



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopmentweb@palmbayflorida.org

### Prepared by

Patrick J. Murphy, Assistant Growth Management Director

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#### CASE NUMBER

T-13-2020

#### PLANNING & ZONING BOARD HEARING DATE

June 3, 2020

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#### PROPERTY OWNER & APPLICANT

City of Palm Bay; Growth Management  
Department

#### PROPERTY LOCATION/ADDRESS

Not Applicable

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#### SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, Section 184.15 Issuance of a Building Permit. The purpose of this amendment is to remove the requirement for recordation of the subdivision plat prior to issuance of building permits for model homes and developer owner/builder homes.

#### Existing Zoning

Not Applicable

#### Existing Land Use

Not Applicable

#### Site Improvements

Not Applicable

#### Site Acreage

Not Applicable

#### APPLICABILITY

City-Wide

#### COMPREHENSIVE PLAN COMPATIBILITY

Not specifically addressed

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**BACKGROUND:**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, Section 184.15 Issuance of a Building Permit. Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~striketrough~~ format.

The applicant for this amendment is the City of Palm Bay

**ANALYSIS:**

The original Palm Bay Subdivision Code was adopted in February of 1996, via Ordinance No. 96-05. Overall the Chapter has been amended a total of five (5) times. These changes consisted of updates to development standards, submission requirements, creation of a minor subdivision process, and the inclusion of additional definitions.

Section 185.15 was created in 2005 and added to the subdivision chapter via Ordinance 2005-47. This specific section has been amended twice since its adoption. Once in 2016 to correct a scrivener's error and again in 2017 to increase the number of structures that could be allowed under these provisions.

Recent projects submitted by National Homebuilders have requested the approval of model homes and developer-owned homes (aka speculation homes) to be permitted and constructed prior to issuance of the Certificate of Completion (C of C) for the subdivision improvements. The purpose of which is to allow for "early-builds" to spur sales prior to the opening of the subdivision. Staff has heard their concerns with the ordinance.

An unfortunate hurdle to this practice is subsection (B)(1) that requires the subdivision plat to be recorded prior to issuance of the building permit for said structure(s). The fundamental purpose of plat recordation is for the sale of property. This is typically the last step in the subdivision process and thus, plat recordation for the express purpose of early building permit issuance, does not appear warranted.

However, if this provision is removed then the existing requirement [subsection (B)(7)] that developers and/or builders certify in writing that the title will remain in the builder's or developer's name until such time as the subdivision C of C is issued, must be amended to require the title not "change hands" until the plat is recorded.

Therefore, the purpose of this amendment is to effectuate these two (2) changes. All other existing criteria shall remain intact.

**STAFF RECOMMENDATION:**

Motion to approve Case T-13-2020, based on the Analysis contained in this staff report.

## **§ 184.15 ISSUANCE OF BUILDING PERMIT.**

(A) No building permits shall be issued for any building in the subdivision, except as provided for below, until a certificate of completion has been issued by the City Engineer certifying that the subdivision improvements have been completed and the subdivision has been recorded with the County Clerk of Records. The City Engineer shall notify the City Building Division of when a subdivision has received a certificate of completion and thus is open for building.

(B) Model homes and developer owned/builder owned homes may be permitted prior to the subdivision improvements receiving a certificate of completion provided the following conditions are adhered to:

(1) ~~The subdivision has been recorded per State Statutes;~~

(2) >>(1)<< A stabilized, all weather roadway is provided for fire apparatus to access all structures proposed for permitting;

(3) >>(2)<< A water source for fire apparatus use shall be provided and approved by the City of Palm Bay Fire Marshal;

(4) >>(3)<< A waiver of liability shall be provided to the City;

(5) >>(4)<< All homes proposed for permitting under this section shall maintain a minimum of one hundred (100) feet distance from existing structures not within the subdivision;

(6) >>(5)<< A maximum of twenty-five (25) structures will be permitted under this section per subdivision;

(7) >>(6)<< Builders must certify in writing that title will remain in the builder's name or the developer's name until such time as the subdivision >>plat is recorded in the Brevard County Public Records<< ~~certificate of completion is granted~~. In no case shall a Certificate of Occupancy be granted for a home until the certificate of completion has been issued;

(8) >>(7)<< The builder must bond the estimated cost of demolition of the structures should the subdivision improvements not be completed and the building permit expires or is revoked. Said demolition must occur within one (1) year of notification from the City or the City shall demolish the structures utilizing the bond proceeds.



**LAND DEVELOPMENT DIVISION**

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**CODE TEXTUAL AMENDMENT APPLICATION**

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

**ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:**

Section 184.15

**PROPOSED LANGUAGE (attach addendum if necessary):**

See attached.

**JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)**

The purpose of this amendment is to authorize the construction of Model Homes without having to record the subdivision, if approved by the Growth Management Director.

CITY OF PALM BAY, FLORIDA  
CODE TEXTUAL AMENDMENT APPLICATION  
PAGE 2 OF 2

THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

☐ \*\$1,500.00 Application Fee. Make Check payable to "City of Palm Bay."

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing code textual amendment application and that the facts stated in it are true.

Signature of Applicant Laurence Bradley Digitally signed by Laurence Bradley  
DN: dc=org, dc=palmbayflorida, ou=Community  
Planning & Economic Development, ou=Land  
Development, cn=Laurence Bradley  
Date: 2020.05.04 16:07:43 -04'00' Date 5/4/20

Printed Name of Applicant Laurence Bradley, AICP, Director of Growth Management

Full Address 120 Malabar Road SE, Palm Bay, FL 32909

Telephone 321-733-3042 Email laurence.bradley@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name \_\_\_\_\_

Full Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

\*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY