audit on such third party provider(s) in accordance with State
140 statute(s) or from entering into a separate contract with a third
party provider to assist the CPM with an MEDP at any time at the
142 county's sole expense. Prior to entering into a contract with a party
to serve as a third party provider, the county shall inform the
144 applicant of the identity of the party and allow the applicant an
opportunity to notify the county whether it has a business conflict
146 with such party, and, if so, the nature of such business conflict. In
the event the applicant notifies the county about such a conflict, the
148 county shall take such comments into account in deciding whether
to enter into a contract with such party.

150 (c) Applicability of Ordinance. An applicant who
wishes to use the program shall pay the prescribed application fee
152 and submit an application letter to the Economic Development
Director explaining how and why the applicant believes the
154 proposed or existing project qualifies as an MEDP, with supporting
documentation. Supporting documentation shall include
satisfaction of the items set forth in Section 38-30(c)(2).

156 (1) Once such application has been submitted
with all supporting documentation, it shall be reviewed by the
158 ~~Economic Development Director~~ EDD to determine if the
proposed or existing project qualifies as an MEDP. The ~~Economic~~

160 | ~~Development Director-EDD~~ shall have ten (10) business days from
162 the date of the applicant's submission of the application with all
164 supporting documents to make its determination and notify the
applicant and the County Administrator in writing of such
determination (an "MEDP Determination Letter").

166 (2) In order for the proposed or existing project
168 to qualify as an MEDP, the applicant must provide documentation
170 to the county's reasonable satisfaction evidencing: (a) an
172 anticipated increase to the Orange County Property Appraiser's
174 assessed value of real property within the boundaries of the
176 proposed project by no less than One Billion Dollars
178 (\$1,000,000,000.00) within ten (10) years after completion of the
180 project; (b) that the completed project is reasonably anticipated to
182 create or retain a minimum of 2,500 jobs; (c) direct ownership and
184 operation of the project and land by the applicant and / or an
186 affiliated entity; (d) that the project consists of no less than 500
188 developable acres of land; (e) applicant's ability to invest One
190 Billion Dollars (\$1,000,000,000.00) in cash equity in the MEDP;
(f) applicant's agreement to own and operate the MEDP for a
period of not less than ten (10) years from the date of completion
of the project; (g) applicant's written agreement to forego its
ability to retain private providers pursuant to Section 553.791,
Florida Statutes, without first obtaining the County's approval,
which approval shall not be unreasonable withheld provided the
request to hire private providers is based on the county's need for
additional staffing to perform the tasks that the private providers
would offer; any such private providers, if approved by the county,
shall be paid for entirely by the applicant; and (h) applicant's
written agreement to ensure any third party providers hired by the
county are fully compensated via an escrow account as set forth in
Section 38-30(h)(2) or through other funds provided by applicant.

192 (3) If the ~~Economic Development Director-EDD~~
determines that the proposed or existing project:

194 (i) qualifies as an MEDP, then within
196 ten (10) calendar days of the date of the MEDP Determination
Letter, the Orange County Mayor shall designate the County
Project Manager and authorize the CPM to undertake and fulfill
the CPM's tasks and duties as described in this section; or

198 (ii) does not qualify as an MEDP, then
200 the applicant may appeal such determination to the Board of
202 County Commissioners ("BCC") by filing a notice of appeal with
the ~~Economic Development Director-EDD~~ within twenty (20)
calendar days of the date of the MEDP Determination Letter. The

204 BCC shall hold a hearing on the appeal within forty-five (45)
206 calendar days of its receipt of the appeal, or the next BCC meeting
thereafter. At least ten (10) calendar days advance written notice of
the hearing shall be provided to the applicant. At the close of the
208 hearing, the BCC shall uphold or reverse the determination, or, in
consultation with the applicant, continue the hearing.

210 (4) An MEDP shall only be approved for an
existing PD. An MEDP may initially consist of a single PD or two
212 or more contiguous PDs, provided such PDs are owned entirely by
one applicant. The applicant shall be required to apply for a
perimeter development plan for the MEDP within six (6) months
214 of the issuance of the MEDP Determination Letter, otherwise the
MEDP Determination Letter shall automatically expire.

