

## INDIAN RIVER COUNTY, FLORIDA

### MEMORANDUM

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**TO:** Jason E. Brown; County Administrator

**FROM:** Stan Boling, AICP  
Community Development Director

Richard B. Szpyrka, P.E.  
Public Works Director

**DATE:** June 6, 2016

**SUBJECT:** Follow-up on Development Review Tasks Resulting from April Workshop

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It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of June 20, 2017.

#### **BACKGROUND**

At its meeting of May 2, 2017, Commissioner Zorc brought to the Board of County Commissioners (Board) three items to move forward as a result of the April 12, 2017 Development Review and Permitting Process Workshop. The items are as follows:

1. Review of landscaping requirements
2. Use of Temporary Suspension of Compliance provisions
3. Review of Development Review fees for Community Development and Public Works

The Board considered the items and directed the Community Development Department to move them forward (see attachment #1).

Community Development has considered workshop input and coordinated with other departments on the three development review tasks and now proposes specific changes for the Board to consider. Once the Board considers the proposed changes in concept and provides staff input, staff can obtain public input and formally initiate processes for future Board adoption of the changes.

The Board is now to consider the proposed changes along with any public input and provide staff direction.

## **ANALYSIS**

Two of the three tasks assigned to Community Development involve land development regulations (LDRs). LDR changes involve a formal process that requires a public hearing before the Planning and Zoning Commission (PZC) and a public hearing before the Board. The third task involves development review fees. Changing those fees requires only Board review and adoption of new fees via a resolution.

- **Landscape Regulation Changes**

With respect to the first item regarding existing landscaping regulations (LDR Chapter 926) those regulations were most recently revised in 2010 with input from the development industry, the landscape industry, and the environmental community. The 2010 revisions included a number of changes that added flexibility to the regulations such as allowing a range of planting heights that average out overall to meet plant height minimums. Recently, two additional landscaping requirement “flexibility” items have been suggested. Those include codifying an allowance for varying plant heights for littoral zone plantings along pond shorelines (a practice already used by staff), and allowing a minor reduction in initial plant height for plants used to in-fill gaps in preserved, native buffer areas. Staff has drafted landscape ordinance and littoral zone planting regulation changes for those two concepts and supports moving forward with formal changes to Chapter 926 and Chapter 934 (see attachment #2).

- **Temporary Suspensions of Compliance**

The second item deals with use of temporary suspensions at the end of project construction. Although the existing temporary suspension of compliance provisions are popular and useful, staff has identified a need to curtail requests to eliminate certain items that are causing an inordinate amount of staff and applicant time spent resolving punch list items and follow-up after-the-fact. To address that problem, staff proposes to amend the existing temporary suspension regulations (Chapter 902) to provide more specificity that will guide staff and applicants, while adhering to the temporary suspension’s original purpose of allowing certificates of occupancy and certificates of completion when a project has been inspected and deemed substantially complete with only “minor deficiencies” remaining.

Staff’s proposed changes to Chapter 902 will add to the temporary suspension regulations a list of minor “suspend-able” items and a list of items not considered minor and not suspend-able. Although the lists are not all-inclusive, adopting those lists into the code will provide specific guidance for most end-of-project circumstances (see attachment #3). In addition to the proposed code changes, staff is proposing a nominal fee for a temporary suspension request (\$100). Such fee will cover only a portion of staff costs for the extra administrative and inspection time devoted to servicing the requests, but will provide developers a small incentive for following the normal process, 100% completion of all required items, for obtaining a Certificate of Occupancy (C.O.) or Certificate of Completion (C.C.).

- **Development Review Fees**

The third item involves development review fees. Indian River County's current development application fees have not been updated since 2004 and are significantly lower than application fees charged by other counties in the area (see attachment #4). Development review fees were updated in 1990 and 14 years later when they were next updated in 2004 the Board directed staff to update them more often... every 4 years. The 2004 update included a development application schedule used by Community Development and a separate fee schedule used by Public Works for stormwater permits, right-of-way permits, and site inspections. However, when the 4 year update timeframe came around in 2008, the county had entered what turned out to be a deep and long recession. Consequently, it was decided to keep review fees low and "un-updated" at that time. Now, 13 years out, review fees cover only a small portion of the staff time involved in reviewing, processing, inspecting, and closing-out development review projects.

