

CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE 7/17/07

SUBJECT: LAND DEVELOPMENT CODE AMENDMENTS/SUNROOM SPECIAL SETBACKS CASE NO. 07-25000004			
DEPARTMENT: COMMUNITY DEVELOPMENT			
RECOMMENDED MOTION: To adopt Ordinance No. 2007- ³² ,as recommended by the Planning Commission.			
SUMMARY: PLANNING COMMISSION ACTION: June 28, 2007			
Recommended approval , 5-2 to amend Chapter 16, Section 5(b) of the Land Development Code to include a 15 ft. rear setback for sunrooms, provided that the structure width does not exceed 30% of the lot width as measured at the rear yard setback line, or 30 ft., whichever is less, and to amend Chapter 2, Section 2 of the LDC to create a definition for "sunroom". Please note, the Planning Commission recommends Alternative #3 out of four alternatives suggested by Staff. If approved, sunrooms will be allowed to encroach into the rear yard setback, similar to other accessory residential structures.			
ATTACHMENTS: Solution Budget Resolution			
Other Support Documents/Contracts Available for Review in Manager's Office			
DEPARTMENT HEAD Wayne Clark Community Development Director Date			
FINANCE DEPARTMENT NA Approved as to Budget Requirements Date			
CITY ATTORNEY Date 7-6 07			
CITY ATTORNEY Date 7-6-07 CITY MANAGER Approved Agenda Item For:			
COUNCIL ACTION: [] Approved as Recommended [] Disapproved			
] Tabled Indefinitely [] Continued to Date Certain [] Approved with Modification			

ORDINANCE NO. 2007- 32

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY AMENDING SECTION 2 OF CHAPTER 2 RELATING TO DEFINITIONS; AMENDING SECTION 5 OF CHAPTER 16 RELATING TO SPECIAL SETBACKS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, for purposes of this Ordinance words with underlined (<u>underlined</u>) type shall constitute additions to the original text and words with strikethrough (strikethrough) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The City Council hereby amends Section 2 of Chapter 2 of the Land Development Code by adding a new definition for sunroom and incorporating same in alphabetical order, as follows:

Section 2: Definitions.

Sunroom. An accessory part of a residential structure which is enclosed with glass, vinyl, or other transparent material designed to admit sunlight. A sunroom may have a permanent floor and roof structure integral to the principal structure. However, no exterior facade of the room shall have less than 60 percent transparency. For the purposes of this code, the term "sunroom" shall include conservatories, sunspaces, solariums and Florida rooms.

Section 2. The City Council hereby amends Section 5(b) of Chapter 16 of the Land Development Code as follows:

Section 5: Special setbacks.

(b) Special setbacks.

Structure or Building Feature

Special Setback

Sunroom, residential

15 feet from rear property line, Structure width may not exceed 30% of lot width or 30 ft., whichever is less. Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective immediately upon adoption by the City Council.

ATTEST:	MAYOR ALLEN GREEN
Kenneth W. Parker, City Manager	
Passed on first reading on the day of	, 2007
Passed and adopted on second and final reading Reviewed and Approved: City Attorney	ng on the day of , 2007

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STAFF REPORT

CASE NO. 07-25000004

Amendment to the Land Development Code Chapter 16, Section 5(b) and Chapter 2, Section 2 Special Setback and Requirements for Sunrooms City of Port Orange, Applicant June 20, 2007

INTRODUCTION:

The City of Port Orange, applicant, requests an amendment to Chapter 16, Section 5(b) of the Land Development Code to create a 15 ft. rear setback requirement for sunrooms and establish size limits for these accessory structures. The City also requests an amendment to Chapter 2, Section 2 of the LDC to create a definition for "sunroom" as described in this report. If approved, sunrooms will be allowed to encroach into the rear yard setback, similar to other accessory residential structures. (Exhibit "A")

BACKGROUND:

Screen room enclosures that encroach in required rear yard setbacks have become the subject of repeated variance requests. Over the past five years, there have been eight such variance cases processed in Port Orange. (Exhibit "B") Four requests have been approved by the Planning Commission, two have been denied by the Planning Commission and approved on appeal by City Council, one request was denied by the Planning Commission and City Council, and one request was approved administratively. In all cases except the one approved administratively, Staff recommended denial of the request because the variance criteria in the Land Development Code were not met.