216 (d) Authority of CPM. With respect to an MEDP,
subject to all applicable laws (including, but not limited to,
218 Florida's Government in the Sunshine Law) and the County
Charter, the CPM is hereby authorized:

220 (1) to expedite reviews and decisions relating to
development permits including, if necessary or deemed necessary
222 by the CPM, recommendations to the BCC or any other county
board/committee;

224 (2) to expedite reviews and determinations on
county-issued conservation area determinations, conservation area
226 impact permits, dewatering permits, NPDES permits, conservation
area mitigation plans, and any other county-issued environmental
228 permits, to the extent allowed by Florida Statutes;

230 (3) to schedule and hold community meetings
with the applicable district commissioner, as needed or requested;

232 (4) to work with and direct any staff member or
third party provider, as the CPM deems necessary, provided that
such staff or third party provider are not under the supervision or
234 direction of the Building Official or Fire Marshal;

236 (5) to hold meetings for the purpose of fact-
finding or data and analysis with the appropriate staff member(s)
and/or third party providers in order to expedite reviews and
238 decisions as set forth in 38-30(d)(1) above;

240 (6) to make the final decision on a development
permit request provided that neither the Florida Statutes, the
County Charter, nor the Orange County Comprehensive Plan

242 require a public meeting or public hearing for such request,
244 including by a board or committee, or require a different official to
make the decision;

246 (7) for PDPs, to grant a waiver, deviation, or
248 variance (other than those variances for which by the code or
250 County Charter require a public hearing before the Board of
252 Zoning Adjustment) not to exceed, in the aggregate, ten percent
254 (10%) of any numerical standard in to the code, and/or to any
256 standard in any county policies, standards and/or regulations For
258 development outside the area that is subject to the PDP, to grant a
waiver, deviation, or variance (other than those variances for
which the code or County Charter require a public hearing before
the Board of Zoning Adjustment) from the code; provided,
however, that under no circumstance does the CPM have the
authority to grant a waiver, deviation, or variance (except for from
the building and fire codes –as those determinations are the
authority of the Building Official and Fire Marshal respectively)
consistent with the terms of this section;

260 (8) to make final concurrency determinations
and vested rights determinations;

262 (9) to make impact fee determinations and
264 negotiate impact fee-related agreements, including but not limited
to calculation of impact fees, impact fee credits, and establishment
of alternative impact fee studies;

266 (10) to review and approve or deny the
268 conveyance or dedication of rights-of-way and easements to the
270 county and to expedite the review of any proposed alteration,
modification, or amendment to existing easements in favor of the
county;

272 (11) to require and review and make a decision
upon a master infrastructure plan if the CPM deems one necessary;
and

274 (12) to discuss or review any matter or item
276 referenced herein with a county board/committee, as the CPM may
deem necessary.

278 (e) Duties of the CPM. The CPM shall do the
following:

280 (1) accept and process applications for
development permits that are submitted with regard to an MEDP

282 and other applications related to an MEDP pursuant to the
authority granted to the CPM in section 38-30(d) above; and

284 (2) implement and ensure compliance by county
staff and third party providers with the expedited permit review
286 process and procedures for development permits and other
decisions and actions related to an MEDP, as detailed herein,
288 provided that such staff or third party provider are not under the
supervision or direction of the Building Official or Fire Marshal.

(f) Process.

290 (1) Building Permits. Any applications for
building permits inside the perimeter of the project, as defined by
292 the PDP, shall be processed by the Building Official, or its
designee. Applicant must submit any application for a building
294 permit in digital form, along with the appropriate fee(s), to the
Division of Building Safety. Applications may be submitted and
296 processed concurrently with a PDP application, although no
building permit may be issued until after the PDP has received
298 final approval unless a development plan or construction plans
were approved consistent with existing county regulations prior to
300 issuance of the MEDP Determination Letter, in which case the
permit may be issued thereunder. The Building Official, or its
302 designee, will, within five (5) business days of submission or
resubmittal, as applicable, review the application and determine
304 whether the application is technically sufficient. If the Building
Official, or its designee, determines that an application is not
306 technically sufficient, the Building Official, or its designee, shall
so notify the applicant within five (5) business days of the date of
308 submission or resubmittal, as applicable. Within fifteen (15)
business days of submission of a technically sufficient building
310 permit application and related construction documents by
applicant, the Building Official, or designee, will review it (in
312 coordination with other appropriate reviewers) and approve it or
provide applicant with an explanation why it cannot be approved;
314 such decision shall be documented in the county's online Land
Development Management System ("LDMS"). If the Building
316 Official has comments, applicant must address those comments via
a resubmittal, as defined below, which must be filed with the
318 Division of Building Safety. Thereafter, within five (5) business
days, the Building Official, or designee, will review the resubmittal
320 (in coordination with other appropriate reviewers) and render a
decision on the application, with a copy to the CPM.

322 (2) Fire Permits. Any applications for fire
permits inside the perimeter of the project, as defined by the PDP,

324 shall be processed by the Fire Marshal, or a designee. Applicant
326 must submit any application for a fire permit in digital form (or
328 other form acceptable to the Fire Marshal), along with the
330 appropriate fee(s), to the Office of the Fire Marshal. Applications
332 may be submitted and processed concurrently with a PDP
334 application, although no fire permit may be issued until after the
336 PDP has received final approval unless a development plan or
338 construction plans were approved consistent with existing county
340 regulations prior to issuance of the MEDP Determination Letter, in
342 which case the permit may be issued thereunder. The Fire Marshal,
344 or its designee, will, within five (5) business days of submission or
346 resubmittal, as applicable, review the application and determine
348 whether the application is technically sufficient. If the Fire
350 Marshal, or its designee, determines that an application is not
352 technically sufficient, the Fire Marshal, or its designee, shall so
notify the applicant within five (5) business days of the date of
submission or resubmittal, as applicable. Within fifteen (15)
business days of submission of a technically sufficient fire permit
application and any necessary related construction documents by
applicant, the Fire Marshal, or designee, will review it (in
coordination with other appropriate reviewers) and approve it or
provide applicant with an explanation why it cannot be approved;
such decision shall be documented in the County's online LDMS.
If the Fire Marshal has comments, applicant must address those
comments via a resubmittal, as defined below, which must be filed
with the Office of the Fire Marshal. Thereafter, within five (5)
business days, the Fire Marshal, or designee, will review the
resubmittal (in coordination with other appropriate reviewers) and
render a decision on the application, with a copy to the CPM.

354 (3) All Other Development Permits. For the
356 following processes, the applicant shall submit an application and
358 supporting materials to the CPM who will, within five (5) business
360 days of submission or resubmittal, as applicable, review the
362 application and determine whether the application is technically
364 sufficient. If the CPM determines that an application is not
366 technically sufficient, the CPM shall so notify the applicant within
five (5) business days of the date of submission or resubmittal, as
applicable. Upon determining that an application is technically
sufficient, the CPM will be responsible for: (1) entering the
application into the LDMS system and assigning it a project
number (if appropriate); (2) distributing the application to any
county staff which the CPM deems appropriate in order to obtain
staff input and create a staff report; (3) coordinating and
conducting a community meeting regarding the application if the
County Commissioner for the district in question, or the CPM,

370 determines one to be necessary; (4) assembling staff comments in a
372 timely manner, and providing them to applicant (if applicant
wishes to continue forward with the project, applicant must
374 respond to staff comments via a "resubmittal;" if applicant has not
submitted a resubmittal within ninety (90) business days, the
376 application for which resubmittal was not made will be deemed
withdrawn); (5) coordinating the distribution of any resubmittals
and follow-up staff meetings or meetings with the applicant, as
378 may be deemed necessary by CPM; and (6) preparing a final staff
report (collectively, the "CPM Process").

