

**POLK COUNTY  
DEVELOPMENT REVIEW COMMITTEE  
STAFF REPORT**

<b>DRC Date</b>	<b>April 16, 2009</b>	<b>LEVEL:</b>	<b>4</b>
<b>PC Date:</b>	<b>May 12, 2009</b>	<b>TYPE:</b>	<b>Land Development Code (LDC) Text Amendment</b>
<b>BOCC Date(s):</b>	<b>June 3, 2009 June 17, 2009</b>	<b>CASE #:</b>	<b>LDC 09T-22</b>

**Project Number:** 54110 (Extensions-Expirations)

**Request:** This is a staff initiated request to amend the text of the Land Development Code (LDC) amending Section 704, Commercial, Industrial & Multi-Family Construction Plans, and Section 804, Construction Plans, to provide for time extensions for Level 2 Review approval through the minor modification process and amending Section 906, Level 3 Review, and Section 907, Level 4 Review, to provide for timing of approval and extensions of approval through the minor modification process for Level 3 Review and Level 4 Review Conditional Uses, including but not limited to Planned Developments and Suburban Planned Developments. Additionally, the amendment will extend the timing of approval for specific Conditional Uses which have previously been approved, are still valid, and have not submitted Level 2 Review construction plans as of May 11, 2009.

**Applicant:** Polk County Land Development Division

**Case Planner:** John M. Bohde

**Summary of Analysis:**

The proposed amendment to the LDC is to allow for an administrative time extension and codify a time limit of approval for Level 2, 3, and 4 Reviews. Currently, Level 2 Reviews are broken down between non-residential and residential within Chapter 7 (§704) and Chapter 8 (§804) respectively. Currently, Level 2 Reviews are good for 36 months or three years from the date of approval, meaning an applicant has that amount of time to actually begin construction of the development called out for within the construction plans. This amendment maintains the 36 months for approval; however, the amendment allows for a one time, one year administrative extension of the approved plans via approval by the Development Review Committee (DRC). Changes may be requested by the DRC when reviewing an extension request; however, the changes are to be limited to changes in the Code that reflect the health, safety and welfare of the general public.

One other provision addressed within the Level 2 Review subsection is the issue of work stoppages. Once construction has commenced on a project, the developer is obligated to finish

the project (work must be continuous); otherwise, if too much time lapses without construction taking place then a new Level 2 Review approval is necessary. The amendment will codify that a maximum of four work stoppages are permitted. One stoppage may be for a maximum of six months, and the remaining three shall be for a maximum of one month each and they may not be combined.

Relative to Level 3/4 Conditional Uses, currently there is not a time limit for approval in the LDC. Consequently, since the inception of the LDC in 2000, staff has placed a condition of approval on Level 3/4 Conditional Uses granting, a majority of the time, a three year approval. The wording of the condition gives the applicant three years, or whatever amount of time listed in the condition, to actually submit a sufficient application for Level 2 Review approval. Therefore, once an applicant submits a sufficient application for Level 2 Review approval, the condition has been satisfied, and the project is essentially good in perpetuity. The timing of approval then shifts to the approval of the Level 2 Review plans as outlined above. With respect to the Level 3/4 Conditional Uses, the proposed amendment will add a subsection to Level 3 Review (§906) and Level 4 Review (§907) called "Timing of Approval." The proposal calls for a three year approval, unless stated otherwise within a condition of approval, and allowing for a one time, one year administrative extension through a minor modification process, which would call for approval by the DRC.

Another component of this amendment is an effort to address those Level 3/4 Conditional Uses that have previously received approval as of May 11, 2009, but have not submitted their Level 2 Review plans yet in accordance with their condition of approval. This action is primarily due to the downturn in the economy, and the developers not being poised to submit Level 2 Review plans at this time for these projects. Therefore, staff was able to identify 61 Level 3/4 Conditional Use projects that previously received approval, are still valid, and have not submitted Level 2 Review plans yet. Each one of those projects has a different expiration date, and the subject amendment will extend those projects for another three years from their current respective expiration dates. A table has been provided including these 61 Level 3/4 Conditional Use projects within Section 906 and Section 907 respectively outlining the case number, ID number, original expiration date, and the new expiration date (three years from original expiration date). In order to preserve the appeal procedure as a result of this amendment extending the approval of particular projects, a provision has been added allowing any substantially affected interest the right to appeal the decision of the Board to extend any of the 61 projects by filing an application and paying the requisite filing fee within seven calendar days of the Board approving this amendment.

Another provision of this amendment is the allowance of "tolling," which means that all an applicant has to do is submit a request for the extension prior to the expiration of the approval; they do not have to actually receive approval prior to the expiration. The one year extension would commence from when the DRC approves the extension, or as in the case of a Level 3/4 Conditional Use, approves the minor modification requesting same.

## Findings of Fact

1. *The proposed amendment to the LDC is to allow for an administrative time extension and codify a time limit of approval for Level 2, 3, and 4 Reviews.*
2. *Currently, Level 2 Reviews are broken down between non-residential and residential within Chapter 7 (§704) and Chapter 8 (§804) respectively.*
3. *Currently, Level 2 Reviews are good for 36 months or three years from the date of approval, meaning an applicant has that amount of time to actually begin construction of the development called out for within the construction plans. This amendment maintains the 36 months for approval; however, the amendment allows for a one time, one year administrative extension of the approved plans via approval by the Development Review Committee (DRC).*
4. *The proposed amendment will address work stoppages once construction has commenced on a project that has received Level 2 Review approval.*
5. *The subject text amendment will amend Section 704, Commercial, Industrial & Multi-Family Construction Plans, and Section 804, Construction Plans, with respect to Level 2 Reviews.*
6. *For Level 3 Review and Level 4 Review Conditional Uses, there is currently not a time limit for approval in the LDC.*
7. *Since the inception of the LDC in 2000, staff has placed a condition of approval on Level 3 Review and Level 4 Review Conditional Uses granting, a majority of the time, a three year approval.*
8. *The proposed amendment will add a subsection to Level 3 Review (§906) and Level 4 Review (§907) called “Timing of Approval.”*
9. *The proposal calls for a three year approval, unless stated otherwise within a condition of approval, and allowing for a one time, one year administrative extension through a minor modification process, which would call for approval by the DRC.*
10. *Staff identified 61 Level 3 Review and Level 4 Review Conditional Use projects that previously received approval, are still valid, and have not submitted Level 2 Review plans yet.*
11. *This amendment is proposed to extend those projects for three more years, essentially allowing applicants three more years to submit Level 2 Review plans for these 61 projects.*
12. *Each project is identified within the amendment.*
13. *Another provision of this amendment is the allowance of “tolling,” which means that all an applicant has to do is submit a request for the extension prior to the expiration of the approval; they do not have to actually receive approval prior to the expiration date.*

14. *Each of these 61 projects were noticed in accordance with Section 960, Public Notice, of the LDC for Level 3 Review and Level 4 Review Conditional Uses.*

The Land Development Division, based on the information provided with the proposed text amendment application, finds that the proposed text change request is **CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan. Staff recommends **APPROVAL** of LDC 09T-22.

**Comments from Other Agencies:** None