The issue and attempts to address it are not new to Port Orange. The special setbacks for screen rooms were created with the adoption of the 1985 Zoning Code. After hearing 11 variance requests in the years after, Staff proposed amending the rule in a manner similar to that proposed here. In 1990, the Commission and Council voted to keep the setbacks as they are today, and so the variance requests have continued. This information was provided to the Planning Commission in July of last year for discussion purposes.

Staff has brought forward a draft version of an amendment to the Commission for discussion at the May 24, 2007 meeting. The May draft would have allowed enclosure of existing screen rooms rather than the construction of sunrooms now proposed. The following is an excerpt from the meeting minutes:

Discussion and concerns of Commissioners included the fear to change the Code would "open the floodgate" requirements of HOA's, putting screens or vinyl windows in creates living spaces and has to meet electrical, wind load, etc. requirements, vinyl is considered the same as glass for a screen room, hardships of homeowners and need for additional space, would make a room more useable, would be creating a way to get closer to a neighbor, what builders look at, increases value of property and property taxes, and how homeowners now bypass the rules. Commissioner McMasters is opposed to any change in the rules.

Mr. Disher said the point of this is to allow people to enclose screen rooms to make them more habitable. Commissioner McMasters voiced concern that if you enclose such a room you are in violation of Code because you have increased the square footage and not meet setbacks.

Phil Klema, Azalea Pointe, said whether a room has a hard roof or aluminum now it has to meet wind loads if built now. Mr. Disher agreed, whatever is built has to meet Code. Chairman Booth commented that the purpose of a variance is to work with people.

Chairman Booth and Commissioners Barker and Atwood favor Alternative 3, and Commissioners McMasters and Green favor Alternative 1, as included in the agenda packet.

DISCUSSION:

According to the Land Development Code, a principle structure is required to be set back a minimum of 25 ft. from the rear property line in most of the City's single-family residential zoning districts. Chapter 16, Section 5, however, does allow special setbacks for specific accessory structures such as screen rooms. The intent of these special provisions is to allow for maximum flexibility for the builder and homeowner in the placement of the primary structure on the lot.

Currently, the LDC allows a screen room attached to a typical single- or two-family structure to be constructed to within 15 ft. of the rear property line. The LDC defines a screen room as:

An addition to a structure or integral part of a structure which is enclosed with screen, permitting unobstructed flow of air in and out of the addition. A screen room may have a permanent floor and roof structure integral to the principal structure, however, for purposes of this Code, no elevation of any wall of the room shall have less than sixty (60) percent open screen area.

If a room is enclosed with any type of material to block the flow of wind, it is no longer considered a screen room, but rather an addition to the house itself. The code does not make a distinction between an addition and a sunroom.

THE SETBACK DISTINCTION

The frequency of variance requests related to sunrooms raises two basic questions.

- 1) Why does the current rear yard setback distinction exist for screen rooms and sunrooms, and what is the purpose of these setbacks?
- 2) Is there an alternative approach to the current regulations that will alleviate the problem of homeowners assuming that they can enclose their screen rooms, yet still accomplish the objectives of the original setback requirement?

Under the City's current Land Development Code, a 25 foot minimum rear yard building setback is required in most of the City's single-family residential zoning districts. The LDC does, however, allow reduced yard setbacks for specific accessory structures and for certain architectural appurtenances and features. The intent of these special

provisions is to allow for maximum flexibility for the builder and homeowner in the placement of the primary structure on the lot.