380 a. Amendments to PD/LUP. With regard to
any amendments to the PD/LUP, including any
382 waivers, deviations and/or variances requested
therein, requested by the applicant, the CPM shall
ensure the CPM Process is followed and, in
384 addition, the CPM shall determine whether the
proposed amendment is classified as substantial or
386 non-substantial in accordance with the criteria set
forth in Section 38-1207(a). If the amendment is
388 determined to be non-substantial, the CPM shall
complete the CPM Process and render a decision
390 within forty-five (45) business days from the date of
the receipt of a final technically sufficient submittal
392 or resubmittal, as applicable. If the CPM determines
that the proposed changes, alterations, or
394 modifications are substantial, the CPM will review
the plans and supporting data provided by applicant
396 and prepare a report with a recommendation to the
BCC for final action within fifteen (15) business
398 days from the date of the receipt of a final
technically sufficient submittal or resubmittal, as
400 applicable. A public hearing before the BCC will be
held within forty-five (45) calendar days after the
402 CPM determination, or the next BCC meeting
thereafter.

404 b. Perimeter Development Plan. An application
for a PDP may be submitted and processed
406 concurrently with or subsequent to any proposed
amendment to the PD/LUP. However, the PDP will
408 not receive final decision until after the PD/LUP
amendment has been approved by the CPM or the
410 BCC, as applicable, including the expiration of all
applicable appeal periods, with no appeal being
412 filed, or if one was filed, until the last court

414 reviewing the matter upholds the amendment. The
416 CPM shall ensure that the CPM Process is followed.
418 As part of the CPM Process, the CPM will
420 undertake a review of the PDP, in consultation with
422 any appropriate staff, in order to determine whether
424 the PDP substantially complies with the PD/LUP
426 and with the provisions of Section 38-1206 of the
428 code related to perimeter buffering, landscaping,
430 access, walls, signage, and lighting, as such
432 requirements may have been amended relative to
434 the project by the PD/LUP approval, any waivers
436 granted therein, and/or any applicable overlay or
similar district. The CPM will issue a written
decision regarding the PDP, including any
conditions which may be applicable thereto, within
thirty (30) business days after the date of the receipt
of a final technically sufficient submittal or
resubmittal, as applicable. Any proposed change,
alteration, or modification to an approved PDP will
be reviewed and approved by the CPM, in
accordance with the procedure for review of PDPs
outlined herein, even if the underlying PDP had
been approved by the BCC on appeal, unless the
BCC requires otherwise. Approval of a PDP (or
amendment thereto) shall have the following effect:

438 (i) The use of land and the construction
440 or modification of any buildings or structures inside
442 the perimeter of the project as depicted on the PDP
444 shall be in accordance with the approved PD/LUP
and PDP and all relevant portions of the code that
have not otherwise been specifically addressed by a
waiver or variance.

446 (ii) The applicant may apply for
448 development permits to construct and/or install
perimeter improvements consistent with the
approved PDP.

450 (iii) The applicant may, with regard to
452 nonresidential commercial development proposed
454 inside the perimeter of the project as depicted on the
PDP submit directly to the CPM for expedited
review and issuance of development permits,
excluding permits that are subject to the review
and/or approval of either the Building Official or

456 the Fire Marshal, which shall be submitted in
458 accordance with Section 38-30(f)(1) or (2), as
appropriate.

460 (iv) A PDP is not subject to expiration if
462 a vertical building permit is issued for any portion
of the project within the PDP in question no later
than two (2) years from the date of the PDP
approval.

464 c. Miscellaneous Development Permits.
466 Development permits other than a building or fire
468 permit, an amendment to a PD/LUP, a PDP or a
470 master infrastructure plan, are collectively referred
472 to herein as "miscellaneous development permits".
474 Applications for miscellaneous development
476 permits may be processed concurrently with or
478 subsequent to any proposed amendment to the
480 PD/LUP or a PDP application. However, in the
482 event a miscellaneous development permit would
484 require a PD/LUP amendment and/or PDP, as
486 applicable, to be approved prior to issuance, such
488 miscellaneous development permit may not be
490 approved or issued until after the PD/LUP
492 amendment and/or PDP, as applicable, have been
494 approved by the CPM or the BCC, as applicable,
496 including the expiration of all applicable appeal
498 periods, with no appeal being filed, or if one was
filed, until the last court reviewing the matter
upholds the amendment. Any application for a
miscellaneous development permit shall be
submitted to the CPM in a form acceptable to the
CPM in accordance with the application
requirements, and the CPM shall ensure that the
CPM Process is followed. For miscellaneous
development permit applications that do not require
a public hearing prior to final approval under the
code, the CPM will render a decision on the
application within fifteen (15) business days from
the date of the receipt of a final technically
sufficient submittal or resubmittal, as applicable.
The decision of the CPM may be appealed to the
BCC by applicant. Unless a continuance is
requested by applicant and granted by the BCC, the
BCC will conduct the appeal hearing no later than
forty-five (45) calendar days following the filing of

