

Meeting Date: 2/8/2011



Agenda Item # 5-B

# CITY COUNCIL AGENDA ITEM

**Contact Name:** Wendy Hickey *Wendy Hickey*      **Department Director:** Alison Stettner *Alison Stettner*  
**Department/Contact #** DSD/775-5417      **City Manager:** Jamie Croteau *Jamie Croteau*

- Type of Item:**
- |                                     |                          |                          |                     |
|-------------------------------------|--------------------------|--------------------------|---------------------|
| <input type="checkbox"/>            | Public Hearing           | <input type="checkbox"/> | Resolution          |
| <input checked="" type="checkbox"/> | Ordinance First Reading  | <input type="checkbox"/> | Discussion & Action |
| <input type="checkbox"/>            | Ordinance Second Reading | <input type="checkbox"/> | Council Approval    |

**Subject:** Amendment to Section 3.6 of the Land Development Code

**BACKGROUND:**

The Land Development Code was adopted on August 12, 2003, via Ordinance No.157. While implementing the code, staff identified an area that if modified would allow for minor modifications and relief of hardship conditions on properties.

Ordinance #450 amends the Land Development Code to allow for a new section 3.6.6 Administrative Variances. The Administrative Variance would implement a process that will address minor modifications to a particular property or development, providing that the modification is less than or equal to a ten (10) percent variance of the setback, height or floor area requirement. The policy further limits the Administrative Variance to a single variance per parcel.

**RECOMMENDATIONS:**

On February 2, 2011, the Planning Commission recommended that the City Council approve Ordinance No. 450.

**ATTACHMENTS:**

Memorandum to the Planning Commission, and proposed Ordinance No. 450

**FINANCIAL IMPACT:**

None

Reviewed by City Attorney \_\_\_\_\_

Reviewed by Finance Dept. \_\_\_\_\_

Reviewed by: \_\_\_\_\_

<b>1<sup>st</sup> Discussion Date:</b> 2/8/2011	<b>2<sup>nd</sup> Discussion Date:</b> 2/22/2011	<b>Third Discussion Date:</b> date.	<b>Other Dates:</b> date.
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# MEMORANDUM

Date: February 2, 2011

To: Chairman De Silva and members of the Planning Commission

Prepared by Wendy Hickey, Planning & Zoning Analyst

**SUBJECT: STAFF REQUEST AND RECOMENDATION FOR A TEXT CHANGE TO AMEND CHAPTER 3, SECTION 3.6 VARIANCES , ADDING 3.6.6 ADMINISTRATIVE VARIANCES TO THE CITY'S LAND DEVELOPMENT CODE**

## **DEVELOPMENT SERVICES RECOMENDATION**

The City's development services is requesting and recommending a text change within the City's Land Development Code. The intent of the proposed text change is to add 3.6.6 Administrative Variances This will implement a processes that will address minor modifications to a particular property or development, providing that the modification is less than or equal to a 10 percent variance of the setback, height or floor area requirement. In addition there will be a 1 administrative variance per parcel. The development services department is requesting the Commission to create a motion stating as follows.

**The Planning Commission recommends that the City Council of the City of Orange City adopt an ordinance amending the City's land development code as proposed in Attachment A.**

## **BACKGROUND**

The City's land development code was adopted on August 13, 2003, via Ordinance No. 157. Since then, City staff has utilized the code to process numerous developments, some which were processed in-house by staff, and some which were approved by either the Planning Commission or the City Council. Staff found an area within the land development code which, if modified, would further streamline the review process. and assist in making minor modifications due to field conditions. Therefore, staff is bringing this item to the City Council's attention, and to offer recommendations in order to correct these areas.

Staff brings a code change request in Chapter 3 Code administration and Enforcement Section 3.6. Staff has determined that Administrative Variance should be added to section 3.6 to allow for minor variances to the Land Development Code. Which would allow for the City Manager or Designee to grant a single variance to a property when the variance is less that 10 percent of the required setback, height or floor area.

## **Planning Commission Consideration**

When reviewing a request for a text change, Section 3.5.2 F of the City's Land Development Code requires the Planning Commission to consider the following.

1. Whether the change is consistent with all adopted elements of the Comprehensive

Plan and other laws and ordinances.

