

# AMENDING LAND DEVELOPMENT CODE CHAPTER 5

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REZONING'S, VARIANCES & SPECIAL EXCEPTIONS



CITY OF NEW PORT RICHEY • DEVELOPMENT DEPARTMENT

# CITY COUNCIL AGENDA

FEBRUARY 4, 2020

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS; AMENDING THE LDC CHAPTER 5 TITLE TO ADD LDC AMENDMENTS; ADDING LDC § 5.01.10, GUIDELINES FOR GRANTING A REZONING; REPEALING LDC § 5.03.03B; ADDING LDC § 5.04.00, LDC AMENDMENTS AND ADDING FIVE SUBSECTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

# BACKGROUND

- The Development Department received a Zoning District Map (i.e., rezoning) amendment application (REZ 2019-07) changing from General Commercial (C-20 to Light Industrial the zoning district of an 0.73 acre property located at 6700 Orchid Lake Road.
- During the preparation of the staff report, it was discovered the Land Development Code (LDC) Chapter 5 did not contain any guidelines or criteria for evaluating a rezoning application.

# BACKGROUND

- The Development Department also checked LDC Chapter 5 to see if guidelines existed for variances, special exception uses, and LDC amendments.
- Staff discovered the variance guidelines contained three guidelines addressing special exception uses. Staff also discovered the LDC had no guidelines for LDC amendments.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

The Ordinance contains four (4) substantive sections

- **Section 1:** Amending the LDC Chapter 5 Title To Add LDC Amendments; and
- **Section 2:** Adding LDC § 5.01.10, to provide Guidelines For Granting A Rezoning; and
- **Section 3:** Repealing a codification error in LDC § 5.03.03b; and
- **Section 4:** Adding LDC § 5.04.00, LDC Amendments And Adding Five Subsections.

The Ordinance also contains three procedural sections: severability, codification and effective date.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

- Section 1

- Amending The LDC Chapter 5 Title To Add LDC Amendments;

**CHAPTER 5. REZONING, VARIANCES, SPECIAL EXCEPTIONS AND LAND DEVELOPMENT CODE AMENDMENTS**

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

- Section 2

- Adding LDC § 5.01.10, Guidelines For Granting A Rezoning;

## **5.01.10 Guidelines for granting a rezoning.**

The Development Department, Development Review Committee, and Land Development Review Board shall consider all of the following guidelines when making a recommendation to the City Council on a rezoning application, and the City Council shall consider all these guidelines in determining whether to adopt an Ordinance granting such rezoning.

1. Whether the proposed zoning district is one of the zoning districts intended to implement or be consistent with the Future Land Use Map designation of the property; and
2. If more than one zoning district implements or is consistent with the Future Land Use Map designation of the property, whether the proposed zoning district is the most suitable zoning district; and
3. Whether there are substantial reasons why the property cannot be used in accordance with its present zoning district, that is, why the existing zoning district is unsuitable; and
4. Whether the proposed zoning district is premature based on the character of the existing land use pattern; and

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

## ○ Section 2

### ○ Adding LDC § 5.01.10, Guidelines For Granting A Rezoning;

5. Whether the proposed zoning district abuts a property with a zoning district similar in intensity to the proposed zoning district, or serves as a suitable transition zoning district between two or more different abutting zoning districts; and
6. Whether there are substantial changed or changing conditions in the character of the area where the property is located so that the proposed zoning district is now suitable; and
7. Whether based upon the property's size, shape, or characteristics the proposed zoning district is out-of-scale with the surrounding area; and
8. Whether there is a substantial public need or purpose for the proposed zoning district consistent with the public health, safety and general welfare; and
9. Any other factors that may be relevant to the rezoning, such as its location within an enclave, recent annexation into the City, or to conserve the value of buildings and natural resources ; and
10. The totality of the circumstances; and
11. Any competent substantial evidence presented at the public hearings.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

## ○ Section 3.

### ○ LDC Repealing LDC § 5.03.03B

- A. In order to authorize any variance from the terms of an ordinance, the board of adjustments and appeals and the city council must find:
1. That special conditions or circumstances that exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
  2. That the special conditions and circumstances do not result from the actions of the applicant;
  3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district;
  4. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance would work unnecessary and undue hardships on the applicant;
  5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
  6. That the grant of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

## ○ Section 3

### ○ Repealing LDC § 5.03.03B

~~B. Guidelines for granting a special exception. In order to grant any special exception to the zoning ordinance, the city council must find:~~

- ~~1. That the exception is specifically permitted in the zoning district regulations;~~
- ~~2. That the granting of any exception, will not adversely affect the public health safety, welfare or morals of the community;~~
- ~~3. The granting of any special exception is consistent with the intent of the zoning district.~~

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

## ○ Section 3

### ○ Repealing LDC § 5.03.03B

In order to grant any special exception to the zoning ordinance, the city council must find:

1. That the exception is specifically permitted in the zoning district regulations;
2. That the granting of any exception, will not adversely affect the public health, safety, or welfare of the community;
3. The granting of any special exception is consistent with the intent of the zoning district.
4. That the requirements of the district in which the use is to be located shall be complied with;
5. Excessive traffic will not be generated on residential streets;
6. The proposed use will not adversely affect the residential character of existing neighborhoods;
7. A vehicular parking or traffic problem is not created.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

## ○ Section 4

### ○ Adding LDC § 5.04.00, LDC Amendments And Adding Five Subsections

#### **5.04.00 Land Development Code (LDC) amendments**

#### **5.04.01 Application initiation.**

A. A LDC amendment application may be initiated by:

1. City Council;
2. Land Development Review Board;
3. City Manager; or
4. Any City property owner or business owner.

B. An application for a Land Development Code amendment submitted by any City property owner or business owner shall be in writing on a form provided for that purpose to the Development Department, accompanied by all pertinent information required by the LDC and the application along with payment of the application fee. No application or fee is required if initiated by the City Council, Land Development Review Board, or City Manager.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

- Section 4

- Adding LDC § 5.04.00, LDC Amendments And Adding Five Subsections

## **5.04.02 Staff review.**

- Upon receipt of an application, the Development Department shall determine whether the application is complete. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Department shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.
- After receipt of a complete application, the Development Department shall distribute to the Development Review Committee (DRC) the application for review and comments. The DRC shall provide in writing their comments to the Development Department
- Upon completion of review, the Development Department shall prepare a staff report with recommendation and schedule review of the application at a public hearing before the Land Development Review Board.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

- Section 4

- Adding LDC § 5.04.00, LDC Amendments And Adding Five Subsections

## **5.04.03 Guidelines for Granting a Land Development Code amendment.**

The staff report shall address, and the Land Development Review Board and City Council shall consider, the following guidelines when making a recommendation on a Land Development Code amendment:

- A. The need and justification for the change; and
- B. Whether the proposed amendment implements or is consistent with the Comprehensive Plan, whether it is consistent with or implements other federal and state laws, and whether the proposed change is internally consistent with and furthers the purposes of the LDC.

# AMENDING LDC CHAPTER 5, REZONINGS, VARIANCES, AND SPECIAL EXCEPTIONS

- Section 4

- Adding LDC § 5.04.00, LDC Amendments And Adding Five Subsections

## **5.04.04 Staff report and recommendations.**

The staff report and its recommendations and the recommendations of the Land Development Review Board shall be advisory only and shall not be binding upon the City Council.

## **5.04.05 City Council action on staff report.**

Upon receipt of the staff report and Land Development Review Board recommendations, the City Council shall review the staff report and recommendations to build a factual record and make conclusions of law before taking action on the application. The City Council shall hold a duly noticed public hearing to adopt the Ordinance as is provided by Florida Statutes §166.041, as may be amended from time to time.

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Questions?

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