500 the notice of appeal, or the next BCC meeting
502 thereafter. For miscellaneous development permits
504 that require BCC approval under the code, but do
506 not require a public hearing, the CPM will make a
508 recommendation to the BCC within ten (10)
business days from the date of the receipt of a final
technically sufficient submittal or resubmittal, as
applicable, and place the miscellaneous
development permit application on the next
available BCC meeting as a consent agenda item.

510 d. Master Infrastructure Plan. If, in the CPM's
512 opinion, neither the PD/LUP, a previously approved
514 ~~D~~development ~~P~~plan or construction plans, nor the
516 PDP contain sufficient information regarding
518 infrastructure for the project, the CPM may require
520 the applicant to submit a master infrastructure plan
522 for the MEDP no later than the first application for
524 a building permit and such master infrastructure
526 plan shall show how such infrastructure will
528 coordinate with public infrastructure located
adjacent to or outside the project. The CPM shall
ensure that the CPM ~~p~~Process is followed and the
CPM shall make a decision on the master
infrastructure plan within thirty (30) business days
from the date of the receipt of a final technically
sufficient submittal or resubmittal, as applicable. If
the CPM requires a master infrastructure plan, then
no building permit shall be issued until such time as
the CPM has approved the master infrastructure
plan. If the CPM determines that unless a
530 previously approved development plan or
532 construction plan contains sufficient information
534 regarding infrastructures were approved consistent
with existing county regulations prior to issuance of
the MEDP Determination Letter to meet the
536 requirements and purpose of a master infrastructure
plan, then in which case the development may shall
proceed thereunder.

538 e. For any application for a waiver, deviation,
540 and/or variance ~~(other than those variances which~~
~~by the code or County Charter require a public~~
~~hearing before the Board of Zoning Adjustment)~~
542 ~~to the code and/or to any standard in any county~~
~~policies, standards and/or regulations that is not~~

544 requested in conjunction with an amendment to a
546 PD/LUP, in accordance with section 38-30(d)(7)
548 hereof, the CPM shall review and make the render a
550 decision on such application consistent with the
552 applicable criteria, if any, contained in the relevant
554 sections of the code. The CPM will render a
556 decision on the application within fifteen (15)
business days from the date of receipt of the
application for such waiver, deviation and/or
variance. Notwithstanding the foregoing, any
request for a waiver, deviation or variance to the
building and/or fire code shall be made pursuant to
the relevant provisions of said code.

558 (4) In no event shall unexpired development
560 permits approved prior to issuance of the MEDP
Determination Letter be required to undergo any
additional approval after the determination.

562 (g) Board of County Commissioners' ("BCC") Review.
Nothing in this ordinance is intended to override the County
564 Charter, ~~or State law statutes,~~ or the Orange County Comprehensive
566 Plan with regard to matters under this section requiring action by
the BCC. Any decision by the BCC not requiring a public hearing
under the County Charter, ~~or State statutes,~~ or the Orange County
Comprehensive Plan may be placed on the BCC consent agenda.

568 (h) Fees.

570 (1) The BCC may establish fees and charges
572 applicable to any matter covered by this section 38-30 including,
but not limited to, any application relating to an MEDP and a fee
for review and approval or rejection of the qualifications of
proposed third party providers.