Balconies, bay windows, carports, decks, chimneys and at-grade patios are all allowed to encroach into required yards by specified depths, ranging from a 1 ft. encroachment for window sills to within 15 ft. of the rear property line for screen rooms. For comparison, carports are also allowed a special rear yard setback of 15 ft. from the rear property line, whereas an attached garage is required to maintain a 25 ft. setback. For further comparison, an in-ground swimming pool can be as close as 8 ft. to the rear property line, and the pool screen enclosure can be as close as 5 ft.

The distinction in the setback for a screen room versus sunroom therefore, is directly related to the openness of the structure. Enclosing a screen room with glass or vinyl windows, while a relatively simple task, changes the openness of the structure, and creates a year-round living area.

The purpose of required building setbacks is to ensure adequate light and air circulation around structures, as-well as access for emergency services, especially in the event of fire. These functions relate directly to the protection of the health and safety of building inhabitants. Other functions of building setbacks are more related to overall land use and community development goals, such as limiting density, maintaining open space, and creating an overall setting or character to an area.

In determining the purpose for the distinction in setbacks between open screen rooms and sunrooms, health and safety are not the issue. The Florida Building Code only requires a 3 ft. setback from the property line for structures, which means a minimum of 6 ft. between structures. Structures may even be built closer to the property line than 3 ft., provided a special fire resistive design is applied and improvements are made.

Setbacks beyond 3 ft. from the property line, therefore, are largely intended to limit density and to achieve other land use objectives. In this context, a 15 ft. or 25 ft. rear yard setback for a sunroom could be appropriate, depending on the desires of the community. The present 25 ft. rear yard setback for enclosed living spaces in most single-family zones ensures that such year around living areas are a minimum of 50 ft. apart. This creates a level of privacy and separation from other residences that is often desired in lower density single-family suburban neighborhoods.

ALTERNATIVE APPROACHES

There are several alternatives which can be considered. Four possible alternatives are as follows:

- 1) The distinction between screen rooms and sunrooms could be eliminated and the structure could be required to maintain a 25 ft. setback from the rear property line (Exhibit "C");
- 2) All structures could be allowed to be constructed to within 15 ft. of the rear property line (Exhibit "D")

- 3) Sunrooms may be built to within 15 ft. of the rear property line. (Exhibit "E")
- 4) Sunrooms may be built to within 20 ft. of the rear property line. (Exhibit "F")

Staff has sampled 40 screen room permits issued between 2005 and today to get a feel for the size of a "typical" screen room in Port Orange. This size is approximately 150 - 200 sq. ft.

Alternative #1 (Exhibit "C") would create numerous nonconformities, as many existing screen rooms are built to the 15 ft. setback. As nonconforming structures, these rooms would only be able to have ordinary maintenance. If destroyed by fire or other catastrophe, the room could not be rebuilt.

Alternative #2, (Exhibit "D") allowing the entire structure to within 15 ft. of the rear property line, could easily result in solid, opaque wall spaces within 30 ft. of one another. A minimum of 30 ft. between year-round living spaces of neighboring homes may not be sufficient separation to convey the same sense of privacy and exclusivity that is created by a 50 ft. separation. Also, if setbacks are reduced to 15 ft., it is probable that there will be an increase in variance requests to construct pools without full setbacks.

Alternative #3 (Exhibit "E") would allow residents to build a sunroom without violating City Code. With only a portion of the house projecting to within 15 ft. of the rear lot line, the sense of openness between structures and privacy for residents would be maintained. As most screen rooms are 20 feet in width or less, a reduced rear yard setback to 15 ft. over 30% of the lot width would accommodate most sunrooms, without a variance. An upper limit of 30 ft. in width could prevent conveying any special benefit to wider lots.

Alternative #4 (Exhibit "F") is a compromise in setback requirements by still allowing sunrooms to be placed further into the rear yard then the minimum building setback, but increases the open space between neighbors and provides for lower density than alternative #3.