**There does not appear to be any inconsistency between the proposed text change and any comprehensive plan element or any other law or ordinance.**

2. Whether the change would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, as well as compatibility with existing and proposed land uses and an orderly and compatible land use pattern.

**The items listed in this section will not be adversely affected by the text changes.**

3. Whether the change is in the public interest or would benefit only the applicant.

**The text changes would definitely benefit the public interest.**

4. The zoning change impact upon the environment and natural resources.

**The environment and natural resources will not be adversely affected by the text changes.**

5. The zoning change impact upon the economy of the effected area.

**The economy of the City will not be adversely affected by the text changes.**

6. Whether the applicant has demonstrated that the zoning change in policy would not cause inadequacies in the level of service for transportation systems, potable water and wastewater systems, drainage, solid waste, parks and recreation facilities.

**The level of services will not be adversely affected by the text changes.**

7. Any changes in circumstances or conditions affecting the area.

**The circumstances or conditions will not be adversely affected by the text changes.**

8. The changes impact upon the use or value of the affected area.

**The use or value will not be adversely affected by the text changes.**

9. The changes impact upon the public health, welfare, safety or morals.

**The public health, welfare, and safety or morals will not be adversely**

**affected by the text changes.**

10. Other matters that may be deemed appropriate to preserve consistency with the Comprehensive Plan, the general intent of this Code and its enabling legislation.

**It is not anticipated that there are any other matters that will cause any adverse impacts to preserving consistency with the comprehensive plan, or the intent of the land development code.**

This text change package contains the following documents.

Proposed ordinance number 450 (2 pages)

Proposed text change document Attachment A

#### **SUMMARY**

**City staff is requesting that the proposed text changes be reviewed and considered for approval via Ordinance Number 450.**

**ORDINANCE NO. 450**

**AN ORDINANCE OF THE CITY OF ORANGE CITY, VOLUSIA COUNTY, FLORIDA; AMENDING ORANGE CITY CODE APPENDIX A, ZONING ORDINANCE AS ADOPTED BY ORDINANCE NO. 157, AMENDING SECTION 3.6 VARIANCES ADDING 3.6.6 ADMINISTRATIVE VARIANCES; CONTAINING A REPEALER PROVISION, SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of Orange City deems it in the best interest of the City to amend Section 3.6., "Variances" to add section 3.6.6 Administrative Variances; and

**WHEREAS**, on February 2, 2011, the local planning agency, being the Planning Commission of the City of Orange City, has reviewed the requested amendment, to Section 3.6 and has made recommendations thereon to the City Council; and

**WHEREAS**, all applicable notice requirements of Section 166.041(3)(c)(2), Florida Statutes, have been complied with, and

**WHEREAS**, the City Council of the City of Orange City finds the requested amendment to be consistent with the provisions of the Comprehensive Plan of the City of Orange City, and in the overall best interest of the public health, safety and welfare; and

**WHEREAS**, strike throughs are to be considered deletions and underlines are to be considered additions to the text.

**NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AS FOLLOWS:**

**SECTION ONE:** Chapter 3, Code Administration and Enforcement is hereby amended to add 3.6.6 Administrative Variances.

The City Manager or Designee, shall have the power to grant an application for an administrative variance. An administrative variance may only modify setbacks, yard dimensions, height or floor area when the variance requested is equal to or less than (10) percent of the required setback, height or floor area requirement; provided however, that only (1) variance may be granted under this procedure per parcel. If the City Manager or Designee denies an application for a variance, an application may be submitted to the Planning Commission in accordance with the provisions of Section 3.6.1 of this code.

**SECTION TWO: CONFLICTS.** All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION THREE: SEVERABILITY.** If any section, sentence, phrase word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION FOUR: EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption.

**ROLL CALL VOTE AS FOLLOWS:**

**First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011**

Gary Blair	_____	Jeff H. Allebach	_____
Tom Laputka	_____	Tom Abraham	_____
A. Pupello	_____	O. William Crippen, Vice Mayor	_____
Harley Strickland, Mayor	_____		

**Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011**

Gary Blair	_____	Jeff H. Allebach	_____
Tom Laputka	_____	Tom Abraham	_____
A. Pupello	_____	O. William Crippen, Vice Mayor	_____
Harley Strickland, Mayor	_____		

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2011.

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

**Approved as to form and legal sufficiency:**

\_\_\_\_\_  
William E. Reischmann, Jr., City Attorney