574 (2) If third party providers are retained relating
576 to the MEDP, all fees and costs charged by such third party
578 providers shall be paid by the county from an escrow account to be
580 created by the county and fully funded by applicant; in the event
582 such escrow account is not funded sufficiently to pay all fees and
584 costs of such third party providers, applicant shall be responsible
for either timely replenishing the escrow account sufficiently to
pay any unpaid fees or costs, or for paying any unpaid fees and
costs directly to the third party provider. The escrowed funds shall
be established, held, and disbursed in accordance with an escrow
agreement in form and content mutually agreeable to county and
applicant which shall specifically address the applicant's

586 responsibility to provide sufficient funding to pay any third party
588 providers or to make such payments itself and indemnify and hold
590 the county harmless from any actions resulting from insufficient
592 funding of the escrow account. The Orange County Comptroller
shall serve as escrow agent. Upon project completion, any unused
escrow funds shall be returned to applicant without interest in
accordance with the terms set forth in the escrow agreement.

594 (3) Applicant may request that the county also
596 establish an escrow account to be funded by applicant which shall
598 be used for payment of permit, inspection, and other fees that may
600 be charged by the county with relation to the MEDP. If agreed to
602 by the county, the escrowed funds shall be established, held, and
disbursed in accordance with an escrow agreement in form and
content mutually agreeable to county and applicant. The Orange
County Comptroller shall serve as escrow agent. Upon project
completion, any unused escrow funds shall be returned without
interest in accordance with the terms set forth in the escrow
agreement.

604 (i) Appeals.

606 (1) All decisions of the CPM regarding PDPs
608 and Master Infrastructure Plans shall be posted in a conspicuous
610 place on the county's website and the posting board on the first
612 floor of the Orange County Administration Center within two (2)
614 business days of such decision, and will not become effective for
616 fifteen (15) calendar days from the date of such decision. Such
618 decision may be appealed by any aggrieved person to the BCC by
filing a notice of appeal with the CPM within fifteen (15) calendar
days of the posting of the CPM's decision. Unless a continuance is
requested by applicant or an appellant (assuming the applicant is
not the appellant), and granted by the BCC, the BCC will hold a
hearing on the appeal within forty-five (45) calendar days
following the filing of the notice of appeal, or the next BCC
meeting thereafter.

620 (2) Any person aggrieved by a decision of the
BCC regarding the project shall follow the appeal process set forth
in Section 30-46 of the code.

622 (3) Denials by the Building Official may be
624 appealed by applicant, at its sole option, to the Building Codes
Board of Adjustments and Appeals pursuant to Chapter 9 of the
code.

626 (4) Denials by the Fire Marshal may be
628 appealed by applicant, at its sole option, to the Orange County Fire
and Life Safety Code Board of Adjustments and Appeals pursuant
to Chapter 18 of the code.

630 (j) Sunset. Except with regard to applications for
632 MEDPs submitted and approved before January 1, 2021, this
program shall sunset on December 31, 2028~~6~~, without further
634 action by the BCC (the "Sunset Date"). However, any project
approved as an MEDP prior to the ~~sSunset dDate~~ that, until the
636 Sunset Date, is continuing in good faith and has continued to meet
all the criteria set forth in Section 38-30(c)(2) (the "MEDP
638 Criteria"), as determined by the county as of the sSunset dDate,
shall be permitted to continue development to its conclusion
following the Sunset Date, subject to the processes and procedures
640 established pursuant to this section 38-30 following the sunset
date, provided the applicant continues to meet all of the MEDP
642 eCriteria set forth in Section 38-30(c)(2) and the project continues
forward in good faith to its conclusion. For any MEDP that does
644 not meet the foregoing standards as of the Sunset Date, all
unexpired development permits agreements issued under this
646 section entered into regarding the project prior to the Sunset Date
shall remain valid be governed by their terms; all other unexpired
648 development permits (other than PDPs and development
agreements) shall be governed by the applicable provisions of the
650 code that would otherwise apply outside the MEDP process; and
any approved, unexpired PDP ~~shall automatically may~~ be
652 converted to a ~~valid~~ development plan under Article VIII of
Chapter 38 of the Code, provided the County may require certain
654 amendments be made to the approved PDP prior to approving the
conversion to a development plan.

656 **Section 2. Effective date.** This ordinance shall become effective pursuant to general
658 law.

[signatures on following page]

660

ADOPTED THIS ____ DAY OF _____, 2019.

ORANGE COUNTY, FLORIDA

662

By: Board of County Commissioners

664

By: _____

666

Jerry L. Demings,
Orange County Mayor

668

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

670

By: _____

672

Deputy Clerk