DEFINITION

In order to prevent a reduction in building setbacks for any addition, the term "sunroom" must be defined. The Florida Building Code provides the following definition:

SUNROOM. A one-story structure added to an existing dwelling with an open or glazed area in excess of 40 percent of the gross area of the sunroom structure's exterior walls and roof. For the purposes of this code the term "sunroom" as used herein, shall include conservatories, sunspaces, solariums, and porch or patio covers or enclosures.

For the purposes of the Port Orange Land Development Code, Staff suggests adding the following definition:

<u>Sunroom.</u> An accessory part of a residential structure which is enclosed with glass, vinyl, or other transparent material designed to admit sunlight. A sunroom

may have a permanent floor and roof structure integral to the principal structure. However, no exterior façade of the room shall have less than 60 percent transparency. For the purposes of this code, the term "sunroom" shall include conservatories, sunspaces, solariums, and Florida rooms.

STAFF RECOMMENDATION:

Staff recommends **approval** of the administrative request to revise Chapter 16, Section 5(b) of the Land Development Code to include a 15 ft. rear setback for sunrooms, provided that the structure width does not exceed 30% of the lot width as measured at the rear yard setback line, or 30 ft., whichever is less. Furthermore, Staff recommends approval of an amendment to Chapter 2, Section 2 of the LDC to include a definition for sunrooms as described in this report.

Prepared by: Tali Kritzer, Senior Planner City of Port Orange Department of Community Development PLANNING COMMISSION DATE: CITY COUNCIL DATE: (386) 506-5672 (386) 506-5600 June 28, 2007 July 17, 2007

Exhibit "A"

Chapter 2, Section 2 (Definitions) **Proposed** LDC Text Amendment:

<u>Sunroom.</u> An accessory part of a residential structure which is enclosed with glass, vinyl, or other transparent material designed to admit sunlight. A sunroom may have a permanent floor and roof structure integral to the principal structure. However, no exterior façade of the room shall have less than 60 percent transparency. For the purposes of this code, the term "sunroom" shall include conservatories, sunspaces, solariums, and Florida rooms.

Chapter 16, Section 5(b) **Proposed** LDC Text Amendment:

Structure or Building Feature	Special Setback
Sunroom, residential	15 feet from rear property line, Structure width may not exceed 30% of lot width or 30 ft., whichever is less.

2003 - 2007 Sunroom Variance Requests

CASE NO. 03-90000005

Kyle and Elizabeth Fegley, Owners

1329 N. Wembley Circle

Variance: To allow 15-foot rear yard setback, in lieu of the required 25 feet. The proposed addition will

encroach approximately 10 feet into the required setback.

Proposal: To replace the screening for a 12 ft. x 32 ft. (384 sq. ft.) patio with glass windows.

Lot Size: Approximately 80 ft. x 110 ft. (8,800 sq. ft.).

Reason: The applicants claim that the pine trees abutting the rear of their yard create pollen that

limits their use of the porch and that they constantly have to clean out the interior of the

screen room as it get a heavy build-up of mold.

Result: PC Denied 8/28/03, CC Approved 9/23/03, DO Issued 9/25/03

CASE NO. 03-90000017

William & Genenieve Drewes, Owners

927 Mill Road Lane

Variance: To allow 19-foot rear yard setback, in lieu of the required 25 feet. The proposed addition will

encroach approximately 6 feet into the required setback.

Proposal: To replace the screening for a 18 ft. x 47 ft. (846 sq. ft.) pool enclosure with removable vinyl

siding.

Lot Size: Approximately 82 ft. x 107 ft. (8,774 sq. ft.).

Reason: The applicants cite the fact that a pool would allow Mrs. Drewes, who suffers from

Degenerative Disc Disease and Osteoarthritis, to have regular access to physical therapy prescribed by her physician. The applicants also feel that enclosing the screen pool enclosure will not have any negative impact to the adjoining residences because the

properties to the rear of their property will be adequately screened.