Staff has drafted a preliminary development application review fee update for current development application types using the same methodology employed during the 1990 and 2004 fee updates. That methodology calculates for each specific application type the labor cost (salary and benefits) of each staff position involved based on the increment of time that staff position spends on the "average" development project application from beginning to C.O. Staff positions from various departments are used in the fee calculation; Fire Prevention reviews are not included in the calculated fees since Fire Prevention charges separate fees for its development application reviews. Also calculated into the preliminary fee schedule are the costs of advertising and mailed notice which applies to certain application types, and the additional costs of certain application types that may require a special PZC review. Staff's preliminary update indicates that development review fees need to increase substantially from the current fees set in 2004. Even so, the preliminary updated fees for Indian River County will still be generally lower than fees charged in nearby counties (see attachment #6).

If the preliminary updated fees (full calculated costs) had been charged for development applications submitted in the last 12 months, staff estimates that an additional \$221,731.61 of revenue from development review fees would have been received during that 12 month period (see attachment #5). Such revenue increase would help financially sustain needed increases in development review staffing levels to get faster development review turnaround times. The need for staffing increases, quicker review times, and development review fee increases were discussed at the April 12<sup>th</sup> workshop.

Staff proposes that, after public input, a finalized and updated Community Development fee schedule be considered by the Board in September. That schedule will include an update of other application types handled by Community Development such as comprehensive plan amendments, rezonings, concurrency certificates, and environmental permits. In addition, Public Works has evaluated its costs and fees as it relates to the building permit review and inspection process and the land development review and inspection process and has found that there is a significant revenue shortfall. That evaluation and preliminary fee information will be presented to the Board by the Public Works Director at the June 20, 2017 meeting (see attachment #8). An updated, finalized and updated Public Works fee schedule will need to be considered by the Board in September as well as a complete and updated Community Development fee schedule.

Related to fees is the issue of whether or not an application is required to be reviewed by the PZC. When an application is required to be reviewed by the PZC, rather than staff-level approval, costs increase for producing staff reports and for staff time at the PZC meeting. To reduce staff and PZC time for certain routine projects which currently require PZC review, staff proposes code changes that would allow staff approval. Such code changes would reduce certain application fees and would save time for staff, the PZC, and the applicant. Such changes would also reduce approval time by 2 to 3 weeks for the affected projects. To that end, staff proposes that the Board authorize a code change to allow staff level approval for certain “routine” uses that currently require PZC review and approval. A draft list of those uses is attached (see attachment #7).

## **CONCLUSION**

To address the three workshop items assigned to Community Development by the Board, the Board needs to authorize staff to move forward with an LDR amendment for certain landscape code and littoral zone planting regulation items (see attachment #2), an LDR amendment for temporary suspension regulations (see attachment #3), and an LDR amendment to allow staff approval of routine projects that currently require PZC approval (see attachment #7). In addition, the Board needs to authorize an update of development application review fees charged by Community Development and by Public Works. Those fee schedules will ultimately need to be adopted by a Board resolution. If authorized to move forward with these items, staff will finalize drafts of the three LDR amendments and the updated development application fee schedules, obtain public input, and bring those items through the appropriate adoption processes.

## **RECOMMENDATION**

Staff recommends that the Board of County Commissioners:

1. Authorize staff to initiate the formal process to review and adopt LDR amendments for:
  - a. Chapters 926 and 934 to change certain landscape and littoral zone planting requirements,
  - b. Chapter 902 to change certain temporary suspension regulations, and
  - c. Chapter 971 to allow staff level approval for certain uses
2. Direct staff to finalize an update of development review fees for Community Development and for Public Works and to present final updated fee schedules with proposed effective date for Board consideration and adoption.

## **ATTACHMENTS**

1. Commissioner Zorc’s May 2, 2017 Board Item and Meeting Minutes
2. Draft Changes to Landscaping Regulations (Chapter 926) and Littoral Zone Regulations (Chapter 934)
3. Draft Changes to Temporary Suspension Regulations (Chapter 902)
4. Comparison of Application Fees in Other Jurisdictions
5. Draft Preliminary Fee Schedule Update (Community Development)
6. Indian River County Preliminary Fees Comparison to Other Counties

7. List of Uses Proposed for Staff Level Approval
8. Public Works Revenue and Fee Data