

ORDINANCE NO. 2020-2182

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA AMENDING LAND DEVELOPMENT CODE (LDC) CHAPTER 5, REZONINGS, VARIANCES, 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 ON GUIDELINES FOR GRANTING A VARIANCE; ADDING LDC § 5.04.00, LDC AMENDMENTS AND ADDING FIVE SUBSECTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes § 163.3202(1) requires each county and each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 29th, 1989, the City Council adopted Ordinance Number 1203, which Ordinance approved the City's Comprehensive Plan; and

WHEREAS, on November 19th, 1991, the City Council adopted Ordinance Number 1268, which ordinance enacted the City's Land Development Code (LDC); and

WHEREAS, the LDC does not have any guidelines for amending the LDC; and

WHEREAS, LDC § 5.01.00 on rezoning lacks a section providing guidelines for granting or approving an Official Zoning District Map amendment (i.e., rezoning) application; and

WHEREAS, LDC § 5.03.03 on variances includes an inappropriately codified paragraph B addressing special exception uses; and

WHEREAS, this Ordinance amends LDC Chapter 5 by adding LDC amendments to the title, by adding LDC § 5.01.10 on guidelines for granting a rezoning, by repealing LDC § 5.03.03.B on special exception uses, and adding LDC § 5.04.00 on guidelines for granting a LDC amendment; and

WHEREAS, on January 16th, 2020 a draft copy of the Ordinance was brought before the Development Review Committee (DRC) and the Land Development Review Board (LDRB) for discussion and guidance; and

WHEREAS, at a duly noticed special public hearing held on February 3rd, 2020, the LDRB considered the Development Department recommendation and any public comments presented at the hearing on the Ordinance, and tabled the Ordinance to their regular February 20th, 2020 public hearing; and

WHEREAS, at the duly noticed regular public hearing held on February 20th, 2020, the LDRB considered the Development Department recommendation and any public comments presented at the hearing on the Ordinance, and forwarded to the City Council a recommendation the Ordinance be adopted; and

WHEREAS, at the duly noticed March 3rd, 2020 City Council public hearing, the City Council on first reading considered the Development Department and LDRB staff report and recommendations and all competent substantial evidence presented at the hearing, and recommended the Ordinance be adopted; and

WHEREAS, at the duly noticed March 17th, 2020 City Council public hearing, the City Council on second reading considered the evidence presented at first reading and all competent substantial evidence presented at the hearing, and adopted the Ordinance.

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

Section 1. Land Development Code Chapter 5 is amended as set forth below:

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

Section 2. Land Development Code § 5.01.00 is amended to add § 5.01.10 as follows:

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

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.

Section 3. LDC § 5.03.03 B is repealed as set forth below:

5.03.03 - Guideline for the granting of variances.

- 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.
- ~~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.~~

Section 4. LDR Chapter 5 is amended by adding § 5.03.00 as set forth below

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.

5.04.02 Staff review.

- A. 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.
- B. 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
- C. 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.

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.

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.

Section 5. Conflicts. All Ordinance or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 6. Severability. If any section, subsection, sentence, clause, provision or other part of this Ordinance is held invalid for any reason, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

Section 7. Effective date. This Ordinance shall be effective immediately upon its adoption.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 3rd day of March, 2020 and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 17th day of March, 2020.

ATTEST:

CITY OF NEW PORT RICHEY, FLORIDA

Judy Meyers, CMC, City Clerk

Rob Marlowe, Mayor – Councilmember

(SEAL)

APPROVED AS TO LEGAL FORM AND CONTENT

Timothy P. Driscoll, City Attorney