Result: PC Denied 1/22/04, CC Approved 2/17/04, DO Issued 2/20/04

CASE NO. 04-90000013

Orlando Fernandes, Owner 1330 North Wembley Circle

Variance: To allow 19.5-foot rear yard setback, in lieu of the required 25 feet. The proposed addition

will encroach approximately 5.5 feet into the required setback.

Proposal: To replace the screening for a 12 ft. x 32.5 ft. (390 sq. ft.) porch with windows.

Lot Size: Approximately 115 ft. x 108 ft. (12,420 sq. ft.).

Reason: When it rains or when there is a morning dew, the tile flooring in the screen porch becomes

very slippery and dangerous. The applicant has elderly parents living in the house and has concerns for their safety. This concern is further compounded with the fact that his job in the Merchant Marines requires him to be away from the home for extended periods of time.

Result: PC Approval 8/26/04, DO Issued 8/30/04

CASE NO. 04-90000018

John and Patricia Dyke, Owners

1260 Harms Way

Variance: To allow a 21.39-foot rear yard setback, in lieu of the required 25 feet. The proposed

addition will encroach approximately 3.61 feet into the required setback.

Proposal: To replace a 12 ft. x 24 ft. screened patio with a building addition.

Lot Size: Approximately 80 ft. x 115 ft. (9,200 sq. ft.).

Reason: According to the applicants' letter of request, they claim as a hardship that the existing

screen room has a mold and mildew problem and has sustained damage due to the hurricanes. Therefore, they wish to create a permanent living space by adding a building

addition in this location (see attached survey).

Result: PC Approval 12/16/04, DO Issued 12/20/04

Case No. 06-90000009

Fecskovics, Alice, Applicant

613 Charles Street

Variance: To allow a 15 foot rear yard set back in lieu of the required 25 feet.

Proposal: To replace the glass windows in an existing non-permitted 12 ft. x 22 ft. (± 264 sq. ft.)

sunroom with energy efficient aluminum and acrylic-screen window enclosure.

Lot Size: 100 ft. x 75 ft. (± 7,500 sq. ft.)

Reason: The applicant states that the existing sunroom has deteriorated, including a leaking roof,

high interior temperatures that pose potential health hazards and loss of personal property, glass windows are prone to breakage during storms and no longer close properly

compromising security and limiting ventilation.

Result: PC Approval 6/22/06, DO Issued 6/23/06

CASE NO. 06-90000015

Sunroom Designs LLC, Applicant Douglas & Gladys Amos, Owners 949 Tall Pine Drive

Variance: To allow a 17-foot rear yard set back in lieu of the required 25 feet. The proposed addition

will encroach approximately 8 feet into the required setback.

Proposal: To replace an existing 27 ft. x 10 ft. (270 sq. ft.) screen room with a sunroom.

Lot Size: Approximately feet 82 ft. x 107 ft. (8,774 sq. ft.)

Reason: The applicant states that the homeowner's screen room is damaged and that they would like

to replace it with an enclosed 4 in. insulated aluminum sunroom for protection from the

weather and for recreational use.

Result: PC Approval 8/24/06, DO Issued 8/25/06

CASE NO. 06-90000020

Kristen and Jeremy Brock, Owners/Applicants

5130 Pineland Ave.

Variance: To allow a 17-foot rear yard set back in lieu of the required 25 feet. The proposed addition

will encroach approximately 8 feet into the required setback.

Proposal: To construct a 14 ft. x 9 ft. (126 sq. ft.) addition to the back of the house on an existing

concrete slab.

Size: The applicants' property measures approximately 33 ft. x 100 ft. (+/- 3,300 sq. ft.). The lot is

currently improved with a one-story single-family detached dwelling 50'x 23' (+/- 1,150 sq.

ft.).

Reason: The applicants explain their hardship due to the constrictive 5 ft. space on each side of the

house and no front yard space. Furthermore, the applicants mention that the addition of a

full enclosure would not affect the property more than an approved screened enclosure.

Result: PC Denial 12/14/06, CC Denial 1/23/07

